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PAGES
30787-30999

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TUESDAY, JULY 18, 1978



highlights

SUNSHINE ACT MEETINGS 30981

TRAINING AND RETRAINING MINERS
Labor/MSHA proposes health and safety programs; comments by 8-23-78; hearings 8-14, 8-16, and 8-18-78 (Part III of this issue) 30990

TOXIC SUBSTANCES CONTROL ACT
EPA requires submission of health and safety studies of certain substances recommended by the Interagency Testing Committee; effective 8-17-78 (Part II of this issue) 30984

OCCUPATIONAL SAFETY AND HEALTH
HEW/CDC requests comments by 9-1-78 on subject selection of 1983 criteria documents for certain chemical/physical agents (2 documents) 30897, 30898

NET CAPITAL REQUIREMENTS
SEC proposes to amend its rule for brokers and dealers; comments by 9-11-78 30806

ANTI-FENCING PROGRAM
Justice/LEAA solicits preliminary grant proposals; proposals by 8-11-78 30903

TREASURY NOTES
Treasury/Secy invites tenders for notes of July 31, 1980, Series R-1980 30958

VOLUNTARY STANDARDS
CPSC revises policy on Commission employee's membership and participation in voluntary standards organizations 30795

THERMAL ENVELOPES OF BUILDINGS AND INSULATION MATERIALS
DOE and NSB prepares a proposed national plan for conducting research; comments by 8-31-78 30862

ELECTRIC BORROWERS
USDA/REA proposes to issue a supplement to constructors of significant or high hazard potential dams; comments by 8-17-78 30806

PERISHABLE AGRICULTURAL COMMODITIES ACT
USDA/AMS sets administrative procedures for determining who is a responsibly connected person; effective 7-18-78 30787

PEACHES GROWN IN WASHINGTON
USDA/AMS sets regulations for minimum grade, size and pack requirements in handling shipments 30790

COOKED BEEF AND ROAST BEEF
USDA/FSQS amends Federal meat inspection regulations to permit alternative cooking procedures; effective 7-18-78 30791

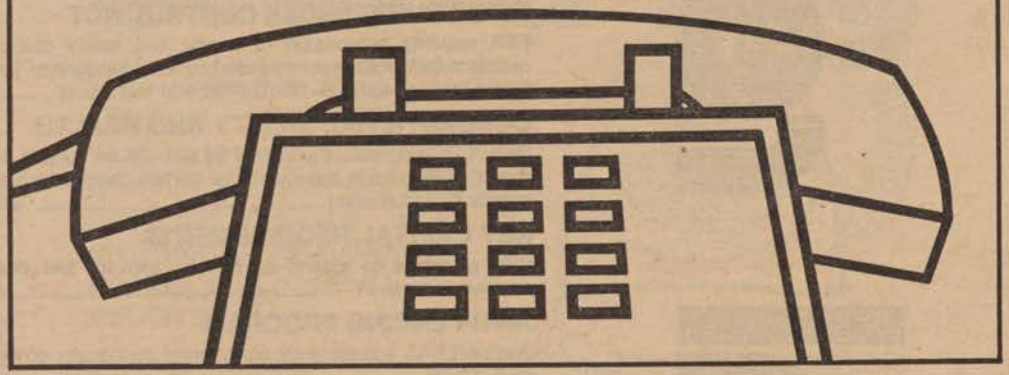
CONTINUED INSIDE

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Code of Federal Regulations (CFR)	523-3419
	523-3517
Finding Aids	523-5227

PRESIDENTIAL PAPERS:

Executive Orders and Proclamations.	523-5233
Weekly Compilation of Presidential Documents.	523-5235
Public Papers of the Presidents	523-5235
Index	523-5235

PUBLIC LAWS:

Public Law dates and numbers	523-5266
	523-5282
Slip Laws	523-5266
	523-5282
U.S. Statutes at Large	523-5266
	523-5282
Index	523-5266
	523-5282
U.S. Government Manual	523-5230
Automation	523-3408
Special Projects	523-4534

HIGHLIGHTS—Continued

POLYCHLORINATED BIPHENYLS
EPA approves certain PCB disposal facilities 30882

NEW ANIMAL DRUGS
HEW/FDA issues notice of opportunity for hearing and proposes to revoke certification of chlortetracycline hydrochloride-neomycin tablets (2 documents); hearing requests and comments by 8-17-78 30808

BIOLOGICALS AND ELECTRONIC PRODUCTS
HEW/FDA amends regulations for delegations of authority regarding certain compliance functions; effective 7-18-78 30796

INFORMATION AND DATA ACQUISITION ACTIVITY
HEW/NIE proposes to request information from educational agencies or institutions; comments by 8-17-78 30899

PUBLIC PARTICIPATION IN FCC RULEMAKING PROCEEDING
FCC solicits comments by 9-15-78 and reply comments by 9-15-78 on establishment of a program for reimbursement of expenses 30834

FM OR TV BROADCAST STATIONS
FCC considers changes in its rules governing eligibility to become a licensee of a non-commercial educational FM or TV station; comments by 8-15 and 9-15-78 30842

CABLE TELEVISION CERTIFICATE OF COMPLIANCE
FCC considers changing process rules; comments by 8-14-78; reply comments by 9-1-78 30845

HISTORIC PLACES
Interior/HCRS requests comments by 7-28-78 on properties being considered for listing in the National Register 30901

RELEASE OR DISCHARGE FROM ACTIVE DUTY
DOD/Secy proposes to publish new instructions governing certificate and correction; comments by 8-17-78 30828

AUDIBLE SIGNAL ALARMS FROM JAPAN
Treasury/Secy determines sales at not less than fair value; effective 7-18-78 30956

RAILROAD EMPLOYEE SLEEPING QUARTERS
DOT/FRA issues interpretive guidelines for noise levels; effective 7-18-78 30803

MEETINGS—
DOD/Navy: Chief of Naval Operations Executive Panel Advisory Committee, 8-3 and 8-4-78 30851
Secy: Wage Committee, 9-5, 9-12, 9-19 and 9-26-78 30851
DOE: Thermal Envelopes of Buildings and Insulation Materials proposed national plan, 7-27-78 30862
EPA: Drinking Water National Advisory Council, 8-22 and 8-23-78 30882
HEW/OE: Community Education Advisory Council, 8-8 and 8-9-78 30900
FDA: Advisory Committees, various dates in August 30892
Historic Preservation Advisory Council, 8-2 and 8-3-78 30849
Public Information, 8-7-78 30849
Interior/BLM: Canon City District Grazing Advisory Board, 8-25-78 30900

NASA: Aeronautics Advisory Committee, Aviation Safety Reporting System (ASRS) Subcommittee, 8–2 and 8–3–78 30936
National Commission on Neighborhoods: Final Report, 7–25–78 30937
NFAH/NEH: Advisory Committee, Humanities Panel, American Literature Independent Fellowship Applications, 8–5–78 30937
NRC: Reactor Safeguards Advisory Committee, Reactor Operations Subcommittee, 8–2–78 30937
State: International Telegraph and Telephone Consultative Committee, Study Group 2, 8–2–78 30954

CANCELLED MEETINGS—

Transnational Enterprises Advisory Committee, 7–20–78 30954

HEARINGS—

International Joint Commission: Water quality objectives, 7–21–78 30903

SEPARATE PARTS OF THIS ISSUE

Part II, EPA 30984
Part III, Labor, MSHA 30990

reminders

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

Rules Going Into Effect Today

HEW/FDA—Evaporated milk, sweetened condensed milk, evaporated skimmed milk, and sweetened condensed skimmed milk; standards of identity 21668; 5–19–78

List of Public Laws

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

[Last Listing: July 14, 1978]

contents

AGRICULTURAL MARKETING SERVICE

Rules

Peaches (fresh) grown in Wash. 30790
Perishable agricultural commodities:
Practice rules, determination of responsibly connected person 30787

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Federal Grain Inspection Service; Food Safety and Quality Service; Rural Electrification Administration.

ALCOHOL, TOBACCO AND FIREARMS BUREAU

Notices

Authority delegations:
Assistant Director (Regulatory Enforcement); distribution and use of denatured alcohol and rum 30955
Regional regulatory administrators et al.; use of seal 30955

ARTS AND HUMANITIES, NATIONAL FOUNDATION

Notices

Meetings:
Humanities Panel 30937

CANADA AND UNITED STATES-INTERNATIONAL JOINT COMMISSION

Notices

Great Lakes; water quality objectives; hearing 30903

CENTER FOR DISEASE CONTROL

See Disease Control Center.

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:
United States-Benelux low fare proceeding 30850

CIVIL SERVICE COMMISSION

Rules

Excepted service:
Commerce Department 30787

Proposed Rules

Federal employees health benefits program and retirement:
Survivor annuity benefits for illegitimate children; correction 30806

COMMERCE DEPARTMENT

See Maritime Administration.

CONSUMER PRODUCT SAFETY COMMISSION

Rules

Voluntary standards organizations, employee membership and participation in; revised policy 30795

DEFENSE DEPARTMENT

See also Navy Department.

Proposed Rules

Certificate of release or discharge from active duty 30828

Notices

Meetings:
Wage Committee 30851

DISEASE CONTROL CENTER

Notices

Occupational safety and health standards:
Chemical and physical agents; exposure levels, safe standards for employment; inquiry 30898
Chemical and physical agents and industrial processes; exposure levels, safe standards for employment; inquiry 30897

EDUCATION OFFICE

Notices

Meetings:
Community Education Advisory Council 30900

ENERGY DEPARTMENT

See also Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.

Notices

International atomic energy agreements; civil uses; subsequent arrangement with Switzerland 30862
Meetings:
Thermal properties of building envelopes and insulation materials, national program plan; inquiry 30862

ENVIRONMENTAL PROTECTION AGENCY

Rules

Toxic substances:
Health and safety study reporting; submittal of studies for consideration by TSCA Interagency Testing Committee 30984

Notices

Meetings:
Drinking Water National Advisory Council 30882
Toxic and hazardous substances control:
Polychlorinated Biphenyls (PCBs); approved disposal facilities, list 30882

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Rules

Procedural regulations:
Commission withdrawal of charge, negotiated settlement, etc 30798

Notices

Records and reports:
Apprenticeship information report; extension of filing deadlines 30883
Local union report; extension of filing deadlines 30883

FEDERAL COMMUNICATIONS COMMISSION

Rules

FM broadcast stations; table of assignments:
Florida 30779
Television broadcast stations; table of assignments:
California 30801

Proposed Rules

Cable television:
Certificate of compliance process; registration 30845
Practice and procedure:
Reimbursement of expenses for participation in proceedings 30834
Radio broadcast services:
Educational FM and TV broadcast station licenses, noncommercial; eligibility ... 30842
Telephone companies:
Domestic public message services by entities other than Western Union; inquiry; extension of time 30840
Telephone companies; jurisdictional separation:
Integration of rates and services 30840
Television broadcast stations; table of assignments:
Florida 30841

Notices

FM broadcast applications ready and available for processing (2 documents) 30883

Rulemaking proceedings filed, granted, denied, etc.; petitions by various companies 30883
Television broadcast applications ready and available for processing 30891
Hearings, etc.:
Goldrush Broadcasting, Inc., et al 30886
Lafayette Electronics International, Inc 30886
Olson Electronics 30887
Radio Shack 30889
Telexport, Inc 30890

FEDERAL CONTRACT COMPLIANCE PROGRAMS OFFICE

Notices

Contract sanctions:
American Sanitary Sales & Service Co., Inc 30904
Painting Corp. of Detroit, Inc 30919

FEDERAL ENERGY REGULATORY COMMISSION

Notices

Hearings, etc.:
Arkansas Power & Light Co ... 30865
Ashland Oil, Inc 30866
Cities Service Gas Co 30866
Cities Service Oil Co 30867
Columbia Gas Transmission Corp 30868
Columbia Gulf Transmission Co 30868
Consolidated Gas Supply Corp 30869
Eastern Shore Natural Gas Co 30869
El Paso Natural Gas Co 30869
Gulf States Utilities Co 30870
Iowa Power & Light Co 30870
Kentucky West Virginia Gas Co 30870
Lawrenceburg Gas Transmission Corp 30870
McGalliard & Sparks, Inc 30871
Michigan Wisconsin Pipe Line Co 30872
Midwestern Gas Transmission Co 30872
Montana Light & Power Co.... 30872
Mountain Fuel Supply Co 30872
Natural Gas Pipeline Co. of America (3 documents) 30873, 30874
Potomac Edison Co 30874
Public Service Co. of Indiana . 30874
Sea Robin Pipeline Co. (3 documents) 30876, 30877
Seminole Electric Cooperative, Inc., et al 30877
Southern Natural Gas Co 30878
Tennessee Gas Pipeline Co. (2 documents) 30878, 30879
Tennessee Natural Gas Lines, Inc 30879
Texas Eastern Transmission Corp 30879
Transcontinental Gas Pipe Line Corp. (3 documents) 30879, 30880, 30881
Trunkline Gas Co. (2 documents) 30880, 30882
United Gas Pipe Line Co. et al 30936

FEDERAL GRAIN INSPECTION SERVICE

Notices

Grain standards; inspection points:
Iowa 30849

FEDERAL INSURANCE ADMINISTRATION

Proposed Rules

Flood elevation determinations:
Iowa (2 documents) 30810
Kansas 30811
Kentucky 30812
Louisiana (2 documents) 30812, 30813
Michigan (2 documents) 30814
Minnesota (3 documents) 30815, 30816
Mississippi 30816
Missouri 30817
New Hampshire (2 documents) 30818
New York (5 documents) 30819, 30821
Ohio; correction 30810
Oklahoma 30809
Pennsylvania (2 documents) .. 30822
Texas (3 documents) 30823–30825
Washington 30826
Wyoming (2 documents) 30827

FEDERAL MARITIME COMMISSION

Notices

Agreements filed, etc 30891

FEDERAL RAILROAD ADMINISTRATION

Rules

Employee hours of service:
Noise levels in sleeping quarters; guidelines 30803

FEDERAL TRADE COMMISSION

Rules

Prohibited trade practices:
Hiken Furniture Co 30794

FOOD AND DRUG ADMINISTRATION

Rules

Organization and authority delegations:
Enforcement activities 30796

Proposed Rules

Animal drugs, feeds, and related products:
Chlortetracycline hydrochloride-neomycin tablets 30808
GRAS or prior-sanctioned ingredients:
Tall oil; correction 30808
Human drugs and medical devices:
Ethylene oxide, ethylene chlorohydrin, and ethylene glycol; maximum residue limits and exposure levels; inquiry; correction 30808

Notices

Animal drugs, feeds, and related products:
Chlortetracycline-neomycin oblong tablets 30895
Meetings:
Advisory committees, panels, etc 30892

FOOD SAFETY AND QUALITY SERVICE

Rules

Meat and poultry inspection, mandatory:
Beef roast; minimum cooking requirements 30791

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Disease Control Center; Education Office; Food and Drug Administration; Health Resources Administration; National Institute of Education.

HEALTH RESOURCES ADMINISTRATION

Notices

Health service areas:
Florida; redesignation 30898

HEARINGS AND APPEALS OFFICE, ENERGY DEPARTMENT

Notices

Applications for exception, etc.; cases filed (4 documents) 30851–30862

HERITAGE CONSERVATION AND RECREATION SERVICE

Notices

Historic Places National Register; additions, deletions, etc.:
Arizona et al 30901

HISTORIC PRESERVATION ADVISORY COUNCIL

Notices

Meeting 30849
Public Information Meeting 30849

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Insurance Administration.

INTERIOR DEPARTMENT

See Heritage Conservation and Recreation Service; Land Management Bureau; National Park Service.

INTERSTATE COMMERCE COMMISSION

Rules

Organization and functions:
- Accounting and Valuation Board 30804

Notices

Fourth section applications for relief 30970
Hearing assignments 30959
Motor carriers:
- Lease and interchange of vehicles 30971
- Permanent authority applications 30960
- Temporary authority applications (2 documents) ... 30971, 30975

Petitions filing:
- Grocery Manufacturers of America, Inc., et al 30970

Railroad services abandonment:
- Chicago & Eastern Illinois Railroad Co 30960
- Chicago, Rock Island and Pacific Railroad Co. 30980
- Hoboken Shore Railroad 30970
- Wabash Railroad Co. et al 30979

JUSTICE DEPARTMENT

See also Law Enforcement Assistance Administration.

Notices

Meetings:
- Circuit Judge Nominating Commission, U.S 30903

LABOR DEPARTMENT

See also Federal Contract Compliance Programs Office; Mine Safety and Health Administration.

Notices

Adjustment assistance:
- Ambassador Clothes, Inc 30922
- American Biltrite, Inc 30922
- American Motors Corp. (3 documents) 30922, 20923
- Anaconda Co. (2 documents) .. 30923, 30924
- Andrex Industries Corp., et al 30928
- Anthracite Overall Manufacturing Co., Inc 30925
- Armco Steel Corp 30925
- Can Teen Services of Johnstown, Inc., et al 30927
- Central Penn Manufacturing Co., Inc 30926
- Coleman Products Co. (2 documents) 30926
- Evart Products Co. (2 documents) 30927
- Gerald Leather Goods Corp ... 30927
- K & M Sportswear, Inc 30929
- Kaiser Steel Corp 30930
- Maxwell & Rothchild, Inc 30929
- Nevada Northern Railway Co 30930
- Novelty Footwear, Inc 30931
- Owens-Illinois Inc 30931
- Penn-Dixie Steel Corp 30932
- Republic Steel Corp 30932
- Rubber Corp. of Pennsylvania 30933
- Shirley Willett Co 30933
- Southern Electric Steel Co 30933
- Supreme Pants Co 30934
- U.S. Steel Corp. (2 documents) 30934
- Weather Wise Raincoats Inc .. 30935
- Weld, Inc 30935

LAND MANAGEMENT BUREAU

Notices

Applications, etc.:
- Colorado (2 documents) 30900, 30901
- Utah 30901

Meetings:
- Canon City Grazing Advisory Board 30900

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Notices

Grants solicitation, competitive research:
- Anti-fencing program 30903

LEGAL SERVICES CORPORATION

Notices

Grants and contracts; applications 30936

MANAGEMENT AND BUDGET OFFICE

Notices

Clearance of reports; lists of requirements 30935

MARITIME ADMINISTRATION

Notices

Environmental statements; availability, etc.:
- Bulk liquid tank vessels used in domestic trade 30850

Foreign construction cost computations:
- Containerships, MA design C9-S-132a 30850

MINE SAFETY AND HEALTH ADMINISTRATION

Proposed Rules

Health and safety training of miners 30996

Notices

Petitions for mandatory safety standard modification:
- Frailey Coal Co 30921

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notices

Meetings:
- Aeronautics Advisory Committee; Aviation Safety Reporting System Subcommittee 30936

NATIONAL INSTITUTE OF EDUCATION

Notices

Information collection and data acquisition activity; description, inquiry 30899

NATIONAL PARK SERVICE

Notices

Concession permits, etc.:
- Anacostia Marina, Inc 30903

NAVY DEPARTMENT

Notices

Meetings:
- CNO Executive Panel Advisory Committee 30851

NEIGHBORHOODS NATIONAL COMMISSION

Notices

Meeting 30937

NUCLEAR REGULATORY COMMISSION

Rules

Practice rules:
- Hearings, construction permits for production or utilization facilities; 30 day notice 30793

Notices

Meetings:
- Reactor Safeguards Advisory Committee 30937

Applications, etc.:
- Boston Edison Co 30938
- Commonwealth Edison Co. (2 documents) 30938
- Dairyland Power Cooperative 30939
- Exxon Nuclear Corp., et al 30937
- Southern California Edison Co., et al 30939

RURAL ELECTRIFICATION ADMINISTRATION

Proposed Rules

Rural telephone program:
- Dams, significant and high hazard potential; design review; supplement to REA Bulletin 41-1 30806

SECURITIES AND EXCHANGE COMMISSION

Proposed Rules

Securities Exchange Act:
- Broker-dealers, net capital rule 30806

Notices

Securities Investor Protection Act; proposed rule changes:
Securities Investor Protection Corp. (3 documents) 30953, 30954
Self-regulatory organizations; proposed rule changes:
Depository Trust Co 30942
Municipal Securities Rulemaking Board 30946
National Association of Securities Dealers, Inc 30950
Pacific Stock Exchange Inc 30952
Hearings, etc.:
ASA Ltd. et al 30940
Century Shares Trust et al 30941
Home Savings & Loan Association 30943
Jamesway Corp 30944
Lorain Telephone Co 30945
Narragansett Capital Corp. et al 30947
National Fuel Gas Co. et al 30951
Nuveen, John, & Co., Inc., et al 30944

STATE DEPARTMENT

Notices

Meetings:
International Telegraph & Telephone Consultative Committee 30954
Transnational Enterprises Advisory Committee; cancellation 30954

TRANSPORTATION DEPARTMENT

See Federal Railroad Administration.

TREASURY DEPARTMENT

See also Alcohol, Tobacco and Firearms Bureau.

Notices

Antidumping:
Signal alarms, audible, from Japan 30956
Steel, wire rods, carbon, from France and United Kingdom 30956
Notes, Treasury:
R-1980 series 30958

list of cfr parts affected in this issue

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

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

5 CFR

213 30787

PROPOSED RULES:

831 30806
890 30806

7 CFR

47 30787
921 30790

PROPOSED RULES:

1701 30806

9 CFR

318 30791
320 30791

10 CFR

2 30793

16 CFR

13 30794
1031 30795

17 CFR

PROPOSED RULES:

240 30806

21 CFR

5 30796

PROPOSED RULES:

182 30808
186 30808
211 30808
546 30808
821 30808

24 CFR

PROPOSED RULES:

1917 (30 documents) ... 30809-30827

29 CFR

1601 30798

30 CFR

PROPOSED RULES:

48 30990

32 CFR

PROPOSED RULES:

45 30828

40 CFR

730 30984

47 CFR

73 (2 documents) 30799, 30801

PROPOSED RULES:

1 30834
63 30840
64 30840
67 30840
73 (2 documents) 30841, 30842
76 30845

49 CFR

228 30803
1011 30803

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING JULY

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

1 CFR

302 28805
303 28806
465 30035

3 CFR

EXECUTIVE ORDERS:

July 2, 1910 (Revoked in part by PLO 5643) 29294
April 21, 1914 (Revoked in part by PLO 5643) 29294
11652 (Revoked by EO 12065) 28949
11714 (See EO 12065) 28949
11861 (Amended by EO 12069) 28973
11862 (See EO 12065) 28949
12065 28949
12066 28965
12067 28967
12068 28971
12069 28973
12070 28977
12071 32059

MEMORANDUMS:

June 30, 1978 29259

ORDERS:

June 28, 1978 28963

PROCLAMATIONS:

4576 28975
4577 29261
4578 30033

5 CFR

213 ..... 29763, 30263, 30787

PROPOSED RULES:

831 30806
890 30806

7 CFR

2 28979
27 29263
47 30787
230 29263
246 29263
271 29264
301 28979
729 28986
760 30264
905 29525
908 ..... 29101, 30036
910 ..... 29264, 29931, 30267
915 30036
916 ..... 29265, 30267
917 ..... 29526, 30267
918 ..... 28808, 29931
921 ..... 28996, 30790
922 28996
923 ..... 28996, 28997
924 28996
929 ..... 29763, 29764
944 29932
945 28808
948 29266
1421 29267
1427 30037
1464 29766

7 CFR—Continued

1480 29926
1488 29932
1980 29933

PROPOSED RULES:

29 29129
282 ..... 29950, 30290
958 28816
967 30066
989 30567
1133 30066
1424 29130
1464 28817
1701 ..... 29009, 30806
1933 29565

8 CFR

231 30268
242 29526

9 CFR

94 30269
202 30510
312 29268
316 29268
318 30791
320 30791
331 29269

10 CFR

1 ..... 28809, 30270
2 30793
20 29270
205 29528
210 29131
211 29131
212 29131

PROPOSED RULES:

11 29009
35 29297
50 29009
70 29009
110 30294
210 ..... 29298, 29565
211 ..... 29298, 29565
212 ..... 29298, 29565

12 CFR

202 30531
207 30038
215 30039
221 30038
226 30531
701 29270
721 29270

PROPOSED RULES:

25 29918
225 29796
228 29918
345 29918
541 30730
542 30730
543 30730
544 30730
545 30730
546 30730

12 CFR—Continued

PROPOSED RULES—Continued

547 30730
548 30730
549 30730
551 30730
552 30730
555 30730
556 30730
563e 29918
615 29010

13 CFR

120 ..... 29101, 29271
121 30533

PROPOSED RULES:

107 30067

14 CFR

39 ..... 29102, 29103, 29553, 30039, 30040, 30533-30535
71 ..... 28810, 28811, 29104, 29554, 29555, 30041, 30042, 30535
73 ..... 28811, 28813, 30043, 30536
75 ..... 30043, 30044, 30537
97 30044
300 29933
1201 29556
1209 29105

PROPOSED RULES:

Ch. II 29011
39 29583-29585
71 ..... 28817, 29131, 30068, 30571-30573
121 30068
371 30295
372a 30295
373 30295
378 30295
378a 30295

15 CFR

368 29272
369 29078
370 29272
371 28998
373 29273
378 29273
379 29273
399 29273
923 29106

16 CFR

13 ..... 29557, 30794
23 30538
419 28998
1031 30795

PROPOSED RULES:

13 ..... 29304, 29797, 30297
1306 29011

17 CFR

201 28999
211 ..... 29109, 29936

17 CFR—Continued

240 ..... 29110, 29767, 30270

PROPOSED RULES:

210 29954
240 30806

19 CFR

101 30288
132 29112
210 29275

20 CFR

404 ..... 29275, 29937, 30046
416 ..... 29277, 29281, 29937, 30271

PROPOSED RULES:

404 29955
416 ..... 29311, 29955, 30574

21 CFR

5 ..... 29285, 29286, 30796
14 30271
131 29769
155 30272
177 29287
182 29287
186 29287
193 29557
510 29290
520 30274
522 ..... 29288, 29769
524 ..... 29289, 29770
529 29290
558 ..... 29290, 30275
561 29557
660 29291

PROPOSED RULES:

16 29804
20 29804
102 30472
155 30299
156 30299
182 ..... 30300, 30808
186 ..... 30300, 30808
211 30808
369 29316
436 30302
469 30302
505 29316
536 29316
539 29316
546 30808
548 29316
680 30302
812 29804
821 30808
1020 30303

24 CFR

203 29113
205 29113
207 29113
213 29114
220 29114
221 29114
232 29114
234 29114
235 29114
236 29114
241 29115
242 29115
244 29115
250 29115

24 CFR—Continued

300 30276
1720 29494

PROPOSED RULES:

Ch. XIII 30030
221 30498
390 30574
811 30498
880 30498
881 30498
1710 29804
1715 29804
1917 30809-30827

25 CFR

43h 29115
221 ..... 29771, 29939
258 30047

PROPOSED RULES:

161 29317

26 CFR

1 ..... 29291, 29939
301 29291
404 29115

PROPOSED RULES:

1 ..... 29132, 29317, 30306-30308
20 30070
55 29317
301 30308

27 CFR

201 28999
252 28999

28 CFR

PROPOSED RULES:

524 30574
540 30574
541 30574
544 30574
547 30574
550 30574
551 30574
552 30574
571 30574

29 CFR

519 29000
870 30276
1203 30053
1601 30798

PROPOSED RULES:

97 29098

30 CFR

40 29508
41 29510
43 29513
44 29516
81 29508
82 29510

PROPOSED RULES:

11 29339
48 30990
70 29339
71 29339
75 29339
90 29339
730 29012
735 29012

30 CFR—Continued

PROPOSED RULES—Continued

781 29012
820 29012
822 29012

31 CFR

PROPOSED RULES:

10 29969

32 CFR

643 29748
706 29942

PROPOSED RULES:

45 30828
553 30075

32A CFR

PROPOSED RULES:

1901 28818
1902 28818
1903 28818

33 CFR

117 30053
127 29558
207 30054
290 30222
291 30222
292 30222
293 30222
294 30222
295 30222
393 30222
403 30538

PROPOSED RULES:

80 30256
90 30256

36 CFR

PROPOSED RULES:

7 30313

38 CFR

36 29000

PROPOSED RULES:

3 28824
4 28826

39 CFR

111 ..... 29943, 30054
221 29117
222 29117
223 29117
224 29118
225 29119

PROPOSED RULES:

111 30579
224 29134
602 29134

40 CFR

52 29559
180 ..... 29120, 29293, 29946
440 29771
712 29001
730 30984
762 29001

PROPOSED RULES:

50 30315
52 ..... 30075, 30580

40 CFR—Continued

PROPOSED RULES—Continued

62 ..... 29585, 29805
65 ..... 29013, 29015, 29805, 29807, 30581
120 30076
130 29588
141 29135
162 29696
163 29696
180 ..... 29809, 30314, 30582
181 29696
250 29908

41 CFR

Ch. 1 30539
29-50 29781
101-14 30055
101-15 30055
101-20 29001
101-25 29003
101-26 29005
101-43 30056

42 CFR

36 29783
58 29783
300 29005
304 29005
405 30526
449 30527
450 30527
460 29005
481 30528

PROPOSED RULES:

52j 30583
448 29970
450 29311
460 29016

43 CFR

20 29122
4100 29067
4200 29062
4300 29065
4700 29076
9230 29076

43 CFR—Continued

PUBLIC LAND ORDERS:

5641 29294
5642 29294
5643 29560
5644 30277

PROPOSED RULES:

3200 29811
3220 29811
3600 29150
6290 29412

45 CFR

164 30277
304 29787
1061 30279
1067 29123

PROPOSED RULES:

19 30584
205 29311
1061 29017

46 CFR

176 30771

47 CFR

0 29006
1 29560
73 ..... 30539, 30799, 30801
81 30540
83 ..... 29295, 30540
87 29562
89 30057
91 ..... 29006, 30057
93 29006

PROPOSED RULES:

1 30834
63 30840
64 30840
67 30840
73 ..... 29017, 29018, 29151, 29152, 29592, 30078, 30079, 30584, 30841, 30842
74 30080
76 30845
83 28840

49 CFR

173 30057
178 29562
179 30057
228 30803
395 29295
567 ..... 28814, 29124
568 28814
571 30541
575 ..... 30541, 30542
1011 30804
1033 ..... 29007, 29008, 29124-29126
1106 29946
1109 29296
1121 30556
1125 30062
1201 30558
1206 30559
1241 30561
1249 30561
1307 30563
1310 ..... 30563, 30566

PROPOSED RULES:

27 ..... 30316, 30585
191 ..... 29811, 30590
512 28841
531 30081
575 30586
1057 29812
1066 30587

50 CFR

17 28932
26 ..... 29296, 29563
280 29788
285 29787
611 ..... 29127, 29949, 30065
661 29791

PROPOSED RULES:

17 ..... 28841, 28938, 29019, 29152, 30316
32 30584
652 29818
810 29470

FEDERAL REGISTER PAGES AND DATES—JULY

Pages	*Date*	*Pages*	*Date*	*Pages*	*Date*
28805-28963	July 3	29525-29761	10	30259-30529	14
28965-29100	5	29763-29930	11	30531-30785	17
29101-29257	6	29931-30031	12	30787-30999	18
29259-29524	7	30033-30257	13		

rules and regulations

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

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

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service three positions of Battalion Officer, three positions of Regimental Officer, and one position of Training Administrator, at the U.S. Merchant Marine Academy, Maritime Administration. These positions replace the seven positions of company officer which were previously excepted. This exception is granted because it is impracticable to competitively examine for these positions.

EFFECTIVE DATE: July 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3114 is amended to read as follows:

§ 213.3114 Department of Commerce.

* * * * *

(h) *Maritime Administration.* * * *

(10) U.S. Merchant Marine Academy, positions of Professors, Instructors, and Teachers; including heads of Departments of Physical Education and Athletics, Humanities, Mathematics and Science, Maritime Law and Economics, Nautical Science, and Engineering; Coordinator of Shipboard Training; the Commandant of Midshipmen, the Assistant Commandent of Midshipmen; Director of Music; three Battalion Officers; three Regimental Affairs Officers; and one Training Administrator.

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

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

[FR Doc. 78-19776 Filed 7-17-78; 8:45 am]

[3410-02]

Title 7—Department of Agriculture

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

PART 47—RULES OF PRACTICE UNDER THE PERISHABLE AGRICULTURAL COMMODITIES ACT

Administrative Determination of Who Is a Responsibly Connected Person

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The rules setting forth the administrative procedures for determining who is a responsibly connected person under the Perishable Agricultural Commodities Act are being revised to provide for the designation of officials for Packers and Stockyards, Agricultural Marketing Service as Presiding Officer.

EFFECTIVE DATE: July 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert M. Grainger, 202-447-5251.

SUPPLEMENTARY INFORMATION: Section 47.5 is revised to delete reference to §§ 47.26 through 47.43, pertaining to disciplinary proceedings. Disciplinary proceedings under the Perishable Agricultural Commodities Act are included in the rules of practice governing formal adjudicatory administrative proceedings intituted by the Secretary effective February 1, 1977 (42 FR 743; 7 CFR 1.130 through 1.151).

There are minor revisions in wording to accommodate persons not represented by counsel.

These rules changes are procedural only. The revision of the rules does not change the procedures as previously published to an extent that adversely affects any person's rights to dispute his or her connection with a licensee under the act. It is necessary that these rules become effective immediately because there are presently several cases pending which require resolution as soon as possible. Therefore, it is found for good cause that it is unnecessary and impracticable to give notice of proposed rulemaking or to provide a 30-day notice prior to the effective date.

Accordingly, this part is revised as follows:

1. Section 47.5 is revised to read as follows:

§ 47.5 Scope and applicability of rules of practice.

Sections 47.6 through 47.25 shall be applicable to the procedure governing the filing and disposition of formal complaints in reparation proceedings. Sections 47.47 through 47.68 shall be applicable to the proceedings for determining whether a person is responsibly connected with a licensee under the Perishable Agricultural Commodities Act. Sections 47.1 through 47.5 and § 47.46 shall be applicable to all proceedings under §§ 47.6 through 47.25 of these regulations in this part. Sections 47.1 and 47.2, except for § 47.2 (i) through (r), shall be applicable to all proceedings under §§ 47.47 through 47.68 of the regulations in this part.

In addition, except to the extent they are inconsistent with the provisions of 7 CFR 1.130 through 1.151, 7 CFR 47.1 through 47.5 and § 47.46 are also applicable to procedures governing the filing and disposition of formal complaints and other moving papers relating to administrative proceedings to enforce the act pursuant to 7 CFR 1.130 through 1.151.

1. In the table of contents for part 47, the entries for §§ 47.47 through 47.68 are revised as follows:

RULES APPLICABLE TO THE DETERMINATION AS TO WHETHER A PERSON IS RESPONSIBLY CONNECTED WITH A LICENSEE UNDER THE PERISHABLE AGRICULTURAL COMMODITIES ACT

Sec.
47.47 Additional definitions.
47.48 Scope and applicability.
47.49 Determinations.
47.50 Designation of parties for purposes of the proceeding.
47.51 Requests.
47.52 Consent orders.
47.53 Notice of time and place of hearing.
47.54 Appearances.
47.55 Order of proceeding.
47.56 Powers of presiding officer.
47.57 Who may act in absence of the presiding officer.
47.58 Evidence.
47.59 Filing transcripts and exhibits.
47.60 Transcripts.

Sec.
47.61 Proposed findings of fact, conclusions and decision.
47.62 Presiding officer's decision.
47.63 Petition for review.
47.64 Administrator's order.
47.65 Filing; number of copies.
47.66 Service; proof of service.
47.67 Computation of time.
47.68 Extensions of time.

Sections 47.47 through 47.68 are revised as follows:

§ 47.47 Additional definitions.

The following definitions, which are in addition to those in 7 CFR 47.2 (a) through (h), shall be applicable to proceedings under 7 CFR 47.47 through 47.68:

(a) "Administrator" means the Administrator, Agricultural Marketing Service, U.S. Department of Agriculture.

(b) "Regulatory Branch" means the Regulatory Branch of the Division.

(c) "Chief" means the Chief of the Regulatory Branch, or any officer or employee to whom authority has heretofore lawfully been delegated or to whom authority may hereafter lawfully be delegated by the Chief, to act in such capacity.

(d) "Presiding Officer" means the Deputy Administrator, or Assistant Deputy Administrator, or Director of Packer and Poultry Division, or Director of Livestock Marketing Division for Packers and Stockyards, Agricultural Marketing Service.

(e) "Petitioner" means any person to whom notice of being responsibly connected has been given, by the Chief, and who files a petition contesting the Chief's determination and requesting a final decision that petitioner is not responsibly connected.

(f) "Decision" means the presiding officer's finding of facts and conclusions of law, as well as the reasons or basis therefor. This decision is non-reviewable as to the finding of facts, but may be reviewable as to the conclusions of law by the Administrator.

(g) "Petition for Review" means the document filed requesting review by the Administrator of the presiding officer's decision.

§ 47.48 Scope and applicability.

These rules govern the determination of whether a person is responsibly connected with licensees under the Perishable Agricultural Commodities Act of 1930, as amended, or with persons whose license issued under the act has been suspended, revoked, or terminated or with persons who transact business subject to the act, but fail to obtain the required license.

§ 47.49 Determinations.

(a) The Regulatory Branch shall determine whether a person was at the time in issue responsibly connected with a licensee whose license is subject to suspension, revocation, or termination or which is subject to having the facts and circumstances of violations of the act published. Such determination shall be made on the basis of license records on file with the Regulatory Branch, and such other information as may be available.

(b) Upon determining that a person was responsibly connected at the time in issue with a licensee which is subject to the suspension or revocation of its license, or which is subject to having the facts and circumstances of violations of the Act published, and that the employment status and licensing of such person may be restricted, the Regulatory Branch shall notify the person in writing of his or her status and of any employment and licensing restrictions resulting therefrom.

(c) If a person believes he or she was not responsibly connected with a licensee at the time in issue, he or she may submit the reasons for such belief in written form, along with all pertinent documents, within 30 days of the receipt of such notification to the Chief, who will promptly review the matter and advise the person in writing of the Chief's determination and the reasons for reaching such determination.

(d) Within 30 days of receipt of notification of the Chief's determination, a person who disagrees with such determination may file a petition with the Administrator for a review proceeding and final decision, along with a statement as to why he or she believes the Chief's determination was incorrect, and may, if desired, request an oral hearing.

(e) Upon the filing of a petition with the Administrator as provided in paragraph (d) of this section, the Administrator shall designate a presiding officer as set forth in § 47.47(d).

(f) The presiding officer will order that an oral hearing be held if one is requested by the petitioner, or if the presiding officer otherwise determines an oral hearing is necessary. Any such hearing shall be held at a location convenient to the petitioner. In all cases in which there is an oral hearing, the Presiding Officer shall require the petitioner to appear in person for the purpose of oral testimony and examination. A verbatim record shall be made of the hearing. In the event an oral hearing is neither requested nor ordered, the presiding officer shall provide the petitioner a copy of the official file, and give the parties an opportunity to submit documents and other evidence to support their positions, as well as written arguments pertaining thereto.

§ 47.50 Designation of parties for purposes of the proceeding.

(a) The person who challenges the Chief's determination of responsible connection shall be designated the petitioner.

(b) The Agricultural Marketing Service shall be designated the "Agency."

§ 47.51 Requests.

(a) All requests should be filed with the presiding officer, who shall rule upon them.

(b) Within 15 days after service of any written request, or within any longer period fixed by the presiding officer, the opposing party may file an answer to the request if it so desires.

§ 47.52 Consent orders.

At any time after the institution of the review proceedings, petitioner may withdraw his or her petition. Such withdrawal shall be final, and have the effect of a consent to a decision that petitioner was responsibly connected during the time in issue.

§ 47.53 Notice of time and place of hearing.

Upon assignment of the matter for an oral hearing, the presiding officer shall notify the parties by serving them with copies of the notice of hearing, stating the time and place of such hearing, shall make the official file a part of the records of the proceeding, and shall provide the petitioner with a copy of the official file. The parties will be notified as soon as possible of any change in the time and place of hearing.

§ 47.54 Appearances.

(a) The petitioner shall appear in person and may be accompanied by counsel.

(b) The failure of a petitioner to appear at a hearing, after being duly notified of the hearing, shall constitute a waiver of petitioner's right to present evidence and a withdrawal of the petition. Such withdrawal shall be final and have the effect provided for in Section 47.52.

§ 47.55 Order of proceeding.

Except as may be determined otherwise by the presiding officer, the petitioner shall proceed first at the hearing.

§ 47.56 Powers of presiding officer.

The presiding officer shall have the power to:

(a) Rule upon requests, and accept requests for withdrawal or dismissal of the petition;

(b) Set the time and place of hearing, adjourn the hearing from time to time, and change the time and place of hearing;

(c) Administer oaths and affirmations and take affidavits;

(d) Examine witnesses;

(e) Admit or exclude evidence;

(f) Hear oral argument;

(g) To issue findings of fact, and conclusions of law, and render a decision as to whether the petitioner is responsibly connected. The findings of fact shall be final and not subject to review;

(h) Do all acts and take measures necessary for the maintenance of order at the hearing and for the efficient, fair and impartial conduct of the proceeding.

§ 47.57 Who may act in the absence of the presiding officer.

In the absence or inability of the presiding officer to act, the powers and duties to be performed in connection with a proceeding may be assigned by the Administrator to another presiding officer.

§ 47.58 Evidence.

(a) *General.* The testimony of witnesses at a hearing shall be upon oath or affirmation and subject to cross-examination. Any witness may, in the discretion of the presiding officer, be examined separately and apart from all other witnesses except those who may be parties to the proceeding. The presiding officer shall admit all relevant and material evidence, except evidence which is unduly repetitious.

(b) *Objections.* If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination, he or she shall state briefly the grounds for such objection, whereupon an automatic exception will follow if the objection is overruled by the presiding officer. The transcript shall not include argument or debate except as ordered by the presiding officer. The ruling of the presiding officer or any objection shall be a part of the transcript. Only objections made before the presiding officer may subsequently be relied upon in the proceeding.

(c) *Records of the Department.* A true copy of every written entry in the records of the Department, made by an officer or employee thereof in the course of official duty and relevant and material to the issues involved in the hearing, shall be admissible as prima facie evidence of the facts stated therein, without the production of such officer or employee.

(d) *Exhibits.* Except where the presiding officer finds that the furnishing of copies is impracticable, copies of each exhibit, in addition of the original, shall be filed with the presiding officer for the use of the other parties to the proceeding.

(e) *Official notice.* Official notice may be taken of such matters as are judicially noticed by the courts of the United States and of any other matter of technical or scientific fact of established character: *Provided,* That the parties shall be given adequate notice, at the hearing or by reference in the presiding officer's decision or otherwise, of matters so noticed, and shall be given adequate opportunity to show that such facts are erroneously noticed.

(f) *Offer of proof.* Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof which shall be included in the transcript. The offer of proof shall consist of a brief statement describing the evidence to be offered. If the evidence consists of a brief oral statement or of an exhibit, it shall be inserted into the transcript in toto. The presiding officer shall not allow the insertion of such evidence in toto if the taking of such evidence will consume a considerable length of time at the hearing. In the latter event, if the Administrator decides that the presiding officer's ruling excluding the evidence was erroneous, the hearing shall be reopened to permit the taking of such evidence.

§ 47.59 Filing transcripts and exhibits.

As soon as practicable after the close of the hearing, the presiding officer shall certify an original and two copies of the transcript of testimony, and the original and two copies of exhibits introduced in evidence at the hearing. The presiding officer shall attach to the original transcript of the evidence a certificate stating that the transcript is a true transcript of the testimony offered or received at the hearing, except in such particulars as specified, and that the exhibits are all the exhibits introduced at the hearing, with any exceptions specified. A copy of such certificate shall be attached to each of the copies of the transcript and exhibits.

§ 47.60 Transcripts.

Parties to the proceeding who desire a copy of the transcript of the hearing may place orders at the hearing with the reporter who will furnish and deliver such copies direct to the purchaser upon payment therefor at the rate per page provided by the contract between the reporter and the Department for such reporting service.

§ 47.61 Proposed findings of fact, conclusions and decision.

Within such time as the presiding officer shall prescribe, each party may file with the presiding officer proposed findings of fact and conclusions and a brief in support thereof. A copy of each such document filed by a party shall be served upon the other party or parties by the presiding officer.

§ 47.62 Presiding officer's decision.

The presiding officer, shall prepare his or her decision. A copy of such decision shall be served by the presiding officer upon each of the parties. The decision shall be final unless appealed as provided in § 47.63 below.

§ 47.63 Petition for Review.

Either party, within 30 days after service of the presiding officer's decision, may file a petition for review with the Administrator. The petition for review shall set forth objections to the conclusions of law and the grounds therefor. Upon receipt of notice of the filing of a petition for review, the presiding officer shall transmit the decision and a certified copy of the record to the Administrator.

§ 47.64 Administrator's order.

After considering the petition for review in conjunction with the presiding officer's decision, the Administrator shall issue a final order affirming or reversing the presiding officer's conclusions of law. The Administrator shall cause the order to be served upon the parties.

§ 47.65 Filing; number of copies.

Except as otherwise provided, all documents or papers required or authorized to be filed shall be filed in triplicate; *Provided,* That where there are more than two parties to the proceeding, sufficient copies shall be filed so as to provide service upon all the parties.

§ 47.66 Service; proof of service.

Copies of all documents or papers required or authorized by these rules to be served on any party to a proceeding shall be served by the presiding officer, or Administrator, of by some other employee of the Department. Except as otherwise provided, service shall be made either by (a) delivering a copy of the document or paper to the person to be served, or to the attorney, or agent of record of such person; (b) by leaving a copy of the document or paper at the principal office or place of business of such person, or of an attorney or agent of record; (c) by registering or certifying and mailing a copy of the document or paper addressed to such person or to the last known residence or principal office or place of business; or (d) in the case of service upon an attorney or agent of record, by mailing, by regular mail, a copy of the document or paper, addressed to the address of record of that person. Proof of service hereunder shall be confirmed by the written statement of the person who actually made the service: *Provided,* That if service is made the Administrator or presiding officer by regular mail, proof of service shall be confirmed by the written statement of the Administrator or presiding officer. The written statement or post office receipt con-

templated therein shall be filed with the presiding officer, or the Administrator and the fact of filing thereof shall be noted in the record of the proceeding.

§ 47.67 Computation of time.

Saturdays, Sundays, and holidays shall be included in computing the time allowed for the filing of any document or paper: *Provided*, That when the time expires on a Saturday, Sunday, or legal holiday, the period shall be extended to include the next following business day.

§ 47.68 Extensions of time.

The time for filing any document or paper required or authorized herein may be extended by the Administrator or the presiding officer, if request is made prior to or on the final date allowed for such filing, if in the judgment of the Administrator or presiding officer, there is good reason for granting the request.

Done at Washington, D.C., July 12, 1978.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc. 78-19778 Filed 7-17-78; 8:45 am]

[3410-02]

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

[Peach Regulation 15]

PART 921—FRESH PEACHES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Limitation of Shipments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation contains minimum grade, size and pack requirements for the handling of shipments of fresh peaches from Washington. This regulation takes into consideration the marketing situation facing the Washington peach industry, and is necessary to assure that shipments of peaches will be of suitable quality and size and appropriately packed in the interest of consumers and producers.

EFFECTIVE DATES: July 15, 1978, through July 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Notice was published in the FEDERAL REGISTER issue of June 12, 1978, (43 FR 25347) that the Department was giving consideration to a proposal which would limit the handling of fresh peaches grown in designated counties in Washington by establishing a regulation under the marketing agreement and Order No. 921 (7 CFR part 921) regulating the handling of fresh peaches grown in designated counties in Washington. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). No comments were filed.

This regulation is based upon appraisal of the current and prospective crop and market conditions. Washington's 1978 commercial peach crop is estimated at 20,500 tons, the same as last year. The regulation, herein specified, is designed to prevent the handling on and after July 15, 1978, of low quality and small size peaches and provide orderly marketing in the interest of producers and consumers, consistent with the objectives of the act.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the committee, and upon other available information, it is hereby found that the limitation of handling of such peaches, as herein provided, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rulemaking concerning this regulation, with an effective date as herein specified, was published in the FEDERAL REGISTER (43 FR 25347), and no objection to this regulation or such effective date was received; and (2) compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

§ 921.315 Peach Regulation 15.

Order. (a) During the period July 15, 1978, through July 31, 1979, no handler shall handle any lot of peaches unless such peaches meet the following applicable requirements, or are handled in accordance with paragraph (a)(5) of this section.

(1) *Minimum grade.* Such peaches shall grade at least Washington Extra Fancy Grade: *Provided*, That peaches which grade Washington Fancy Grade or better may be handled if they are packed in the Western lug box or the standard peach box.

(2) *Minimum size.* (i) Such peaches of any variety, except peaches of the Elberta varieties, when packed in any container except the standard peach box, shall measure not less than 2⅝ inches in diameter;

(ii) Such peaches of any variety when packed in the standard peach box shall measure not less than 2¼ inches in diameter; and

(iii) Such peaches of the Elberta varieties when packed in any container shall measure not less than 2¼ inches in diameter.

(3) *Uniform firmness.* Such peaches in individual containers shall have a reasonably uniform degree of firmness.

(4) *Pack.* (i) Such peaches in loose or jumble packs shall be in containers of a capacity equal to or greater than that of a Western lug box and shall contain not less than 26 pounds net weight of peaches: *Provided*, That such containers of peaches having less than 26 pounds net weight may be handled if such containers are well filled, and

(ii) Such peaches other than peaches in loose or jumble packs in any containers shall meet the standard pack requirements as set forth in the Washington Standards for Peaches (Order No. 1212), or the U.S. Standards for Peaches (7 CFR 51.1210 et seq.).

(5) Notwithstanding any other provisions of this section, any individual shipment of peaches sold by the producer or at an established packinghouse which meets each of the following requirements may be handled without regard to the provisions of this paragraph, of § 921.41 (Assessments), and of § 921.55 (Inspection and Certification) if:

(i) The shipment consists of peaches sold for home use and not for resale; and

(ii) The shipment does not, in the aggregate, exceed 500 pounds, net weight, of peaches.

(b) The terms "Washington Extra Fancy Grade," "Washington Fancy Grade," and "mature" shall have the same meaning as when used in the Washington Standards for Peaches (effective October 18, 1971), issued by the State of Washington Department of Agriculture; the term "loose or jumble pack" shall mean that the peaches are not placed in the container in rows, cups, compartments, or otherwise are not placed in the container in symmetrical order; the term "standard peach box" shall mean a container with inside dimensions of 4¼ to 6 by 11½ by 16 inches; the term "Western lug box" shall mean any container with inside dimensions of 7 by 11½ by 18 inches; the term "well filled" shall mean that the level of fruit is filled at least to the top edge of the container; the term "diameter" shall mean the greatest distance measured through the center of the peach at right angles to a line running from the stem to the blossom end; and terms used in the marketing agreement and order shall, when used herein, have the same meaning as is

given to the respective term in the marketing agreement and order.

(c) Peach Regulation 14 (42 FR 36233) is hereby terminated July 15, 1978.

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

Dated: July 12, 1978.

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

[FR Doc. 78-19777 Filed 7-17-78; 8:45 am]

[3410-37]

Title 9—Animals and Animal Products

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

SUBCHAPTER A—MANDATORY MEAT INSPECTION

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS: REINSPECTION AND PREPARATION OF PRODUCTS

PART 320—RECORDS, REGISTRATION, AND REPORTS

Cooking Requirements for Cooked Beef and Roast Beef

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Federal meat inspection regulations to permit alternative cooking procedures for cooked beef and roast beef. The processing requirements published in the September 2, 1977 FEDERAL REGISTER (42 FR 44217), specified that all cooked beef and roast beef be cooked to a minimum internal temperature of 145° F (63° C). The intent of that rule was to eliminate Salmonella food poisoning caused by the consumption of commercially precooked beef. Its purpose has been accomplished. Recently, several alternative processing procedures were developed in order to permit processing of such product with color characteristics preferred by many consumers while continuing to protect the public from Salmonella food poisoning. Each of the alternative processing procedures meets these safety criteria, and this rule will permit the use of any of these alternative methods.

EFFECTIVE DATE: July 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. Ronald E. Engel, Acting Deputy Administrator, Science, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-2326.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Cooking requirements for cooked beef and roast beef were published by the Administrator on September 2, 1977 (42 FR 44217) as an emergency measure to prevent outbreaks of human salmonellosis caused by the consumption of commercially prepared cooked beef. These requirements specified that such products be prepared by a cooking procedure that produced a minimum temperature of 145° F (63° C) in all parts of each roast. This procedure was deemed necessary in order to destroy all Salmonella bacteria present in the roast.

Salmonella are common bacteria which are often associated with warm-blooded animals, including man. Many animals which are not clinically ill are nevertheless carriers of these organisms. The physical nature of raw beef roasts is such that the penetration of micro-organisms, including Salmonella, into the deepest portions of the roasts may occur. Gaps in intermuscular fascia, knife cuts, and deep folds are some of the physical features that contribute to such penetration. Deep inoculation of Salmonella bacteria and other micro-organisms may also occur during boning, packing, defrosting, and precook handling of the raw roasts or by the flow of natural juices during the cooking process. A significant public health hazard is created when the cooking procedure for the product fails to kill the Salmonella.

Although the 145° F cooking temperature required by the rule published on September 2, 1977, eliminated the public health hazard, it also resulted in a product which is considered by some members of the public to be overcooked. Many consumers prefer "rare" beef and the popular item of trade is rare beef. Because they wanted to preserve this rare appearance, seven trade associations have funded studies conducted by the American Bacteriological & Chemical Research Corp., which operates an independent research laboratory, to determine safe alternative processing procedures. The experimental design of these studies was reviewed and approved by meat and poultry inspection personnel before they were undertaken. The firm issued two reports—"Fate of Salmonella Inoculated Into Beef for Cooking" (December 19, 1977) and an addendum, "Fate of Salmonella Inoculated Into Beef for Cooking" (January 12, 1978). These documents may be obtained free of charge by writing Dr. Ronald E. Engel, Acting Deputy Administrator, Science, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250.

These reports demonstrate that alternative processing procedures can provide a number of acceptable time and temperature combinations for preparing cooked beef and roast beef in such a manner that Salmonella bacteria are eliminated. Each alternative processing procedure analyzed in these reports is equal for the purposes of Salmonella destruction to the procedure which has been required. The amended regulation allows a processor to choose one of these alternative processing procedures in producing cooked beef and roast beef. The amended regulation also includes the requirement that records of these alternative processing procedures be kept and requires that processors have sufficient monitoring equipment to assure the accuracy of such processing.

Thermal destruction of bacteria is a function of both time and temperature. At higher temperatures bacterial death occurs within a short time, whereas at lower temperatures longer exposures are required to destroy equivalent bacterial numbers. The reports provide data on alternative cooking procedures which yield equivalent lethalities for salmonellae to that achieved when roasts are cooked to an internal temperature of 145° F.

Though the rate of thermal destruction of Salmonella is a function of time and temperature, as explained above, the change in color of muscle myoglobin in roasts from red to gray is affected by a different time temperature relationship. A temperature of 145° F (63° C) causes a rapid change of color of the myoglobin, whereas a temperature of 135° F for prolonged periods produce little color change. Thus it is possible to destroy Salmonella by exposing roasts to low heat for extended time periods without causing the meat to turn gray or appear overcooked.

In addition to the documentation of these time and temperature relationships, these studies show that moisture is also important in the death of Salmonella. Salmonella are much more resistant to heat in a dry environment. This becomes very important in beef that is being dry roasted in ovens operated at low temperatures.

COMMENTS

A proposal for alternative processing procedures for preparing cooked beef and roast beef was published in the May 2, 1978 FEDERAL REGISTER (43 FR 18681). The document proposed 17 alternative time and temperature processes to the processing requirements published in the September 2, 1978 FEDERAL REGISTER (42 FR 44217), which specified that all such product be prepared by a cooking procedure that produces a minimum internal temperature of 145° F (63° C). The

purpose of the proposal was to permit the use of lower cooking temperatures which result in the pink or red coloration characteristic of medium or rare beef, while simultaneously providing equal safety from Salmonella bacteria.

There were 41 responses to the proposal, all of which had relevant comments.

A number of commenters expressed general support for the alternative procedures, as proposed, in order to either prepare or purchase rare beef without a risk of it containing Salmonella.

Several commenters questioned the need for vacuum packaging in moist cooking as proposed in paragraph (c)(1). Information was provided on the use of moisture impermeable bags with air removed as being sufficient to accomplish proper humidification without vacuum packaging. This is a valid comment, and the adoption of this suggestion will allow some processors to prepare product without the purchase of additional equipment. Thus, we have amended paragraph (c)(1) of the final rule to permit the use of such process.

One commenter said that, if the center of the meat mass does not reach 140° F no matter what process of cooking is used, there is a probability of product souring and bacterial contamination occurring once it is in the hands of the consumer. The Administrator has determined that the utilization of time factors in the specified processes below 140° F (60° C), and prompt cooling of the cooked product will both render the product safe from Salmonella and prevent souring.

One commenter questioned whether this document will change the definition of roast beef. The Department has not established a standard of identity or composition for roast beef which might be changed by this rule. Furthermore, the Department's policy has been to approve labels for products known as "roast beef" when such products are cooked in a dry oven, but not when they are cooked in bags immersed in water. Beef cooked in a bag immersed in water is labeled as "cooked beef." The Administrator has determined that the requirement of the maintenance of high relative humidity during 25 percent of the processing time during dry oven cooking will not significantly alter the characteristics of product labeled and known as roast beef. Therefore the publication of this rule will not require any change in labeling policy. However, the Department, in an attempt to avoid confusion on this point, has revised some of the terminology used in the rule to clarify that products in their raw state are known as beef roasts and that they may be identified as either "roast beef" or "cooked beef" depending upon the manner in which they are processed.

One equipment manufacturer and a food service operator said that the requirement included in paragraph (c)(2)(ii) of the proposed rule for maintaining 90 percent relative humidity needs clarification, and should specify which part of the oven should be measured for this purpose. Documented consultations with ABC Research Laboratories show that, during experiments which simulated smokehouse conditions frequently used by the industry, the humidity was measured in the smokehouse chamber. During experiments with a sealed oven similar to ovens used in the processing of such roasts, the humidity was measured in the exit vent. In both groups of experiments, the two methods of humidification resulted in the successful destruction of Salmonella. Accordingly, this rule has been changed to allow for measurement in either the chamber or the exit vent.

One commenter expressed concern that vacuum packaging in impermeable film prior to water immersion or oven cooking provides an anaerobic condition conducive to the growth of *Clostridium botulinum* and *Clostridium perfringens*. The Administrator has evaluated this comment and determined that the processing temperatures listed are above the maximum growth temperatures for these two organisms so that processing temperatures prevent growth. Similarly, adequate cooking procedures as required for this product by FSQS prevent their growth. No evidence exists that packaging in the manner prescribed results in a safety hazard which cannot be controlled through good commercial practices.

Several commenters asked why other bacteria, intestinal protozoa, and helminths were not considered in the proposal. The Administrator has reviewed those comments and notes that FSQS temperature requirements for preparing cooked beef and roast beef began in September 1977. Prior to that, such products were prepared in volume at temperatures and times below those specified in this rule. Outbreaks of salmonellosis in humans occurred, but these were brought under control after the promulgation of the September 1977 rule. No evidence of other human health hazards associated with the consumption of such products have been brought to our attention during the many decades of its production. Consequently, there does not appear to be a need for further regulation of this process.

One commenter noted that the statement in § 318.17, item (b) implies that one of the procedures provided in the table is all that is necessary as an alternative processing procedure when in fact there are additional requirements imposed under paragraphs (c) and (d). In response to this comment, the paragraph has been modified for clarity.

One commenter suggests that beef cooked to temperatures below 135° F (57.2° C) should not be described as cooked. The Administrator has determined that consumer preference for the color characteristics of beef varies both within and between geographic regions of the United States. Prior to the promulgation of the September 1977 rule, the product was characteristically cooked in volume to internal temperatures of 125°–130° F with overall consumer acceptance. Accordingly, production at temperatures of 130° F and above will continue to be permitted since these are safe and satisfy consumer preferences.

A number of commenters questioned the adequacy of the controls to be required by paragraph (d) of the proposed rule. One commenter noted that, to assure accuracy within the 1° F and 1 minute proposed, only thermocouples and a recording potentiometer would provide the reliability and reproducibility needed. The same commenter suggested that FSQS specify approved monitoring equipment, and specify the exact amount of roasts to be tested for monitoring purposes. Another commenter asked if there is a sufficient margin of safety allowed in the tables for measuring devices which are inaccurate to some degree. Another commenter wanted to know whether it will be necessary to have an inspector on the premises at all times during long cooking cycles, or whether he would accept records from recording devices. The Administrator has reviewed those comments and determined that the margin of safety allowed in the tables is sufficient to accommodate inaccuracies in measuring devices within the tolerances established by this section, and that it is necessary and reasonable to expect processors using the alternative procedures to have instruments with accuracies of 1° F and 1 minute as described. Continuous recording devices with these accuracies are acceptable for subsequent review by inspection personnel. Paragraph (d) has been modified accordingly. Due to the large number of instruments which may be used to fulfill the needs of this rule, it does not appear to be practical to devise and include in this document an approval system. Most instrument manufacturers specify the accuracy of their units and procedures for recalibration. This information will be made available to the inspector. He will use thermometers and time pieces to verify the accuracy of the controls. In regard to the degree of monitoring necessary, it is not intended that the temperature of each roast must be measured. It will be the responsibility

of the processor to determine variations within ovens or water baths, and determine the coldest areas to determine temperatures. Information of this nature, when made available to the inspector, will justify reduced monitoring.

Paragraph (d) of the rule has also been changed to require the use of equipment to insure that roasts prepared under the procedures specified in paragraphs (b) and (c) not contact each other during processing. This change is in accordance with both the intent of the original proposal and is being added to insure the accurate monitoring of the temperatures of roasts prepared in accordance with these specifications.

Several commenters showed concern about the growth of *C. perfringens* under the alternative processes, particularly within the long time period associated with 128° and 129° F procedures. The Administrator has reviewed each of these comments and finds that the 128° and 129° F procedures do not pose a substantial threat of enhancing *C. perfringens* growth. However, processing at these two temperatures may require prolonged exposure of the cooked beef and roast beef to lower temperatures before they attain the specified temperature. This may create a slight risk of a safety hazard. Accordingly, these two temperatures have been stricken from the table for added safety.

On the basis of the foregoing, parts 318 and 320 of the Federal meat inspection regulations are amended to read as follows:

1. Section 318.17 (9 CFR 318.17) is amended to read as follows:

§ 318.17 Cooking requirements for cooked beef and roast beef.

(a) Cooked beef and roast beef shall be prepared by a cooking procedure that produces a minimum temperature of 145° F (63° C) in all parts of each roast or prepared as provided in paragraphs (b) and (c) of this section.

(b) Cooked beef may also be prepared by any one of the cooking procedures described in the following table and in paragraphs (c)(1) and (d), and roast beef may also be prepared by any one of the cooking procedures described in the following tables and in paragraph (c)(2) and (d) provided that the procedure produces and maintains the minimum temperature required, in all parts of each roast, for at least the stated period:

TABLE FOR ALTERNATIVE PROCESSING PROCEDURES FOR COOKED BEEF AND ROAST BEEF

Minimum internal temperature		Minimum processing time in minutes
°F	°C	
130	54.4	121
131	55.0	97
132	55.6	77
133	56.1	62
134	56.7	47
135	57.2	37
136	57.8	32
137	58.4	24
138	58.9	19
139	59.5	15
140	60.0	12
141	60.6	10
142	61.1	8
143	61.7	6
144	62.2	5

(c)(1) Bag cook: Each roast to be moist cooked shall be placed in a moisture impermeable film, either vacuum packaged or excess air removed, and the bag sealed prior to immersion cooking in a water bath or cooking in an oven.

(2)(i) Unbagged cook (netted or racked roasts): Roasts processed entirely by dry heat must weigh 10 pounds or more before processing and must be dry cooked in an oven maintained at 250° F (121° C) or higher throughout the process; or

(ii) An oven temperature less than 250° F (121° C) may be used for dry cooking of roasts of any size provided that the relative humidity, as measured in either the chamber or exit vent of the oven in which they are prepared, is greater than 90 percent for at least 25 percent of the total cooking time for the process, but in no case for a lesser period than 1 hour. This relatively humidity may be achieved by use of steam injection or by sealed ovens capable of producing and maintaining the required 90 percent relative humidity.

(d) A processor who selects any of the alternative procedures specified in paragraphs (b) and (c) of this section must have equipment designed to insure that beef roasts do not contact each other during processing and shall have sufficient monitoring equipment to assure that the time (within 1 minute), temperature (within 1° F), and relative humidity (within 5 percent) limits required by this process are being met. The processor shall provide proper recording devices, and make the data from these available to the Food Safety and Quality Service inspection officials upon request, as provided in Part 320 of the regulations in this subchapter. Continuous recording devices with the prescribed accuracies will be acceptable for all product prepared under paragraphs (a) and (b).

2. Section 320.1(b) is amended by adding the following subparagraph (4):

§ 320.1 Records required to be kept.

* * * * *

(b) * * *

(4) Records of processing procedures for cooked beef and roast beef as required in § 318.17(d).

NOTE.—An impact analysis statement is available from the Food Safety and Quality Service.

Done at Washington, D.C., on July 6, 1978.I07Robert Angelotti,

Administrator, Food Safety and Quality Service.

[FR Doc. 78-19658 Filed 7-17-78; 8:45 am]

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

Notice of Hearing

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is revising its rules of practice to provide specifically for thirty (30) days FEDERAL REGISTER notice of the time and place of the initial hearings to be held on applications seeking construction permits for production or utilization facilities. Once this notice has been given, the presiding office may reschedule the commencement of the hearing for a later date or reconvene a recessed hearing without again providing thirty (30) days notice.

EFFECTIVE DATE: July 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Trip Rothschild, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 202-634-1465.

SUPPLEMENTARY INFORMATION: Because this amendment relates to agency procedure, good cause exists for omitting notice of proposed rulemaking and public procedure thereon. It also may become effective without the customary 30-day notice. Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendment to Title 10, Chapter I, Code of Federal

Regulations, Part 2 is published as a document subject to codification.

§ 2.104 [Amended]

1. Footnote 1 to § 2.104(a) is amended by revising it to read as follows:

[1]If the notice of hearing concerning an application for a construction permit for a facility of the type described in § 50.21(b) or § 50.22 of this chapter or a testing facility does not specify the time and place of initial hearing, a subsequent notice will be published in the FEDERAL REGISTER which will provide at least thirty (30) days notice of the time and place of that hearing. After this notice is given the presiding officer may reschedule the commencement of the initial hearing for a later date or reconvene a recessed hearing without again providing thirty (30) days notice.

Dated at Bethesda, Md., this 30th day of June 1978.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc. 78-19682 Filed 7-17-78; 8:45 am]

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2923]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Hiken Furniture Co.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: This consent order, among other things, requires a Belleville, Ill., furniture retailer to cease employing bait and switch tactics, and misrepresenting or failing to make relevant disclosures regarding prices, products and service, cooling-off periods, cancellation and refund rights, and the availability of arbitration to resolve consumer disputes. The order further prohibits the use of unfair or deceptive means to induce payment from allegedly delinquent debtors, and requires respondents to provide, in the extension of credit, those materials and disclosures required by Federal Reserve regulations. Additionally, respondent is required to furnish its advertising media with copies of Commission's press release setting forth the terms of the order.

DATES: Complaint and order issued June 12, 1978.[1]

[1]Copies of the complaint, and the decision and order filed with the original document.

FOR FURTHER INFORMATION CONTACT:

Paul W. Turley, Director, Chicago Regional Office, Federal Trade Commission, 55 East Monroe Street, Suite 1437, Chicago, Ill. 60603, 312-353-4423.

SUPPLEMENTARY INFORMATION: On Tuesday, April 4, 1978, there was published in the FEDERAL REGISTER, 43 FR 14053, a proposed consent agreement with analysis in the matter of Hiken Furniture Co., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of a complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows:

Subpart—Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.10-1 Availability of merchandise and/or facilities; § 13.30 Composition of goods; § 13.35 Condition of goods; § 13.70 Fictitious or misleading guarantees; § 13.71 Financing; § 13.73 Formal regulatory and statutory requirements; § 13.73-92 Truth in Lending Act; § 13.75 Free goods or services; § 13.90 History of product or offering; § 13.95 Identity of product; § 13.155 Prices; § 13.155-5 Additional charges unmentioned; § 13.155-10 Bait; § 13.155-15 Comparative; § 13.155-75 Product or quantity covered; § 13.155-95 Terms and conditions; § 13.155-95(a) Truth in Lending Act; § 13.155-100 Usual as reduced, special, etc.; § 13.160 Promotional sales plans; § 13.170 Qualities or properties of product or service; § 13.170-30 Durability or permanence; § 13.175 Quality of product or service; § 13.180 Quantity; § 13.180-30 In stock; § 13.180-35 Offered; § 13.185 Refunds, repairs, and replacements; § 13.205 Scientific or other relevant facts; § 13.235 Source or origin; § 13.235-60 Place; § 13.235-60(a) Domestic products as imported; § 13.240 Special or limited offers; § 13.260 Terms and conditions; § 13.272 Type or variety. Subpart—Coercing and Intimidating: § 13.356 Delinquent Debtors. Subpart—Contracting for Sale in any Form Binding on Buyer Prior to End of Specified Time Period: § 13.527 Contracting for sale in any form binding on buyer prior to end of specified time period. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-5 Arbitration; § 13.533-20 Disclosures; § 13.533-25 Displays, in-house; § 13.533-37 Formal regulatory and/or statutory requirements; § 13.533-40 Furnishing information to media; § 13.533-45 Maintain records; § 13.533-45(a) Advertising substantiation; § 13.533-55 Refunds, rebates and/or credits. Subpart—Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.675 Delaying or withholding corrections, adjustments or action owed; § 13.677 Delaying or failing to deliver goods or provide services or facilities. Subpart—Disparaging products, merchandise, services, etc.; § 13.1042 Disparaging products, merchandise, services, etc. Subpart—Enforcing Dealings or Payments Wrongfully: § 13.1045 Enforcing dealings or payments wrongfully. Subpart—Failing to Maintain Records: § 13.1051 Failing to maintain records. Subpart—Failing to Provide Foreign Language Translations: § 13.1052 Failing to provide foreign language translations. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1572 Availability of advertised merchandise and/or facilities; § 13.1590 Composition; § 13.1595 Condition of goods; § 13.1623 Formal regulatory and statutory requirements; § 13.1623-95 Truth in Lending Act; § 13.1625 Free goods or services; § 13.1647 Guarantees; § 13.1650 History of product; § 13.1655 Identity; § 13.1710 Qualities or properties; § 13.1715 Quality; § 13.1720 Quantity; § 13.1725 Refunds; § 13.1740 Scientific or other relevant facts; § 13.1745 Source or origin; § 13.1745-70 Place; § 13.1745-70(a) Domestic products as imported; § 13.1747 Special or limited offers; § 13.1750 Style or type; § 13.1760 Terms and conditions; § 13.1760-50 Sales contract.—Prices: § 13.1778 Additional costs unmentioned; § 13.1779 Bait; § 13.1823 Terms and conditions; § 13.1823-20 Truth in Lending Act; § 13.1825 Usual as reduced or to be increased.—Promotional Sales Plans: § 13.1830 Promotional sales plans.—Services: § 13.1835 Cost; § 13.1843 Terms and conditions. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1845 Composition; § 13.1845-15 Federal Trade Commission Act; § 13.1852 Formal regulatory and statutory requirements; § 13.1852-75 Truth in Lending Act; § 13.1855 Identity; § 13.1870 Nature; § 13.1876 Notice of third party sale of contract; § 13.1882 Prices; § 13.1882-10 Additional prices unmentioned; § 13.1885 Qualities or properties; § 13.1886 Quality, grade or type; § 13.1892 Sales contract, right-to-cancel provision; § 13.1895 Scientific or other relevant facts; § 13.1900 Source or origin; § 13.1905 Terms and condition; § 13.1905-50 Sales contract; § 13.1905-60 Truth in Lending Act. Subpart—

Offering Unfair, Improper and Deceptive Inducements To Purchase or Deal: § 13.1955 Free goods; § 13.1980 Guarantee, in general; § 13.2000 Limited offers or supply; § 13.2013 Offers deceptively made and evaded; § 13.2030 Repair or replacement guarantee; § 13.2063 Scientific or other relevant facts; § 13.2080 Terms and conditions. Subpart—Threatening Suits, Not in Good Faith: § 13.2264 Delinquent debt collection.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; (15 U.S.C. 45, 1601, et seq.).)

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-19690 Filed 7-17-78; 8:45 am]

[6355-01]

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1031—EMPLOYEE MEMBERSHIP AND PARTICIPATION IN VOLUNTARY STANDARDS ORGANIZATIONS

Revision of Policy

AGENCY: Consumer Product Safety Commission.

ACTION: Revision of policy.

SUMMARY: The Commission revises its policy on employee membership and participation in voluntary standards organizations to reflect the reorganization of the Commission and to reflect the policy statement on Commission involvement in voluntary standards activities published in the FEDERAL REGISTER of May 4, 1978 (43 FR 19216). The revised policy includes one substantive change. This change requires Commission employees who evaluate a voluntary standard in an official capacity to describe the extent of their participation in the development of the voluntary standard. Previously, this requirement only applied to the situation where the Commission was considering the voluntary standard for adoption as a mandatory standard. This change was made so that potential biases in the evaluation of voluntary standards would be open and subject to further review by Commission officials and the public.

The policy also does not allow program managers in the Office of Program Management to be involved in voluntary standards activities except as the Commission may otherwise provide on a case by case basis.

DATES: This revised policy is now in effect.

FOR FURTHER INFORMATION CONTACT:

Donald R. MacKay, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6557.

SUPPLEMENTARY INFORMATION: On June 20, 1975, the Commission issued guidelines and requirements governing membership and participation by Commission employees in voluntary standards development bodies (16 CFR Part 1031). Those guidelines and requirements identified Commission employees holding specific positions with the Commission who could not "participate" in voluntary standards development activities. As a result of the reorganization of the Commission which occurred in May 1977, several sections of the guidelines and requirements are now outdated. Therefore, the Commission in this document revises and updates the participation criteria to reflect the present organization of the Commission. A description of the Commission's organization appears in the FEDERAL REGISTER of December 24, 1977 (42 FR 64883). In addition, these membership and participation guidelines have been revised to reflect the levels of Commission involvement in voluntary standards activities as defined in the Commission's statement of policy on "Commission involvement in voluntary standards activities" (16 CFR Part 1032) (43 FR 19216).

The Commission in § 1031.5(b) of its revised policy statement prohibits program managers in the Office of Program Management from being involved in voluntary standards activities. This is equivalent to the previous prohibition on involvement by standards coordinators in the former Office of Standards Coordination and Appraisal. The basis for this prohibition is that program managers are involved in making recommendations to the Commission in regard to whether the Commission should accept a voluntary standard as a mandatory standard in evaluating the acceptability of a voluntary standard for Commission deferral of development of a mandatory standard; and in accepting an offer to develop a standard, under section 7 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2056). The Commission believes the prohibition on program manager involvement in voluntary standards activities is necessary to avoid any appearance of conflict of interest on the part of program managers. The Commission, however, may, on a case by case basis, allow program managers as well as other persons generally precluded from being involved in voluntary standards activities to be involved in particular voluntary standards activities, if it determines such involvement to be in the public interest.

Section 1031.5(i) has been revised to require Commission employees who participate in or monitor the development of a voluntary standard and who later participate in an official capacity in the evaluation of that standard, to clearly describe in their evaluation of the voluntary standard the extent of their participation in the development of that standard. This section of the policy statement previously required Commission employees who participated in the development of voluntary standards to describe the extent of their participation only when the voluntary standard was being considered as a proposed consumer product safety rule. The revision requires the description of the extent of employee participation to be made known whenever any Commission employee participates in an evaluation of a voluntary standard in an official capacity.

In addition to the revisions to § 1031.5 (b) and (i), the policy statement has also been revised at §§ 1031.3 and 1031.5 to reflect the Commission reorganization, and revised at § 1031.5 to reflect the policy on Commission involvement in voluntary standards activities. Section 1031.4 has been amended to delete the word "participation" in the text since that section pertains only to "membership" in voluntary standards organizations. In addition, the title of the policy statement has been amended to add the word "organizations" at the end.

Therefore, in view of the foregoing, the Commission, pursuant to the Consumer Product Safety Act (15 U.S.C. 2051-81), (the Federal Hazardous Substance Act (15 U.S.C. 1261-1274), the Flammable Fabrics Act (15 U.S.C. 1191-1204), the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471-76), and the Refrigerator Safety Act (15 U.S.C. 1211-14), amends part 1031 as follows:

1. The title to part 1031 is amended as shown below:

2. Section 1031.3 is amended as shown below:

§ 1031.3 Procedural safeguards.

With regard to Commission decisions concerning proposing or promulgating safety standards, bans, or other rules or regulations under the acts administered by the Commission, the Commission recognizes that:

* * * * *

(c) The recommendations and views of each person involved in developing staff recommendations will be carefully reviewed and either endorsed, questioned, or rejected by a Division Director, Associate Executive Director, Program Manager, the Director of the Office of Program Management, the Deputy Executive Director, and/or the Executive Director.

* * * * *

3. Section 1031.4 is amended as shown below:

§ 1031.4 Membership criteria.

In view of the foregoing text of this part 1031, the following are the Commission's guidelines governing membership of Commission employees in voluntary standards organizations:

* * * * *

4. Section 1031.5 is amended as shown below:

§ 1031.5 Participation criteria.

For the purposes of this part 1031, "participation in the development of voluntary standards" includes any written or oral communications concerning the development of voluntary standards, but does not include attendance at meetings for the sole purpose of observation or education. "Participation" in this part 1031 includes "monitoring" and "participating" as defined in the Commission's General Statement of Policy for Commission involvement in voluntary standards activities, (16 CFR part 1032).

* * * * *

(b) Commission employees holding the positions listed below, because they develop the final recommendations to the Commission on adopting an existing standard, accepting an offer to develop a standard, and proposing and promulgating regulations, shall not participate in the development of voluntary standards for products subject to the Commission's jurisdiction. The Commission, however, may allow persons holding these positions to participate in particular voluntary standards activities on a case by case basis.

(1) The Executive Director, the Deputy Executive Director, and their Special Assistants.

(2) The Associate Executive Directors, their Deputies, and their Special Assistants.

(3) The Director of the Office of Program Management and any Special Assistants to the Director.

(4) Program Managers in the Office of Program Management.

(c) Commission employees, other than those holding the positions listed in paragraphs (a) and (b) of this section, may monitor, or participate in the development of, voluntary safety standards for consumer products, but only in their capacity as employees of the Commission and as part of their official duties. Except in those instances where the Commission has adopted or otherwise expressed an official position, the views expressed by Commission employees are to be represented as those of the individual employee. Travel and other expenses will be provided as specified in appropriate Federal travel regulations.

(d) Commission employees may be involved in voluntary standards activities in accordance with the provisions of paragraph (h) of this section, only after having received advance approval for such involvement from the Executive Director or the Commission in accordance with the Commission's General Statement of Policy for Commission involvement in voluntary standards activities (16 CFR Part 1032). Commission employees who attend voluntary standards meetings for the sole purpose of observation or education must have such attendance approved in advance by the Executive Director.

(e) Except in extraordinary circumstances and when approved in advance by the Commission in accordance with the provisions of the Commission's meetings policy (16 CFR Part 1012), Commission employees shall not monitor or participate in meetings concerning the development of voluntary standards that are not open to the public for attendance and observation. Generally, Commission employees may monitor or participate only in the development of voluntary standards that are made available for comment by all interested parties prior to their use or adoption. Attendance at all meetings shall be noted in the public calendar in accordance with the Commission's meetings policy.

(f) Attendance and involvement in voluntary standards activities shall be contingent on Commission employees' being considered and listed by standards development committees and organizations as advisory nonvoting members. In no case shall a Commission employee vote or otherwise formally indicate approval of a voluntary standard.

(g) Commission employees who are involved in the development of voluntary standards shall not accept voluntary standards committee positions involving policy or primary leadership roles (for example, chairman or secretary). Subject to prior approval by the Executive Director, with the concurrence of the General Counsel, a Commission employee may accept other committee positions only if it appears to be clearly in the public interest for the employee to carry out the functions of that specific position.

(h) Subject to the provisions of paragraphs (c) and (d) of this section and budgetary and time constraints, Commission employees may be involved in voluntary standards activities that appear to further the objectives and programs of the Commission and that are consistent with ongoing and anticipated Commission regulatory programs, and that are in accordance with the Commission's policy statement on involvement in voluntary standards activities (16 CFR Part 1032). In the event of duplication of effort by two or more groups in developing voluntary standards for the same products or class of products, the Commission may encourage the several interests to participate in the development of a single voluntary standard.

(i) Commission employees who monitor or participate in the development of a voluntary standard, and who later participate in an official capacity in the evaluation of that standard, shall describe clearly in their evaluation of that standard the extent of their involvement in its development.

(j) Involvement of a Commission employee in a voluntary standards committee shall be predicated on an understanding that any list of the committee's membership that includes Commission employees shall contain a statement that involvement by the Commission employee in the development of the standard does not constitute approval or endorsement of the standard.

EFFECTIVE DATE: The changes to this regulation are now in effect. Because the regulation is a statement of Commission policy, it is not necessary that the regulation be published for comment under 5 U.S.C. 553 or that there be a delayed effective date.

Dated: July 12, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-19684 Filed 7-17-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Subpart B—Redelegations of Authority From the Commissioner of Food and Drugs; Enforcement Activities

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations for delegations of authority regarding certain compliance functions. Inspection and related authorities under sections 351 and 354 through 360F of the Public Health Service Act, relating to biologicals and electronic products, respectively, are being decentralized by redelegation of the authorities to credential holders. Import authority over electronic products is being redelegated to field officials. The new delegations will pro-

mote more effective and efficient operations.

EFFECTIVE DATE: July 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert L. Miller, Office of Management and Operations (HFA-340), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: The inspection and related authorities in paragraphs (e), (f), and (g) of § 5.35 (21 CFR 5.35) are being made a part of paragraph (a) of that section. The import authority in § 5.35(d) is being transferred to § 5.45(b), and listings for Regional Food and Drug Directors and District Directors are being added to the listing of delegatees. Listings for Regional Food and Drug Directors and District Directors are being added to the listing of delegatees in § 5.45(c). The delegation in § 5.45(a) is being clarified to cover the full authority of the delegatees.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis, unless prohibited by a restriction written into the document designating that person as "acting," or unless it is not legally permissible.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and the Public Health Service Act (secs. 351 and 354 through 361, 58 Stat. 702-703, as amended, and 82 Stat. 1173-1186 (42 U.S.C. 262 and 263b through 264)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 5 is amended as follows:

1. By revising § 5.35, to read as follows:

§ 5.35 Enforcement activities.

(a) Duly appointed and authorized officers and employees of the Food and Drug Administration who have been issued the Food and Drug Administration official credentials consisting of Form FD-200a, Identification Record, and Form FD-200b, Specification of General Authority, are designated by the Commissioner of Food and Drugs:

(1) To conduct examinations, inspections, and investigations; to collect and obtain samples; to have access to and to copy and verify records (except as provided in paragraph (b)(2) of this section); and to supervise compliance operations for the enforcement of the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling Act, the Federal Caustic Poison Act, the Import Milk Act, the Filled Milk Act, the Tea Importation Act, and sections 351 and 354 through 361 of the Public Health Service Act.

(2) To administer oaths and affirmations under section 1 of the act of January 31, 1925 (Ch. 124, 43 Stat. 803); sections 12 to 15 of Reorganization Plan No. IV, effective June 30, 1940; and Reorganization Plan No. 1 of 1953, effective April 11, 1953.

(b) Duly appointed and authorized officers and employees of the Food and Drug Administration who have been issued Food and Drug Administration official credentials consisting of Form FD-200a, Identification Record, and Form FD-200c, Specification of General and Special Authority, are designated by the Commissioner of Food and Drugs:

(1) To perform the duties enumerated in paragraph (a) (1) and (2) of this section.

(2) As officers and employees having the authority to request and the authority to have access to and copy and verify records and reports required by sections 505 (i) and (j), 507 (d) and (g), 512 (l) and (m), and by sections 519 and 520(g) as provided by section 704(e) of the Federal Food, Drug, and Cosmetic Act, and section 360A of the Public Health Service Act.

(c) The Food and Drug Administration official credentials referred to in paragraphs (a) and (b) of this section are described as follows:

(1) Form FD-200a entitled "Identification Record" bears a color photograph, description, and signature of the bearer, and identification number, and expiration date, the Department of Health, Education, and Welfare seal with blue imprint centered to the left of the photograph and the Food and Drug Administration symbol centered to the right of the photograph.

(2) Form FD-200b entitled "Specification of General Authority" bears the holder's name, the holder's general authority, an identification number, and expiration date, and the Commissioner's signature.

(3) Form FD-200c entitled "Specifications of General and Special Authority" bears the holder's name, the holder's general and special authority, an identification number, an expiration date, and the Commissioner's signature and is superimposed in the lower right corner with a red, white, and blue stripe imprint.

(4) Both Form FD-200b and Form FD-200c bears the name of the Department of Health, Education, and Welfare, Public Health Service, and Food and Drug Administration and are superimposed with the Department seal with blue imprint.

2. By revising paragraphs (a), (b), and (c) of § 5.45, as follows:

§ 5.45 Imports and exports.

(a) The Regional Food and Drug Directors and District Directors are authorized, under section 801 of the Federal Food, Drug, and Cosmetic Act:

(1) To designate officials who may request from the Secretary of the Treasury samples of food, drugs, devices, or cosmetics imported or offered for import.

(2) To determine whether such articles are in compliance with the act.

(3) To authorize relabeling or other compliance actions to bring articles into compliance under the act.

(4) To designate officials who may supervise such compliance actions.

(b) The Director and Deputy Director of the Bureau of Radiological Health, the Director of the Division of Compliance of that Bureau, Regional Food and Drug Directors, and District Directors are authorized under section 360 of the Public Health Service Act:

(1) To designate officials who may request from the Secretary of the Treasury samples of electronic products imported, or offered for import, to determine whether such products are in compliance with the act.

(2) To refuse admission of noncomplying products and notify the Secretary of the Treasury of such refusal.

(3) To designate officials to supervise operations to bring noncomplying products into compliance under the act.

(4) To refuse or to grant permission and time extensions to bring noncomplying products into compliance with the act in accordance with a corrective action plan approved by the Director of that Bureau.

(c) The Director and Deputy Director of the Bureau of Radiological Health, the Director of the Division of Compliance of that Bureau, Regional Food and Drug Directors, and District Directors are authorized, under section 360B(b) of the Public Health Service Act, to exempt persons from issuing a certification as required by section 358(h) of the act, for electronic products imported into the United States for testing, evaluation, demonstrations, or training, which will not be introduced into commerce and upon completion of their function will be destroyed or exported in accord with Bureau of Customs regulations.

* * * * *

Effective date. This regulation shall be effective July 18, 1978.

(Sec. 701(a), 52 Stat, 1055 (21 U.S.C. 371(a)); secs. 351 and 354 through 361, 58 Stat. 702-703, as amended, and 82 Stat. 1173-1186 (42 U.S.C. 262, and 263b through 264).)

Dated: July 11, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-19709 Filed 7-17-78; 8:45 am]

[6570-06]

Title 29—Labor

CHAPTER XIV—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PART 1601—PROCEDURAL REGULATIONS

Amendment of Procedural Regulations

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: On October 14, 1977, the Equal Employment Opportunity Commission published amendments to its procedural regulations (42 FR 55388) to reflect, among other things, a comprehensive reorganization of its enforcement structure and procedures. An office of systemic programs was created at that time. Thereafter, the Commission prescribed specific instructions for the operations of the office of systemic programs. As a result of the development of these more specific instructions, the Commission is further amending its procedural regulations.

EFFECTIVE DATE: These amendments are effective July 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Constance L. Dupre, Associate General Counsel, Legal Counsel Division, Office of the General Counsel, EEOC, 2401 E Street NW., Washington, D.C. 20506, 202-634-6595.

SUPPLEMENTARY INFORMATION: Section 1601.11(b) sets forth the procedures for Commission withdrawal of a previously issued Commissioner charge when the Commission determines that the purposes of Title VII are no longer served by processing that charge. The Commissioner charge will be withdrawn, not dismissed, thus the notice of right to sue provisions of § 1601.28 will not apply. For Commissioners currently sitting, such charges may be withdrawn by such Commissioners with the approval of the Commission. For former Commissioners, such charges may be withdrawn by the Commission on its own motion since the former Commissioner no longer has the status of a Commissioner.

For Commissioner charges filed on behalf of a person claiming to be aggrieved, the Commission will not withdraw such charges without a written request for withdrawal by the aggrieved person. It is noted that the standard for authorizing withdrawal of a Commissioner charge is broader than that set out in § 1601.10 for authorizing withdrawal of a private charge.

Under § 1601.11(b), the Commission will not withdraw any Commissioners charge after issuance of a determination as to reasonable cause.

The Commission has never previously withdrawn a Commissioner charge.

Section 1601.16(b) is amended to add the Director, Office of Systemic Programs, to those office directors who have authority to receive and make determinations on petitions for revocation of or amendment to subpoenas.

Section 1601.20(a) is amended to clarify that the decision as to whether to conduct a negotiated settlement attempt prior to the issuance of a reasonable cause determination is within the discretion of the Commission and the officials authorized by § 1601.20(a) to sign such settlement agreements. Without this amendment some respondents and charging parties might have erroneously believed that the Commission was required to conduct such a negotiated settlement attempt for every charge. This was not the meaning intended.

These regulations have been reviewed in accordance with Executive Order 12044. These regulations are not "substantial regulations" under section 2(e) of that Order nor do they require regulatory analysis under section 3 of that Order.

By virtue of the authority vested in the Commission under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, the Equal Employment Opportunity Commission hereby publishes the following amendments to its procedural regulations, to be effective July 18, 1978.

Signed at Washington, D.C., this 11th day of July 1978.

For the Commission.

ELEANOR HOLMES NORTON,
Chair.

1. 29 CFR 1601.11 is revised to read as follows:

§ 1601.11 Charges by members of the Commission.

(a) Any member of the Commission may file a charge with the Commission. Such charge shall be in writing and signed and shall be verified.

(b) A Commissioner who files a charge under paragraph (a) of this section may withdraw the charge with the consent of the Commission. The Commission may withdraw any charge filed under paragraph (a) of this section by a Commissioner who is no longer holding office when it determines that the purposes of title VII are no longer served by processing the charge. Commissioner charges may not be withdrawn pursuant to this section after a determination as to reasonable cause has been made. This paragraph does not apply to a charge filed by a Commissioner which is on behalf of a person claiming to be aggrieved within the meaning of § 1601.7 unless such person submits a written request for withdrawal to the Commission.

2. 29 CFR 1601.16 is revised to read as follows:

§ 1601.16 Access to and production of evidence; testimony of witnesses; procedure and authority.

(a) To effectuate the purposes of title VII, any member of the Commission shall have the authority to sign and issue a subpoena requiring:

(i) the attendance and testimony of witnesses;

(ii) the production of evidence including, but not limited to, books, records, correspondence, or documents, in the possession or under the control of the person subpoenaed; and

(iii) access to evidence for the purposes of examination and the right to copy.

Any District Director, the Director of the Office of Field Services and the Director of the Office of Systemic Programs, or any representatives designated by the Commission, may sign and issue a subpoena on behalf of the Commission. The subpoena shall state the name and address of its issuer, identify the person or evidence subpoenaed, the person to whom and the place, date, and the time at which it is returnable or the nature of the evidence to be examined or copied, and the date and time when access is requested. A subpoena shall be returnable to a duly authorized investigator or other representative of the Commission. Neither the person claiming to be aggrieved, the person filing a charge on behalf of such person nor the respondent shall have the right to demand that a subpoena be issued.

(b) Any person served with a subpoena who intends not to comply therewith shall within five days (excluding Saturdays, Sundays and Federal legal holidays) after the date of service of the subpoena upon him or her, petition the General Counsel by mail to revoke or modify the subpoena. Such petition shall be mailed to 2401 E Street NW., Washington, D.C. 20506, and a copy thereof shall be served on the person who issued the subpoena. The petition shall separately identify each portion of the subpoena with which the petitioner does not intend to comply and shall state, with respect to each such portion, the grounds upon which the petitioner relies. A copy of the subpoena shall be attached to the petition and shall be designated "Attachment A." Within 8 days after receipt thereof or as soon thereafter as practicable, the General Counsel shall make a determination upon the petition, stating reasons, and shall submit the petition and determination to the Commission for its review. The Commission shall review

the petition and make a final determination. A commissioner who has issued a subpoena shall abstain from reviewing any petition to modify or revoke the subpoena. The Commission shall serve a copy of the final determination of the petition upon the petitioner. For purposes of this section, service shall be made and proof thereof established pursuant to section 11(4) of the National Labor Relations Act, as amended, 29 U.S.C. 161(4), as made applicable to Commission hearings and investigations by section 710 of Title VII: *Provided, however,* That, whenever the subpoena was issued by the Director of a Model Office or the Director of the Office of Systemic Programs, the petition to revoke or modify the subpoena shall be mailed to the Director, within the 5-day period specified above, who will make a determination on the petition. Any petitioner who wishes to appeal the determination of the Director shall do so by following the standard procedures specified above. Such appeal shall, in addition, be clearly labeled as "Appeal of Petition to Revoke or Modify Subpoena," and shall attach the initial petition and determination, designated as "Attachments B and C." No argument not presented to the Director of the Model Office or the Director of the Office of Systemic Programs will be considered by the Commission.

(c) Upon the failure of any person to comply with a subpoena issued under this section, the Commission may utilize the procedures of section 11(2) of the National Labor Relations Act, as amended, 29 U.S.C. 161(2), to compel enforcement of the subpoena.

(d) Witnesses who are subpoenaed pursuant to § 1601.16(a) shall be entitled to the same fees and mileage that are paid witnesses in the courts of the United States.

3. 29 CFR 1601.20 is revised to read as follows:

§ 1601.20 Negotiated settlement.

(a) Prior to the issuance of a determination as to reasonable cause the Commission may encourage the parties to settle the charge on terms that are mutually agreeable. District Directors, the Director of the Office of Field Services and the Director of the Office of Systemic Programs, or their designees, shall have the authority to sign any settlement agreement which is agreeable to both parties. The Commission shall limit its undertaking in such settlements to an agreement not to process that charge further. Such settlements shall note that the Commission has made no judgment on the merits of the charge. Such an agreement shall not affect the processing of any other charge, including, but not limited to, a Commissioner charge or a charge, the allegations of which are like or related to the individual allegations settled.

(b) In the alternative, the Commission may facilitate a settlement between the person claiming to be aggrieved and the respondent by permitting withdrawal of the charge pursuant to § 1601.10.

[FR Doc. 78-19681 Filed 7-14-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21393; RM-2864; RM-3002]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Tallahassee and Quincy, Fla.

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This action assigns a fifth FM channel to Tallahassee, Fla. and a second FM channel to Quincy, Fla. Tallahassee has undergone substantial growth in recent years and is expected to continue doing so, justifying an exception to the Commission's population criteria which limits communities under 100,000 persons, such as Tallahassee, to four FM assignments. Quincy is assigned a second FM channel to provide a competitive local outlet.

EFFECTIVE DATE: August 21, 1978.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—(PROCEEDING TERMINATED)

Adopted: July 7, 1978.

Released: July 12, 1978.

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations (Tallahassee and Quincy, Fla.[1]), Docket No. 21393, RM-2864, RM-3002.

1. The Commission has before it the Notice of proposed rulemaking, adopted September 13, 1977, 42 F.R. 48357, proposing the assignment of channel 240A to Tallahassee, Fla., as its fifth FM channel assignment. The notice was issued in response to a petition from Plantation Radio, Inc. ("Plantation") licensee of AM station WCVC, Tallahassee. A counterproposal was filed on behalf of Pat F. Thomas and Mary Ann Thomas ("Thomas"), requesting that this channel be assigned to Quincy, Fla., instead. Plantation filed comments in support of the notice and comments in opposition to the proposed Tallahassee assignment were received from Capitol City Broadcasting, Inc., licensee of AM station WTAL, Tallahassee, and Amrad Corp., licensee of FM station WOWD, Tallahassee. The counterproposal produced an opposition from Big Bend Broadcasting Corp., licensee of stations WCNH(AM) and WCNH-FM, Quincy, Fla., to which Thomas filed to reply.[2]

2. The notice proposed to assign channel 240A to Tallahassee as a fifth FM channel assignment. However, two concerns were expressed. First, we noted that the assignment would exceed our population guidelines which normally limit communities with less than 100,000 population to four channel assignments. Thus, it became necessary to demonstrate that an exception to the population criteria was warranted. We also indicated the need for additional information regarding substitute channels for communities which would be precluded by this proposal. Since Tallahassee was already intermixed with class C and class A channels, we stated that no special showing in that regard was necessary.

3. At first the two channel 240A proposals were in conflict, but it subsequently became clear channel 285A could be assigned to Quincy without any site restrictions (unlike the channel 240A proposal) and subject to substantially less preclusion than channel 240A. This removes the conflict between the Quincy and Tallahassee proposals which now can be considered separately.

THE TALLAHASSEE PROPOSAL

4. Tallahassee (population 71,897)[3] is the capital of Florida and the seat

[1] The latter community has been added to the caption, see 43 FR 1510, January 10, 1978.

[2] Big Bend filed its opposition during the reply comment period. Thomas sought to respond by submitting, in addition to its previous "reply comments," a pleading entitled "Further Reply Comments" which was opposed by Big Bend. Each filed pleadings regarding the issue of accepting the further reply comments. The Commission's rules do not provide for a further reply comment stage and ordinarily an adequate opportunity to respond to all issues is presented in the reply stage. However in this case an issue was raised by Big Bend in the reply comments period regarding the population trend and outlook of Quincy as it relates to the need for an additional channel at Quincy. Therefore to the extent Thomas' further reply comments relate to that issue, this pleading has been accepted.

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

of Leon County (population 103,047), in northern central Florida. It has five commerical AM stations, four commercial FM stations (three class C and one class A) and two noncommercial educational FM stations.

5. In support of its proposal for a fifth FM channel at Tallahassee, Plantation contends that this city does not now have enough stations to serve its growing population. It notes that the Bureau of the Census' Population Estimates and Projections, shows the following population estimates:

	Population 1975	Change from 1970	Per capita income change 1969 to 1974
Florida	8,283,074	[1] +22.0	[1] +57.5
Leon County	124,714	[1] +21.0	[1] +59.0
Tallahassee	83,725	[1] +15.3	[1] +58.9

[1] In percent.

Regarding the preclusive impact of the proposed assignment, Plantation indicates that only one affected community, Havana (population 2,022) would not have another channel available for assignment.

6. In opposition, Capitol City argues that Tallahassee already has its fair share of FM frequencies. It asserts that the population growth rate has been overstated, and it points to statements by representatives of local financial institutions who disagree with the growth rates which have been projected for Tallahassee. Capitol City predicts that the 1980 U.S. Census will show that Tallahassee's population has remained below the 100,000 mark. On this basis, Capitol City Broadcasting urges the Commission to enforce its population criteria and deny the request for a fifth FM assignment to Tallahassee. In addition, it notes that of 231 U.S. cities within the 50,000 to 100,000 population category, only two have five FM channels.[4] Of the 19 U.S. cities that have five FM channel assignments, we are told that Tallahassee is near the bottom in population (1970 U.S. Census) and in annual retail sales (using 1972 figures).

7. In its opposition the Amrad Corporation notes the fact that it is licensee of a class A station competing against the three class C stations already in Tallahassee. It says that this disadvantage would be aggravated by the addition of a fifth station in Tallahassee, and it asks the Commission to take into account the fact that Amrad's station is black owned and operated. It also notes that in addition to its own station, three stations—station WANM, station WAMF(FM) and station WECA-TV—have commenced operations in the last 4 years. In its view, this has been sufficient to keep pace with Tallahassee's recent growth. Amrad urges us to wait until Tallahassee's population exceeds 100,000 before reassessing the need for an additional station there.

8. The main issue here is Tallahassee's need for a fifth channel, especially in light of the Commission's policy of normally limiting communities of under 100,000 population to four stations. The Commission's population criteria was developed in the further notice of proposed rulemaking (FCC 62-867) and adopted in the third report, memorandum opinion and order, 40 FCC 747, 758 (1963), in docket 14185, the proceeding in which the FM table of assignments was adopted. Throughout the Commission has employed these criteria as guidelines, not rigid formulas. In addition, the Commission has not limited itself to considering only the present circumstances. Rather, it has recognized the need to take into account growth rates and other factors suggesting the need for an additional assignment.[5] Where the preclusive impact of a proposed assignment is insignificant and the channel is unavailable for use elsewhere, the request for an additional FM channel can be made on the basis of demand. *Hattiesburg, Miss.*, 37 FCC 2d 54 (1972); see also *Pensacola, Fla.*, 44 FCC 2d 1056, 1061 (1974); *Key West, Fla.* 45 FCC 2d 142 (1974).

9. In the present circumstances, we are told that Tallahassee fares poorly when compared to other communities in its population range and as against those communities with 5 or more assignments. However, a closer look at the comparable communities reveals that the number of assignments has generally kept pace with growth and demand. In fact, opponents have failed to cite a case in which the Commission in similar circumstances has denied such a request in excess of the population criteria. For example, the Commission acted in *Colorado Springs, Colo.*, 40 FCC 937, 938 (1965) to add a fifth FM channel even though the city then only had a population of 70,194 according to the 1960 U.S. Census. The Commission acted on the basis of a showing that the community's population and economy were undergoing significant growth. Similarly, in the present circumstances, the evidence shows that Tallahassee has undergone substantial growth (49 percent from 1960 to 1970 and 15.3 percent between 1970 and 1975) which if it keeps up at the lower 15 percent rate should approximate 100,000 by the 1980 U.S. Census. Similar growth statistics have been offered regarding economic indicators. We believe that we should respond to this predicted growth rather than await the release of the 1980 U.S. Census report at which time FM frequencies may not be as readily available in this area. Also in this regard, the preclusive impact of the proposed assignment affects only one community, Havana (population 2,022), which would have no alternate channel. By itself, this does not represent an obstacle to the proposal. We find that the assignment of a fifth FM channel to Tallahassee is warranted. Any remaining arguments raised concerning the economic impact on competing stations could more appropriately be dealt with in connection with the filing of an application for channel 240A at Tallahassee.

The Quincy Proposal

10. Quincy (population 8,334), the seat of Gadsden County (population 37,600) is located approximately 32 kilometers (20 miles) northwest of Tallahassee. It is served by station WCNH(AM) and WCNH-FM (channel 269A), licensed to Big Bend Broadcasting Co. Gadsden County has one other station, WSBP(AM), Chattahoochee. We are told by Thomas that for years, the local economy depended on the cigar wrapper industry, but recently it has been necessary to diversify the agricultural products. Commercial forestry and mining are also said to be important to the county. Data offered by Thomas from the Commerce Department's Bureau of Economic Analysis shows growth, particularly in the per capita income for the residents of Gadsden County, during the years 1965-74. Thomas also notes that the

[4] Of these two communities, Pueblo, Colo., had a 1970 population of 97,453 and an estimated population exceeding 100,000 when the fifth channel was assigned in 1976, *Pueblo, Colo.*, 41 FR 37580, 38 R.R. 2d 629 (1976); while in the case of *Sioux Falls, S.D.*, it was shown that a first and second FM service would be provided. *Sioux Falls, S.D.*, 43 FCC 2d 859 (1973).

[5] See for example, in *Fresno, Cal.*, 38 FCC 2d 525, 526 (1972) where a seventh FM channel was assigned to a city entitled to maximum of six channels according to the Commission's criteria. In that case, it was noted that another station was needed to serve minority interests, that the preclusive impact was insignificant and that the area had a substantial population that was generally underserved considering all aural broadcast services. See also *Yakima, Wash.*, 42 FCC 2d 548 (1973).

Quincy-Gadsden County area has three local weekly newspapers and a new cable television system with a second system under construction in the Havana area of the county. Thomas urges that a second FM channel be assigned to Quincy to provide a competitive outlet to serve the residents of Quincy.

11. In opposition, Big Bend offers a completely different picture of Quincy's current economic outlook. It states that Quincy has suffered "severe declines in population, economic stability and poverty * * *"

It cites the 1970 U.S. Census figures indicating a 6.1 percent decrease in population between 1960 and 1970 and the 1975 Census Bureau estimate revealing a 0.3 percent decrease between 1970 to 1975.[6] Regarding the economic situation Big Bend asserts that the local economy has never recovered from the loss of an annual $20 million shade tobacco crop, a loss which continues to cause high unemployment. We are also told that the county ranks last in the functional literacy of its students according to tests administered by the State of Florida. Accordingly, Big Bend argues that in view of the poor economic status for the county an additional Quincy station cannot be supported.

12. In its further reply, Thomas contends that Quincy's population of over 8,000 is sufficient to support a second FM station and that the Commission has assigned two FM channels in like situations.[7] It notes that in the same population report relied on by Big Bend, the local population decline was expected to reverse itself since it contained a prediction that the county's residents would increase by 4.4 percent from 1975 to 1980 and 8.3 percent from 1980 to 1990. Finally, Thomas urges the Commission to treat the issue of Quincy's ability to support a third local radio station as a *Carroll*[8] issue, not appropriate for consideration at the rulemaking stage,[9] and to approve a competitive broadcasting outlet for Quincy.

13. The Quincy proposal involves arguments concerning the economic impact on competing stations and the community's ability to support an additional channel which we have regularly held are better considered at the application stage.[10] Although it is generally agreed that Quincy's economy and population has suffered declines there is reason to believe that this direction may be reversed. Even if the estimate of a 4.4 percent increase in county population by 1980 does not occur, the facts still support making the assignment. The public would benefit from the additional full-time local service in Quincy which would provide an alternative voice on local matters. The two existing stations are under common ownership.

14. *Accordingly, it is ordered,* That pursuant to authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, the FM table of assignments (§ 73.202(b) of the Commission's rules) is amended, with respect to the following communities effective August 21, 1978.

City and Channel No.

Quincy, Fla., 269A, 285A.
Tallahassee, Fla., 235, 240A, 255, 276A, 281.

15. *It is further ordered,* That the motion for acceptance of further reply comments submitted by Pat F. Thomas and Mary Ann Thomas is granted to the extent indicated and in all other respects is denied and that the motion to strike the acceptance of further reply comments submitted by Big Bend Broadcasting Corp. is granted in part and denied to the extent indicated.

16. *It is further ordered,* That this proceeding is terminated.

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

[FR Doc. 78-19710 Filed 7-17-78; 8:45 am]

[6712-01]

[Docket No. 21491; RM-2871; FCC 78-467]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Stations in San Francisco and San Mateo, Calif.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This action exchanges TV channel assignments in San Francisco and San Mateo, Calif., and modifies the licenses of the stations on the respective channels to specify operation on the new channels pursuant to an agreement between the existing licensees which involves a transfer of equipment. The action was taken in response to the licensees' joint request, and this action can be expected to bring substantial improvements in the coverage of both stations.

EFFECTIVE DATE: August 14, 1978.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—(PROCEEDING TERMINATED)

Adopted: June 28, 1978.

Released: July 14, 1978.

By the Commission: Commissioner Quello absent.

In the matter of amendment of § 73.606(b), table of assignments, television broadcast stations (San Francisco and San Mateo, Calif.), Docket No. 21491, RM-2871.[1]

1. The Commission has before it the Notice of proposed rule making, 67 FCC 2d 241, adopted December 8, 1977, proposing an exchange in TV channel assignments involving UHF-TV channel 60 in San Francisco, Calif. and UHF-TV channel *14 in San Mateo, Calif. The proposal was adopted in response to a joint petition filed by Bahia de San Francisco Television Co., licensee of TV station KDTV (channel 60), San Francisco, and by the San Mateo County Community College District, licensee of noncommercial educational TV station KCSM-TV (channel *14), San Mateo (hereinafter "petitioners"). Comments have been submitted by petitioners and by Leon A. Crosby (licensee of station KEMO-TV (channel 20), San Francisco); The Association of Maximum Service Telecasters, Inc. ("AMST"); and the Land Mobile Communications Council ("LMCC"). Reply comments were received from all parties.

2. The Notice proposed to reassign UFH-TV channel 60 from San Francisco, Calif., to San Mateo, Calif., reserving the channel for noncommercial educational use and to reassign UHF-TV channel *14 from San Mateo to San Francisco, deleting the reservation. Also, if no other interest were expressed, it also proposed to modify the respective licenses to specify the newly reassigned channels. (Station KDTV, San Francisco, would operate on channel 14 in San Francisco, and station KCSM-TV San Mateo, would operate

[6] According to Big Bend, this population decrease has continued into 1977 since according to the University of Florida Division of Population Studies, there has been an estimated decrease of 220 persons from July 1, 1976 to July 1, 1977.

[7] Citing *Ogallalla, Neb.*, 41 FR 23955, 37 R.R. 2d 627 (1976).

[8] *Carroll Broadcasting Co.* v. *FCC*, 258 F. 2d 440 (D.C. Cir. 1958).

[9] Citing *Ogallalla, Neb., supra,* and *Avalon, N.J.*, 39 FCC 2d 725 (1972).

[10] See *Melbourne and Satellite Beach, Fla.*, 47 FCC 2d 717 (1974), *Ogallalla, Neb., supra.*

[1] See 42 FR 64379, December 23, 1978.

on channel *60 in San Mateo.)[2] In offering the proposal for comment, the Commission expressed the view that the proposal could well offer substantial public benefit through significant improvements in the coverage areas of both stations.[3] In addition, the Commission noted that by virtue of these changes channel 14 would be operating on Mount San Bruno, in the proximity to some 66 land mobile stations. This means that these land mobile stations would be in violation of § 89.123(a)(4) which requires a 1-mile separation. Nonetheless, the Commission indicated that if no actual interference would result, waiver requests might be granted.

	Population	
	Grade A	Grade B
Present channel 14 operation	653,171	2,539,885
Proposed channel 60 operation	3,994,992	4,444,005
Increase	[1]512	[1]75
	Area (square miles)	
	Grade A	Grade B
Present channel 14 operation	323	904
Proposed channel 60 operation	2,114	4,340
Increase	[1]554	[1]380

[1] In percent.

3. Petitioners again urge the Commission to adopt their proposal citing what they see as the substantial public interest benefits that would result.[4] As to the close spacing of station KDTV (on channel 14) with land mobile stations operating on shared channels, petitioner Bahia states that it has committed itself to correct all complaints of interference to the reception of either the land mobile stations or to that of any nearby TV station. Thus, it states that it supports a waiver of the minimum mileage separation rule, § 89.123(a)(4), so that the land mobile stations may remain at their existing locations.

4. Crosby, in opposing comments, notes that his station, KEMO-TV (channel 20), competes with station KDTV for Spanish viewers in the San Francisco area. He argues that Bahia is a subsidiary of a powerful corporation, the Spanish International Communications Corp., with seven TV stations,[5] and as such should not be allowed to acquire channel 14 instead of channel 60. Crosby believes that channel 14 would offer a competitive advantage in the San Francisco market. Crosby requests the Commission to recognize the fact that he offered an agreement to SMCCC to improve the station although it was refused. He does not explain the significance he sees in the station's having chosen to agree with Bahia instead. Finally, Mr. Crosby expresses his concern that as a result of the combination of a channel 14 TV signal and the channel 17 land mobile signals a spurious signal which has a potential for causing interference to his station on channel 20 could be produced. He requests a hearing on this matter.

5. The comments of AMST and LMCC relate to the possibility of interference to the affected TV broadcast and to land mobile operations, respectively, which may result from the proximity of the transmitters. However, after learning of Bahia's commitment to correct any interference problems that may arise, both have voiced support for the proposal.

6. Based on our review of the allocations situation, it is clear that substantial public benefit can result from the proposed exchange of channels. The San Mateo educational station can considerably improve its coverage by moving to channel 60 where it could make use of some $450,000 worth of equipment that Bahia is to transfer to it under the terms of the agreement. The new equipment will also enable this station to upgrade its facilities to provide "state-of-the-art" color television broadcasting. In addition, the San Francisco station will be able to provide improved coverage to an important part of the total Spanish language population in a 10-county area by virtue of the new equipment it can use on channel 14.

7. We have been urged by Crosby to order a hearing to determine the effect of this acquisition as it concerns the competitive balance in the Spanish programing market. However, as we previously stated in the notice, neither Bahia nor its parent organization is gaining an additional station. Thus, the term acquisition really does not apply to this situation. It is no more than an exchange in channels. Crosby may well prefer to face a Spanish language competitor on channel 60 rather than channel 14, but we have been offered no evidence upon which we could reasonably find that as a result of Bahia's switch to channel 14, the overall service to the public will be adversely affected.[6] Finally, petitioners objected to the procedure employed by the Commission in which other parties were permitted to express an interest in the channels to be assigned. However, since no such interest was forthcoming, the objection has become moot, and we can proceed to modify the licenses.

8. Arguments also were offered on the possibility that interference could result because 66 land mobile stations operating on UHF channel 16 or 17 on a shared basis, are located close to the sites of UHF TV stations on channels 14 and 20. Interference to these stations could take several forms. First, the land mobile stations on channels 16 and 17 could suffer interference as a result of overloading at the receivers from strong signals on nearby TV stations which operate on adjacent frequencies. However, this problem appears unlikely to occur. Also, even though our rules do not require it to do so, Bahia has committed itself to correct any such interference to land mobile receivers by the use of filters. Because of the absence of TV sets in the area where the land mobile stations operate, no direct effect on reception by them is anticipated. The greater concern is not about these forms of interference but about possible interaction between the signal of stations in the area. When the Commission adopted a plan to permit one or two of the lower UHF TV channels (channels 14–20) to be utilized by land mobile licensees on a shared basis in the 13 largest urban centers,[7] it acted to minimize the possibility of intermodulation ("IM") interference to television receivers. The safeguard chosen was the 1 mile minimum separation rule (§ 89.123(a)(4)).[8] In this case, IM

[2] San Francisco (population 715,674) (1970 U.S. Census) is coextensive with San Francisco County. It is served by 11 TV stations (2 of which are noncommercial educational stations). San Mateo (population 78,991) is located in San Mateo County (population 556,605), which is part of the San Francisco SMSA (population 3,109,519). It has one TV station (channel *14) operated by the petitioner, San Mateo County Community College District (station KCSM-TV).

[3] The San Francisco station will gain through the use of less expensive coaxial line which is not available for its current higher channel. The San Mateo station is to receive substantial financial assistance from Bahia and also expects a matching Federal grant for the improvement of its equipment and facilities, including color transmission capability. SMCCC estimates that as a result of these improvements, the proposed San Mateo channel 60 operation would provide coverage as follows:

[4] Although they support the notice generally, they do object to the Commission's view that other expressions of interest would have to be considered. However, this point has become moot since no such expression were received. Petitioners also responded to the part of the notice which indicated the Commission's concern that a particular provision of their agreement could have the effect of permitting one licensee to retain a financial interest in the other station. Petitioners have informed us that they have taken the necessary steps to delete that provision.

[5] We are told that the latest acquisition of a TV station occurred on August 17, 1977, and involved a Phoenix, Ariz., station.

[6] The concern was that interference to one or more of these stations could result.

[7] In San Francisco some 66 such stations are operating on channels 16 and 17.

[8] See *Land Mobile Use of TV Channels 14-20, et al.*, memorandum opinion and order, docket 18261, 25 FCC 2d 764, 768, par. 9 (1970).

interference may occur in the following ways:

Combination of signals (TV—television) (LM—land mobile)	(IM) interference to reception
(1) TV channel 14 and LM channel 17.	TV channel 20.
or	
(2) TV channel 20 and LM channel 17.	TV channel 14.
or	
(3) TV channel 14 and LM channel 16.	TV channel 20.

In any of the preceding examples, the potential for an interference problem appears to be easily correctable since at the affected area on Mount San Bruno, few, if any, receiver locations exist and Bahia has stated that it would take the necessary steps to correct any such problem. In view of this, the Commission will hereby waive its rules and permit all existing land mobile facilities which are operating on channels 16 and 17 within 1 mile of the new channel 14 TV operation to continue to use their present sites.[9] Since the possibility of interference to reception of TV channel 20 asserted by Crosby appears minimal and would be easily correctable, we believe a hearing on this matter as requested by Crosby, is not warranted.

9. *Accordingly, it is ordered,* That pursuant to authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, the television table of assignments (§ 73.606(b) of the rules) is amended, effective August 21, 1978, with respect to the following communities:

City and Channel No.

San Francisco, Calif., 2+, 4−, 5+, 7−, *9+, 14+, 20−, 26−, *32+, 38, 44−.
San Mateo, Calif., *60.

10. *It is further ordered,* That pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding license of Bahia de San Francisco TV Co. for station KDTV(TV) is modified, effective August 21, 1978, to specify operation on UHF TV channel 14 instead of on UHF TV channel 60. The licensee shall inform the Commission in writing by no later than August 21, 1978, of its acceptance of this modification. Station KDTV may continue to operate on channel 60 for 1 year from the effective date of this action or until it is ready to operate on channel 14, whichever is earlier, unless the Commission directs otherwise. In addition, the following information shall be provided.

(a) At least 30 days before commencing operation on channel 14, the licensee of station KDTV shall submit to the commission the technical information normally required of an applicant for the channel, including that connected with a change in the transmitter site.

(b) At least 10 days prior to commencing operation on channel 14, the licensee of station KDTV shall submit the measurement data required of an applicant for a broadcast station license; and

(c) The licensee of station KDTV shall not commence operation on channel 14 without prior Commission authorization.

11. *It is further ordered,* That pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding license of San Mateo County Community College District for station KCSM-TV is modified, effective August 21, 1978, to specify operation on UHF TV channel *60 instead of on UHF TV channel *14. The licensee shall inform the Commission in writing by no later than August 21, 1978, of its acceptance of this modification. Station KCSM-TV may continue to operate on channel *14 for 1 year from the effective date of this action or until it is ready to operate on channel *14, whichever is earlier, unless the Commission directs otherwise. In addition, the following information shall be provided:

(a) At least 30 days before commencing operation on channel *60, the licensee of Station KCSM-TV shall submit to the Commission the technical information normally required of an applicant for the channel, including that connected with a change in the transmitter site.

(b) At least 10 days prior to commencing operation on channel *60, the licensee of station KCSM-TV shall submit the measurement data required of an applicant for a broadcast station license; and

(c) The licensee of station KCSM-TV shall not commence operation on channel *60 without prior Commission authorization.

12. *It is further ordered,* That copies of this report and order shall be mailed by certified mail, return receipt requested, to Bahia de San Francisco TV Co., licensee of station KDTV(TV), 2200 Palou Avenue, San Francisco, Calif. 94124, and to San Mateo County Community College District, licensee of station KCSM-TV, 1700 West Hillsdale Boulevard, San Mateo, Calif. 94402.

13. *It is further ordered,* That this proceeding is terminated.

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

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-19848 Filed 7-17-78; 8:45 am]

[9] Consideration can be given to waiver requests if there are additional proposals for new land mobile facilities on channels 16 and 17 within 1 mile of the TV channel 14 transmitter.

[4910-06]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. HS-4, Notice No. 8]

PART 228—HOURS OF SERVICE OF RAILROAD EMPLOYEES

Noise Levels in Railroad Employee Sleeping Quarters; Guideline

AGENCY: Federal Railroad Administration (FRA), Department of Transportation.

ACTION: Issuance of interpretive guideline; statement of policy.

SUMMARY: This document issues an interpretive guideline which FRA will employ in administering and enforcing section 2(a)(3) of the Hours of Service Act, as amended (45 U.S.C. 62(a)(3)), which was enacted by Pub. L. 94-348, approved July 8, 1976. The statutory provision makes it unlawful for any common carrier "to provide sleeping quarters for employees (including crew quarters, camp or bunk cars, and trailers) which do not afford such employees an opportunity for rest, free from interruptions caused by noise under the control of the railroad, in clean, safe, and sanitary quarters". In order to facilitate compliance with the Hours of Service Act and to give notice concerning the policy of FRA in enforcing this provision of law, FRA is amending appendix A to part 228 by adding a description of the noise level resulting from noise sources within the control of the railroad which will be regarded by FRA as the maximum level permitting "an opportunity for rest" within the meaning of the statute. The standard adopted is an $L_{eq}(8)$ value of 55dB(A).

EFFECTIVE DATE: July 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Stephen Urman (RRS-24), Office of Safety, Federal Railroad Administration, 2100 Second Street SW., Washington, D.C. 20590, 202-426-9178.

SUPPLEMENTARY INFORMATION: Elsewhere in this FEDERAL REGISTER FRA amends part 228 by adopting final rules relating to the construction or reconstruction of railroad employee sleeping quarters in areas close to switching or humping operations. Section 228.107(c) of those rules states that FRA will utilize a standard of 55dB(A) L_{eq} measured over any 8-hour period. The preamble to the rules discusses the public comment received and the basis for FRA action in adopt-

ing the aforementioned criterion. That discussion is incorporated herein by reference. See material in Docket No. HS-2, Notice No. 6, in this portion of today's FEDERAL REGISTER.

In light of experience gained through FRA field activities related to the enforcement of the Hours of Service Act since July 8, 1976, and in consideration of the comments received in Docket No. HS-2, FRA has decided to utilize as a guideline in its enforcement of section 2(a)(3) of the Hours of Service Act (45 U.S.C. 62(a)(3)) a maximum equivalent steady state sound level in eight hours ($L_{eq}(8)$) of 55dB(A). That is, any sleeping quarters provided for employees covered by the Hours of Service Act which cannot meet an $L_{eq}(8)$ noise level standard of 55dB(A) as a result of the noise generated by sources within the control of the carrier will be deemed in violation of the Act.

In consideration of the foregoing, appendix A to part 228 (42 FR 27594, 27598; May 31, 1977) is amended by adding immediately after the existing paragraph designated "Sleeping Quarters" under the major heading of "General Provisions" the following new text:

"Sleeping quarters are not considered to be 'free from interruptions caused by noise under the control of the railroad' if noise levels attributable to noise sources under the control of the railroad exceed an $L_{eq}(8)$ value of 55dB(A)."

The principal program draftsman of this document was Stephen Urman of the Office of Safety. The principal legal draftsman was Grady Cothen, Jr., of the Office of Chief Counsel.

Issued in Washington, D.C. on July 11, 1978.

JOHN M. SULLIVAN,
Administrator.

[FR Doc. 78-19855 Filed 7-17-78; 8:45 am]

[7035-01]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1011—COMMISSION ORGANIZATION; DELEGATIONS OF AUTHORITY

Clarifications and Modification of Regulations

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: New rules and procedures affecting the Commission's internal organization became effective January 1, 1978. (49 FR 65181, December 30, 1977). After 4 months' experience with these rules, certain modifications and clarifications have proven necessary, and this document amends several of their provisions. Attention is directed particularly to new subsection 5(c) which provides that appeals from the decisions of the Commission's Motor Carrier Board will be acted upon by a single Commissioner rather than a division of the Commission. (The Motor Carrier Board has primary jurisdiction to decide motor and water carrier temporary authority applications.) Because these amendments involve the internal organization and procedures of the Commission, they are being issued in final form, and public comments are not being requested.

EFFECTIVE DATE: August 1, 1978.

FOR FURTHER INFORMATION CONTACT:

George M. Chandler, phone 202-275-1912.

SUPPLEMENTAL INFORMATION: Section 1011.2(a)(5) of the rules reserves certain types of cases to the entire Commission for action. The amendments to that paragraph are designed, first, to define more precisely what is meant by "general rate increase" cases, and second, to limit the Commission's reservation of jurisdiction over rail finance proceedings to those of major significance.

The amendment to § 1011.5(a)(4) expands the Chairman's authority so that he may dismiss applications as well as complaints upon the request of a party. It limits that authority to situations in which the request for dismissal is uncontested.

New § 1011.5(c) provides for a significant change in jurisdiction. Appeals from decisions of the Motor Carrier Board, the principal activity of which is deciding applications for motor and water carrier temporary authority, have previously been acted on by a division of the Commission. Henceforth, these appeals will be assigned, in rotation, to individual members of the Commission, except the Chairman. This change reflects both the informal nature of these proceedings and the very substantial volume of appeals which must be handled. It implements recommendation No. 24 of the Commission's staff task force on improving motor carrier entry regulation, submitted to the Commission on July 6, 1977.

New § 1011.5(d) makes it clear that an individual Commissioner, including the Chairman and Vice Chairman, may certify any matter assigned to him or her to the Commission for disposition.

Sections 1011.6 (g) and (h) established and assigned jurisdiction to the Accounting Board and the Valuation Board. With the transfer of the Commission's oil pipeline valuation functions to the new Department of Energy, it became unnecessary to maintain a separate board to act on valuation matters. The amendment creates a single Accounting and Valuation Board.

* * * * *

Part 1011 of Title 49 of the Code of Federal Regulations is amended in the following respects—

Section 1011.2(a)(5) is amended to read—

§ 1011.2 The Commission.

(a) * * *

* * * * *

(5) All cases involving general rate increases as defined in 49 CFR parts 1102 and 1104, as well as similar increases affecting modes of transportation not specifically referred to in those parts; all matters arising under section 1(16)(b) of the act; all cases arising under section 5(2) of the act involving a class I railroad where the matter has involved the taking of testimony at an oral hearing; and all cases arising under section 5(3) of the act.

* * * * *

Section 1011.5(a)(4) is amended, and new paragraphs (c) and (d) added as follows:

§ 1011.5 Delegations to individual Commissioners.

(a) * * *

* * * * *

(4) Dismissal of complaints and applications on the unopposed motion of any party.

* * * * *

(c) Appeals from decisions of the Motor Carrier Board are assigned for action, in rotation, to individual Commissioners, except the Chairman of the Commission.

(d) The Chairman, Vice Chairman, or any other Commissioner may certify to the Commission any matter assigned to him or her under this part.

Section 1011.6(h) is amended, paragraph (i) is deleted, and paragraph (j) is redesignated as new (i) as follows:

§ 1011.6 Employee Boards.

* * * * *

(h) Accounting and Valuation Board. (1) Authority (A) to permit departure from general rules, prescribing uniform systems of accounts for carriers and other persons under the act, and

from the regulations to govern the forms and recording of passes for carriers and other persons under parts I and II of the act; (B) to prescribe rates of depreciation to be used by railroad and water carriers; (C) to issue special authorizations permitted by the regulations governing the destruction of records of carriers subject to the act; (D) to grant extensions of time for filing annual, periodical, and special reports in matters which do not involve taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits; and (E) to issue valuation reports in matters which do not involve taking testimony at public hearings or the submission of evidence by opposing parties in the form of affidavits.

(2) The Board may certify any matter assigned to it to the Vice Chairman of the Commission.

(i) * * *

(j) [Redesignated]

These rules are promulgated under the authority of section 17 of the Interstate Commerce Act (49 U.S.C. 17).

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Murphy, Brown, Stafford, Gresham, and Clapp. Commissioner Stafford would not limit the application of section 1011.5(a)(4) to unopposed motions only. Commissioner Gresham, with respect to proposed section 1011.5(d), would provide for the certification by an individual Commissioner of appeals from decisions of the Motor Carrier Board to a Division rather than to the entire Commission.

Dated: July 12, 1978, at Washington, D.C.

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

[FR Doc. 78-19890 Filed 7-17-78; 8:45 am]

proposed rules

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

[1505-01]

CIVIL SERVICE COMMISSION

[5 CFR Parts 831 and 890]

RETIREMENT; FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Survivor Annuity Benefits for Illegitimate Children

Correction

In FR Doc. 78-17789 appearing at page 27843 in the issue for Tuesday, June 27, 1978, under DATE, second line, "1977" should read "1978"; and in the fourth line, "1978" should read "1977".

[3410-15]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1701]

DESIGN REVIEW OF SIGNIFICANT AND HIGH HAZARD POTENTIAL DAMS

Proposed Supplement to REA Bulletin 41-1

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to issue a Supplement to REA Bulletin 41-1, Engineering Services for Electric Borrowers. This proposed supplement would require those borrowers that will construct a significant or high hazard potential dam (as defined in Table 2 of the "Recommended Guidelines for the Safety Inspection of Dams," prepared by the Office of the Chief of Engineers, Department of the Army) to retain a qualified engineer, that was not involved in the original design of the dam, to perform an independent review of the design and critical features of construction. Dam failures throughout the country have emphasized the need for action to be taken which will provide for the best assurance of dam safety possible. REA believes that this independent review will help prevent the construction of unsafe dams. On issuance of this Supplement to REA Bulletin 41-1, Appendix A to Part 1701 will be modified accordingly.

DATE: Public comments must be received by REA no later than: August 17, 1978.

ADDRESS: Interested persons may submit written data, views or comments to the Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3304, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-4413. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director, Power Supply and Engineering Standards Division during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Rowland C. Hand, 202-447-4413.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue a Supplement to REA Bulletin 41-1. A copy of the proposed supplement may be secured in person or in writing from the Director, Power Supply and Engineering Standards Division.

Dated: July 12, 1978.

DAVID A. HAMIL,
Administrator.

[FR Doc. 78-19875 Filed 7-17-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-14952; File No. S7-745]

NET CAPITAL REQUIREMENTS FOR BROKERS AND DEALERS

Proposed Rulemaking

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendment to rule.

SUMMARY: The Commission is proposing to amend its net capital rule for brokers and dealers. Recently, it has come to the attention of the Commission staff that certain broker-dealers have borrowed money payable on demand and secured the loans with fixed assets of the borker-dealers. Loans secured by fixed assets of a borker-dealer are given special consideration under the net capital rule. Yet, loans payable on demand are contrary to the intent of the net capital rule's goal of liquidity since the calling of such loans could impair the liquidity of the debtor broker-dealers. If amended as proposed, the rule would limit the ability of brokers and dealers to deduct from aggregate indebtedness fixed liabilities secured by nonliquid assets of brokers or dealers which are payable on demand or within a period of less than 6 months. The rule would also limit payments on loans which could be made to certain persons.

DATE: Comments must be received by September 11, 1978.

ADDRESS: All comments should be directed in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Nelson S. Kibler, Division of Market Regulations, Securities and Exchange Commission, Washington, D.C. 20549, 202-376-8131.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced proposed amendments to its Rule 15c3-1 (17 CFR 240.15c3-1), the uniform net capital rule. The proposed amendments would in effect limit the amount of the fixed liabilities adequately secured by assets of a broker-dealer which could be deducted from that broker-dealer's aggregate indebtedness in determining its net capital requirements. This redefinition would also affect the determination of "net capital."

Net capital is computed by deducting from the net worth of a broker or dealer fixed assets and assets not readily convertible into cash. That deduction, however, is reduced by the amount of any indebtedness excluded from aggregate indebtedness by virtue of its being adequately secured by assets of the broker-dealer.

Finally, the amendments would preclude payment on certain loans of associated persons of the broker or dealer under certain circumstances, thus limiting the ability of an associated person to withdraw capital from the firm at an inappropriate time.

DISCUSSION

Rule 15c3-1, the net capital rule, in general requires a broker or dealer to maintain a certain "net capital" depending on its circumstances.[1] The amount of the required net capital

[1] Rule 15c3-1(a).

under certain circumstances depends on the amount of "aggregate indebtedness." Paragraph (c)(2) of the rule defines "net capital" as the net worth of a broker or dealer adjusted by certain described items. Paragraph (c)(1) of the rule defines "aggregate indebtedness" as the total money liabilities of a broker or dealer in connection with any transaction, whatsoever, but makes certain limited exclusions. Among those exclusions are fixed liabilities adequately secured by assets acquired for use in the ordinary course of the trade or business of a broker or dealer, and fixed liabilities secured by assets of the broker-dealer where the sole recourse of the creditor is the secured asset.[2] Among the adjustments which must be made to net worth of a broker-dealer in the computation of "net capital" is the value of fixed assets and assets not readily convertible into cash. These values must be deducted from net worth. But, the amount of this deduction from net worth is reduced by the amount of any indebtedness excluded from aggregate indebtedness in accordance with the provisions described above.[3]

The Commission staff has become aware of a practice of some brokers and dealers which seems contrary to the spirit if not the letter of the net capital rule and which may have a result adverse to the interests of the customers of those brokers and dealers. Those brokers and dealers have borrowed money payable on demand and secured the loan with fixed assets of the broker or dealer. At times, the loan may be made by a person associated with the broker or dealer. This practice has been thought to allow the broker or dealer to take advantage of the provisions in the net capital rule allowing more lenient treatment (to net in effect) of assets not readily convertible into cash which secure loans and certain related liabilities secures by such assets. Yet, the practice could impair the broker's or dealer's liquidity since under those circumstances the borrowed money can be withdrawn from the broker or dealer at any time or the assets securing the loan can be seized, thereby putting the firm effectively out of business with little or no notice.

The rule amendments as proposed would require a broker or dealer to have greater net capital to the extent that his liabilities include those payable on demand secured by assets otherwise not considered readily convertible into cash under the rule.

The proposed amendments would consider all loans payable within less than 6 months of the date of net capital computation as in effect demand loans and would not permit a broker or dealer to obtain certain benefits for those loans under the rule.[4] In selecting 6 months as a cut-off period, the Commission in effect is attempting to encourage loans which have a term of longer than 6 months. Such loans would provide a more solid foundation for the financial condition of a firm. For example, a loan having a duration of a year would give the broker-dealer 6 months in which to find additional sources of financing in order to comply with the net capital rule. Moreover, in such a case, if the broker-dealer failed to refinance the loan, the assets from the prior loan would remain in the firm at least 6 additional months, precluding the creditor from having the ability to benefit at the possible expense of customers. The rule would thus lock-in the capital for a period of time thought ample by other provisions of the net capital rule as a sufficient protection to customers in other situations. See Rule 15c3-1(e) and Rule 15c3-1d(10)(i).

Loan agreements which contain acceleration provisions allowing the creditor to accelerate the maturity date of the loan to a period of less than 6 months from the date of acceleration will be treated by the amendments as if the loans were payable on demand or within a period of less than 6 months. The Commission is aware that there customarily are accelerating conditions in long-term financing situations which should appropriately be excluded from this provision. The Commission solicits advice on this problem.

The amendments will do more than alter the computation of net capital, however. The amendment to paragraph (e) will, if adopted, effectively treat loans payable to certain persons associated with a broker or dealer as proprietary capital which could not be repaid under certain circumstances.

The reason for this change is basic to the net capital rule. The purpose of the net capital rule is to ensure that brokers and dealers are in a position to meet promptly customers' claims of their securities or funds. The rule does that by requiring the firm to have a certain amount of liquid capital. As noted above, the right of any creditor to withdraw funds from a broker-dealer on demand or within a short period of time could impair the firm's liquid capital. A fortiori, the insiders of a broker-dealer firm should surely not be in a position to withdraw assets from the firm when in a precarious financial position and in effect prefer themselves to the customers of the firm. The amendment to paragraph (e) of the net capital rule would prevent this.

* * * * *

The Commission solicits comments on the following questions: (1) Should the Commission adopt any grandfather provision excluding from the amendments fixed liabilities which may have been entered into in reliance on an interpretation of the present rule? (2) Should the Commission make any changes at all in the provisions affected by this proposal? Are there any other solutions to the problems spelled out in the Commission's release?

The text of the proposed § 240.15c3-1(c)(1)(viii) and (e) appears later in this release.

Statutory Basis and Competitive Considerations

Pursuant to the Securities Exchange Act of 1934, and particularly sections 15(c)(3) and 23(a) thereof, 15 U.S.C. 78o(c)(3) and 78w(a), the Commission proposes to amend § 240.15c3-1 in part 240 of chapter II of title 17 of the Code of Federal Regulations in the manner set forth below. It appears to the Commission that any burden imposed upon competition by the proposed amendments is necessary and appropriate in furtherance of the purposes of the act, and particularly to implement the Commission's continuing mandate under section 15(c)(3) thereof, 15 U.S.C. 78o(c)(3), to provide minimum safeguards with respect to the financial responsibility of brokers and dealers.

Request for Comments

All interested persons are invited to submit, in triplicate, their written views and comments concerning the amendments to § 240.15c3-1 proposed herein. All communications should be addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, no later than September 11, 1978. Comments should refer to file No. S7-745 and will be available for public inspection.

Text of Proposed Amendments

The proposed amendments to paragraphs (c)(1)(viii) and (e) of § 240.15c3-1, Title 17 CFR, are as follows:

Attention

The text of the following proposed amendments uses arrows [> <] to indicate additions and brackets[] to indicate deletions.

§ 240.15c3-1 Net capital requirements for brokers or dealers.

* * * * *

(c) * * *

(1) * * *

(viii) Fixed liabilities adequately secured by assets acquired for use in the

[2] Rule 15c3-1(c)(1)(viii).

[3] Rule 15c3-1(c)(2)(iv).

[4] See Rule 15c3-1(c)(1)(iv) and (c)(2)(viii).

ordinary course of the trade or business of a broker or dealer, [but no other fixed liabilities secured by assets of the broker or dealer shall be so excluded unless the sole recourse of the creditor for nonpayment of such liability is to such asset;] >and fixed liabilities secured by assets of the broker or dealer where the sole recourse of the creditor for nonpayment of the liability is to the secured asset. No exclusion shall be made for any liability which is payable on demand or within a period of less than 6 months. Any liability which is subject to acceleration to a date less than 6 months from the date of acceleration shall be regarded as one payable within a period of less than 6 months.<

* * * * *

NET CAPITAL

(2) The term "net capital" shall be deemed to mean the net worth of a broker or dealer, adjusted by: * * *

(iv) *Assets not readily convertible into cash.* Deducting fixed assets and assets which cannot be readily converted into cash (less any indebtedness excluded in accordance with paragaph (c)(1)(viii) of this section) including, among other things:

* * * * *

(e) *Limitation on withdrawal of [equity] capital.* No [equity] capital of the broker or dealer or a subsidiary or affiliate consolidated pursuant to appendix (C) (17 CFR 240.15c3-1c) whether in the form of capital contributions by partners (excluding securities in the securities accounts of partners and balances in limited partners' capital accounts in excess of their stated capital contributions), par or stated value of capital stock, paid-in capital in excess of par, retained earnings or other capital accounts, may be withdrawn by action of a stockholder or partner, or by redemption or repurchase of shares of stock by any of the consolidated entities or through the payment of dividends or any similar distribution, nor may any unsecured advance or loan be made to a stockholder, partner, sole proprietor or employee>; nor may any payment in full or in part be made to such person on a loan which is secured by any asset of the broker or dealer nor may any such person levy on, attach or otherwise enforce any lien on or any security interest in that asset,< if, after giving effect thereto and to any other such withdrawals, advances [or]>,< loans > or payments< and any payments of payment obligations (as defined in appendix (D) (17 CFR 240.15c3-1d)) under satisfactory subordination agreements which are scheduled to occur within six months following such withdrawal, advance [or]>,< loan>or payment,< either aggregate indebtedness of any of the consolidated entities exceeds 1000 per centum of its net capital or its net capital would fail to equal 120 per centum of the minimum dollar amount required thereby or would be less than 7 percent of aggregate debit items computed in accordance with 17 CFR Part 240. 15c3-3a, or in the case of any broker or dealer included within such consolidation if the total outstanding principal amounts of satisfactory subordination agreements of the broker or dealer (other than such agreements which qualify as equity under paragraph (d) of this section) would exceed 70 percent of the debt-equity total as defined in paragraph (d). Provided, that this provision shall not preclude a broker or dealer from making required tax payments or preclude the payment to partners of reasonable compensation.

* * * * *

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JULY 11, 1978.

[FR Doc. 78-19847 Filed 7-17-78; 8:45 am]

[1505-01]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 182, 186]

[Docket No. 78N-0032]

TALL OIL

Affirmation of Gras Status as an Indirect Food Ingredient

Correction

In FR Doc. 78-15068 appearing at page 24067 in the issue for Friday, June 2, 1978; on page 24068, second column, fifth line from the bottom, "ky" should read "kg", and in the third column, eighth line of the first paragraph, β-sitro-sterol" should read "β-sito-sterol".

[1505-01]

[21 CFR Parts 211 and 821]

[Docket No. 77N-0424]

ETHYLENE OXIDE, ETHYLENE CHLOROHYDRIN, AND ETHYLENE GLYCOL

Proposed Maximum Residue Limits and Maximum Levels of Exposure

Correction

In FR Doc. 78-17384 appearing at page 27474 in the issue for Friday, June 24, 1978; make the following corrections:

1. On page 27475, second column, ninth line from the bottom, "sever" should read "severe".

2. On page 27476, second column, seventh line from the top, insert "per cent" after "3", eighth line from the bottom, "corenal" should read "corneal".

3. On page 27480, third column, fourth line of Reference number 19, "Nutagens" should read "Mutagens".

4. On page 27482, second column, in the bold heading, "PART 221" should read "PART 211".

[4110-03]

[21 CFR Part 546]

[Docket No. 78N-0182]

CHLORTETRACYCLINE HYDROCHLORIDE-NEOMYCIN TABLETS

Proposed Rulemaking

AGENCY: Food and Drug Administration

ACTION: Proposed rule.

SUMMARY: The Director of the Bureau of Veterinary Medicine is proposing to revoke a regulation that provides for the certification of chlortetracycline hydrochloride-neomycin tablets. This proposal is made because there is a lack of substantial evidence that the combination drug is effective for its labeled uses. A notice of opportunity for hearing on this proposed withdrawal is published elsewhere in this issue of the FEDERAL REGISTER.

DATE: Comments by August 17, 1978.

ADDRESS: Written comments (preferably four copies) to the Administrative Proceedings Staff/Hearing Clerk's Office (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fisher's Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Donald Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fisher's Lane, Rockville, Md. 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the FEDERAL REGISTER, The Director of the Bureau of Veterinary Medicine is issuing a notice of opportunity for hearing on a proposal to withdraw approval of a new animal drug application (NADA 55-055) for Calf Scour Oblets, which contain 125 milligrams (mg) chlortetracycline in combination with 125 mg neomycin base (present as sulfate) and vitamins A, D, and niacin. The reason for the proposed withdrawal is that new information, evaluated together with the evidence available at the time

of its approval, shows there is a lack of substantial evidence that the combination drug is effective for use under the conditions prescribed, recommended, or suggested in the labeling.

Consistent with this action, the Director is hereby proposing to revoke § 546.110f, which currently provides for the use of the product.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 512, 59 Stat. 463 as amended, 82 Stat. 343-351 (21 U.S.C. 357, 360b) and under authority delegated to the Commissioner (21 CFR 5.1) and redelegated to the Director (21 CFR 5.84), it is proposed that Part 546 of Chapter I of Title 21 of the Code of Federal Regulations be amended by revoking § 546.110f Chlortetracycline hydrochloride-neomycin tablets.

Interested persons may, on or before August 17, 1978 file with the Administrative Proceedings Staff/Hearing Clerk's Office (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fisher's Lane, Rockville, Md. 20857, written comments (preferably four copies and identified with the docket number appearing in the heading) regarding this proposal, except that comments pertaining to issues which are the subject of the related notice of opportunity for hearing published elsewhere in this issue of the FEDERAL REGISTER shall be filed in accordance with that notice. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above-named office between 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this proposal will not have a major economic impact as defined by Executive Order 11821 (amended by Executive Order 11949) and OMB Circular A-107.

Dated July 10, 1979.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 78-19585 Filed 7-17-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-2621]

Revision of Proposed Flood Elevation Determinations for the City of Enid, Garfield County, Okla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Enid, Garfield County, Okla. Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 42 FR 8309 on February 9, 1977, and in the Enid Daily Eagle published on December 20, 1976, and December 22, 1976, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 401 West Garriott, Enid, Okla. Send comments to: Hon. Paul Russell, Mayor, city of Enid, City Hall, 401 West Garriott, Enid, Okla. 73701.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTATY INFORMATION: Peoposed base (100-year) flood elevations are listed below for selected locations in the city of Enid, Okla., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	Elevation in feet, national geodetic, vertical datum
Skeleton Creek	Market St.	1,150
	U.S. Highway 64	1,160
	Chestnut Ave.	1,164
	Willow Rd	1,182
	St. Louis-San Francisco RR.	1,191
	30th St. (downstream side).	1,196
	30th St. (75 ft upstream).	1,203
	16th St	1,234
Boggy Creek	42nd St	1,159
	30th St	1,177
	16th St	1,198
	10th St	1,206
	South Enid Blvd.	1,216
	Chicago, Rock Island & Pacific RR.	1,225
	U.S. Highway 81	1,234
	Rupe Ave	1,249
	Cleveland St	1,255
	Oklahoma Ave	1,261
	Randolph Ave	1,266
	Chestnut Ave	1,276
	Willow Rd	1,296
	Oakwood Rd	1,307
North Boggy Creek.	Market St	1,213
	Cherokee St	1,220
	Broadway Ave	1,223
	Maple Ave	1,227
	Pine Ave	1,233
	Walnut Ave	1,234
	Ash Ave	1,238
	2d St. (downstream crossing).	1,240
	Poplar Ave	1,242
	3d St	1,244
	Cherry Ave	1,245
	Independence Ave	1,249
	Spruce St	1,252
	Mulberry Ave	1,257
	Palm St	1,257
	Princeton Ave	1,262
	Oxford Ave	1,265
	Van Buren Bypass	1,268
Boggy Creek Tributary above Chestnut St.	Eisenhower St	1,275
	Oakwood Rd	1,281
West Branch Boggy Creek Tributary above Chestnut.	Cleveland St	1,254
Phillips University Tributary.	Main St	1,205
	Broadway Ave	1,205
	Randolph Ave	1,207
	Elm Ave	1,210
	Pine Ave	1,216
	Walnut Ave	1,224
Old Channel Boggy Creek.	4th St	1,223
	3d St	1,224
	2d St	1,226
	Independence Ave	1,232
	Washington St	1,234
	Jefferson St	1,236
	Jackson St	1,239
	Polk St	1,242
	Johnson St	1,246

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

Issued: June 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administarator.

[FR Doc. 78-19530 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-2667]

Revision of Proposed Flood Elevation Determinations for the City of Sioux City, Woodbury County, Iowa

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Sioux City, Woodbury County, Iowa. Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in the Sioux City Journal on March 16, 1977, and in the Sioux City Journal published on March 17, 1977, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Sioux City Hall, in the City Clerk's Office, P.O. Box 447, Sioux City, Iowa. Send comments to: Hon. George William Gross, Mayor of Sioux City, P.O. Box 447, Sioux City, Iowa 51101.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the city of Sioux City, Woodbury County, Iowa, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Big Sioux River	Plymouth/Woodbury County boundary.	1,111
	Chicago, Milwaukee, St. Paul, & Pacific RR.	1,107
	Goldie Ave. (extended)	1,102
	Interstate 29	1,095
Floyd River	Interstate 29	1,086
	U.S. Highway 20	1,092
	11th St	1,104
	18th St	1,109
	Burlington Northern RR.	1,112
	Plymouth/Woodbury County boundary.	1,120
Perry Creek	Chicago, Milwaukee, St. Paul, & Pacific RR.	1,103
	4th St	1,106
	Market St	1,115
	14th St	1,117
	West 18th St	1,122
	20th St	1,125
	Stone Park Blvd	1,138
	Country Club Blvd	1,143
	Buckwalter Dr. (extended).	1,156
Bacon Creek	South Westcott St. (extended).	1,094
	South Fairmount St	1,102
	Rustin St	1,115
	South Alice St	1,118
	South Martha St	1,134
	South Mulberry St	1,139
	Cedar St. (extended)	1,154
	Soil conservation service dam.	1,172

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued June 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

FR Doc. 78-19549 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4050]

Proposed Flood Elevation Determinations for the City of Clyde, Sandusky County, Ohio

Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: The notice published on April 20, 1978, at 43 FR 16752 in the FEDERAL REGISTER, and in the Clyde Enterprise on March 22, and 29, 1978, describing the Factory Access Road listed under Raccoon Creek in Clyde as being 975 feet downstream from U.S. 20, should be corrected to read 975 feet upstream.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

(National Flood Insurance Act of 1978 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued June 23, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

FR. Doc. 78-19529 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4266]

Proposed Flood Elevation Determinations for the City of Monticello, Jones County, Iowa

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Monticello, Jones County, Iowa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 200 East First Street, Monticello, Iowa. Send comments to: The Honorable Janet M. Fraser, Mayor, city of Monticello, 200 East First Street, Monticello, Iowa 53210.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Monticello, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Maquoketa River..	U.S. Route 151	803
	Northern corporate limit.	805
Kitty Creek.....	Eastern corporate limit..	803
	First St	805
	State Highway 38	810
	Southern corporate limit.	813
Unnamed Stream..	Southern corporate limit.	819
	60 ft upstream of U.S. Highway 151.	823
	Chicago, Milwaukee, St. Paul & Pacific RR.	824
	2,550 ft upsteam from Chicago, Milwaukee, St. Paul & Pacific RR.	827

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued June 9, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19548 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4267]

Proposed Flood Elevation Determinations for the City of Pittsburg, Crawford County, Kans.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Pittsburg, Crawford County, Kans. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Gordon House, City Planner and Inspector, Pittsburg, Kans. Send comments to: Mr. R. M. Stricklan, City Manager, city of Pittsburg, P.O. Box 688, Pittsburg, Kans. 66762.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Pittsburg, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4 (a)).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Taylor Branch.....	Eastern corporate limit..	898
	At Rouse Ave.....	903
	Downstream at St. Louis-San Francisco RR.	908
	Upstream at St. Louis-San Francisco RR.	910
	At 4th St	916
	160 ft upstream from St. Louis-San Francisco RR.	917
	50 ft downstream of Missouri Pacific RR culvert.	921
	At downstream end, Missouri-Pacific RR. culvert.	929
	At upstream end, Kansas City Southern RR. culvert.	935
East Fork Taylor Branch.	At corporate limits at 4th St.	908
	Downstream side of 14th St.	910
	Upstream side of 14th St.	913
	Downstream St. Louis-San Francisco RR.	914
	150 ft upstream St. Louis-San Francisco RR.	916
	At 20th St	917
	At northeast corporate limit.	918
First Cow Creek....	Confluence with south Drain.	880
	Broadway St.....	885
	At St. Louis-San Francisco RR.	891
	160 ft upstream of Quincy Ave.	895
	At Missouri Pacific RR ..	897
	At western corporate limit (4th St.).	899
	Downstream side of St. Louis-San Francisco RR. (upstream crossing).	900
	Upstream side of St. Louis-San Francisco RR. (upstream crossing).	906
	At northern corporate limit at 20th St.	908

National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued June 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19550 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4268]

Proposed Flood Elevation Determinations for the City of Covington, Kenton County, Ky.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Covington, Kenton County, Ky. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the city clerk's office, Covington, Ky. Send comments to: Hon. George Wermeling, Mayor of Covington, 9th Floor, City Building, 3d and Court Streets, Covington, Ky. 41011.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Wahington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Covington, Kenton County, Ky. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Licking River	Confluence with Ohio River.	499
	4th St. Bridge	499
	Wallace St. (extended)	501
	Virginia Ave. (extended)	502
Banklick Creek	Louisville & Nashville RR. bridge.	502
	Winton Pike St	502
	Corporate limits (upstream).	503
Ohio River	Corporate limits (downstream).	497
	U.S. Interstate 71-75 bridge.	498
	Court Ave.	498
	Corporate limits (upstream).	499

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued June 22, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19551 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4269]

Proposed Flood Elevation Determinations for East Baton Rouge Parish, La.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in East Baton Rouge Parish, La. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Municipal Building, 300 North Boulevard, Baton Rouge, La. Send comments to: Mr. Ray Burgess, Director of Public Works, East Baton Rouge Parish, Municipal Building, 300 North Boulevard, Baton Rouge, La. 70821.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for East Baton Rouge Parish, La. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Amite River	Bayou confluence with Manchac.	18
	Confluence with Jones Creek.	31
	Interstate Highway 12	40
	U.S. Highway 190	42
Baker Canal-Upper Cypress Bayou-South Canal-Upper White Bayou.	U.S. Highway 61 South	63
	City of Baker, downstream corporate limits.	73
	City of Baker, upstream corporate limits.	79

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	McHugh Rd	81
	Lower Zachary Rd	90
Upper White Bayou.	Lower Zachary Rd	90
	Louisiana State Highway 64.	93
	Louisiana State Highway 19.	98
	Port Hudson-Pride Rd	105
Bayou Duplantier.	Lee Drive	27
Bayou Fountain	Confluence with Selene Bayou.	15
	Gardere Lane	18
	Ben Hur Rd	20
	Bob Pettit Dr	24
Bayou Fountain North Branch.	Confluence with Bayou Fountain.	20
	West Parker Blvd	21
Bayou Fountain South Branch.	Confluence with Bayou Fountain.	24
	South Stadium Rd	25
South Canal Diversion.	Confluence with Conite River.	73
	Dyer Rd	75
	Plank Rd	82
	Confluence with White Bayou.	83
Wards Creek	Highland Rd	18
	Pecue Lane	21
	Siegen Lane	24
	Essen Lane	31
	Interstate Highway 12	35
	Clay Cut Rd	45
	Government St	48
Blackwater Bayou.	Confluence with Comite River.	53
	Hooper Rd	57
	1.5 mi upstream of Hopper Rd.	63
Clay Cut Bayou	Parish Rd	27
	Jefferson Highway	29
	Airline Highway	30
	Siegen Rd	32
	Inswold Rd	34
Comite River	Illinois Central RR	42
	Joor Rd	52
	Hooper Rd	55
	Comite Dr	65
	Dyer Rd., downstream side.	75
Dawson Creek	Perkins Rd., downstream crossing.	26
	Perkins Rd., upstream crossing.	27
	College Ave. extended	29
Elbow Bayou	Confluence with Bayou Fountain.	19
	Illinois Central RR. (upstream side).	20
	Ben Hur Rd	21
Hurricane Creek	Confluence with Comite River.	48
	Joor Rd	49
	Maribel Dr	49
	Brookstown Dr	52
	Lorraine St	52
Jones Creek	Confluence with Amite River.	31
	Jones Creek Rd	35
	Woodland Bridge Blvd	39
	Interstate Highway 12	40
	Old Hammond Highway	41
	Sherwood Forest Blvd	43
	Mollylea Dr	46
	Monterrey Blvd	49
	Airline Highway	52
	Lobdell extension	54
Lively Bayou	Old Hammond Highway	41
	Flannery Rd. (upstream crossing).	43
	Florida Blvd	43
	Illinois Central RR	46
Lower Cypress Bayou.	Hooper Rd	54
	Plank Rd	57
	Thomas Rd	63
	Greenwood Park Rd (north).	64
	Lavey Lane	65
Lower White Bayou.	Confluence with Comite River.	61
	Comite Rd	65
	Pettit Rd	70
	Plank Rd	71
	Bentley Dr	76
North Branch Wards Creek.	Confluence with Wards Creek.	29
	Interstate Highway 12	34
	Jefferson Highway	35
	Old Hammond Highway	39
	Goodwood Blvd	44
	Florida Blvd	52
	Fernwood Dr	53
Lively Bayou Tributary.	Goodwood Blvd	41
	Locksley Dr	42
	Florida Blvd	45
	Tams Dr	47
	Choctaw Dr	48
Weiner Creek	Confluence with Jones Creek.	39
	Sherwood Forest Blvd	41
	Stanley Aubin Dr	45
	Janice St	46
	Interstate Highway 12	50
Knox Branch	Confluence with Jones Creek.	34
	Harrells Ferry Rd	35
Jacks Bayou	Tiger Bend Rd	29
	Sherwood Forest Blvd	41
Monte Sano Bayou.	Airline Highway	54
	Harding Blvd	55
	Eighth St	61
	Fourth St	62
	Confluence with Gibbens Lateral.	64
Scotlandville Lateral.	Interstate Highway 110	55
	Badley Rd	55
	Stitt St	56
	Fraternity St	57
	Scotlandville Av	62
South Airport Lateral.	Confluence with Monte Sano Bayou.	55
	0.80 mi upstream of confluence with Monte Sano Bayou.	63
North Airport Lateral.	Confluence with Gibbens Lateral.	64
	0.75 mi upstream of confluence with Gibbens Lateral.	66
Robert Canal	Joor Rd	49
	Greenwell St	50
	Matthews St	50
	Silverleaf Av	51
	Glenoaks Dr	52
Hollywood Lateral	Confluence with Wildwood Lateral.	53
	Plank Rd	53
	Confluence with Monte Sano Bayou.	54
Wildwood Lateral	Lorraine St	52
	St. Gerald Av	52
	Confluence with Hollywood Lateral.	53
East Lateral Cypress Bayou.	Gibbens Rd	63
	Baker corporate limits	63
West Lateral Cypress Bayou.	Confluence with Cypress Bayou.	63
	Baker Rd	65
	Rafe Mayer Rd	67
Gibbens Lateral North.	Confluence with Cypress Bayou.	61
	Gore Rd	63
	320 ft north of Blount Rd.	65
South Lateral	Confluence with Cypress Bayou.	56
	Plank Rd	61

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued June 22, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19552 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4270]

Proposed Flood Elevation Determinations for the Town of Mandeville, St. Tammany Parish, La.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Mandeville, St. Tammany Parish, La. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 3100 East Causeway Approach, Mandeville, La. 70448. Send comments to: Mayor Bernard Smith, 3100 East Causeway Approach, Mandeville, La. 70448.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krim, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Mandeville, St. Tammany Parish, La., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968

(Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, (national geodetic vertical datum)
Bayou Chinchuba.	West of west approach road.	12
	North of Katherin Parkway.	12
Little Bayou Castine.	Jackson Avenue	12
Lake Pontchartrain.	Monroe Street	12

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued June 20, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19553 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4271]

Proposed Flood Elevation Determinations for the Township of Frankenlust, Bay County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Frankenlust, Bay County, Mich. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Township Hall, 2401 Delta Road, Bay City, Mich.

Send comments to: Ms. Marie Piotrowski, Township Supervisor, township of Frankenlust, Township Hall, 2401 Delta Road, Bay City, Mich. 48706.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Frankenlust, Mich., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They shold not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saginaw River	Hotchkiss Rd.—20 ft.[1]	585
	Upstream corporate limits.	586
Saginaw River west channel.	Confluence with Dutch Creek.	585
Dutch Creek	Euclid Rd.—40 ft.[1]	585
	Minnesota Highway 84—50 ft[1].	585
Squaconning Creek.	Ziegler Rd.—20 ft.[1]	585
	Southbound Interstate Highway 75—50 ft[1].	586
	Minnesota Highway 84—100 ft[1].	588
	Bay Valley Rd.—20 ft.[1]	589
	Four Mile Rd.—20 ft.[1]	593
	Hotchkiss Dr.—100 ft.[1]	596
Squaconning Creek secondary channel.	Minnesota Highway 84—50 ft[1].	588
Kochville and Frankenlust drain.	Delta Rd.—20 ft.[1]	591
	Amelith Rd.—50 ft.[1]	602
	Kloha Rd.—10ft.[1]	604
	Mackinaw Rd.—10 ft.[2]	606
Klauss drain	Footbridge—10 ft.[1]	594
	South Campus Dr.—50 ft.[1].	598
	Delta Rd.—50 ft.[1]	604

[1] Upstream of centerline.
[2] Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued June 29, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19554 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4272]

Proposed Flood Elevation Determinations For The City of Fraser, Macomb County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Fraser, Macomb County, Mich. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines

of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 33000 Garfield Street, Fraser, Mich.

Send comments to: Mr. William Blaskis, City Administrator, city of Fraser, City Hall, 33000 Garfield Street, Fraser, Mich. 48026.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Fraser, Mich., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Harrington drain...	Garfield Rd	607
	Utica Rd	608
	14 Mile Rd	609
Calahan drain.....	Cambridge Dr	611
Priest drain.....	Luxemburg Ave	611
	Fruehauf Ave	613
Sweeney drain.....	15 Mile Rd	604
	Adolph St	606
	Grettel Rd	608
	Josephine Rd	611
	Masonic Rd	613

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued June 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19555 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4273]

Proposed Flood Elevation Determinations for the City of Springfield, Brown County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Springfield, Brown County, Minn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 2 East Central, Springfield, Minn. Send comments to: Hon. Don Lindley, Mayor, city of Springfield, City Hall, 2 East Central, Springfield, Minn. 56087.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Springfield, Minn., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Cottonwood River.	Most downstream corporate limits.	1017
	Cass Avenue Bridge at centerline.	1020
	Most upstream corporate limits.	1021

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued June 29, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19556 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4274]

Proposed Flood Elevation Determinations for the City of Spring Park, Hennepin County, Minn.

AGENCY: Federal Insurance Administration, AHUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Spring Park, Hennepin County, Minn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the

second publication of this proposed rule in a newspaper of local circulation in the above-named community,

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 4349 Warren, Spring Park, Minn. Send comments to: The Honorable Jerome Rockvam, Mayor, city of Spring Park, City Hall, 4349 Warren, P.O. Box 452, Spring Park, Minn. 55384.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Spring Park, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4 (a)).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevation for selected locations are:

Source of flooding	Location	Elevation in feet, (national geodetic vertical datum)
Lake Minnetonka..	Area within corporate limit.	931

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued June 22, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19557 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4275]

Proposed Flood Elevation Determinations for the City of Tonka Bay, Hennepin County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Tonka Bay, Hennepin County, Minn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 4901 Manitov Road, Tonka Bay, Minn. Send comments to: The Honorable Glenn Froberg, Mayor, city of Tonka Bay, City Hall, 4901 Manitov Road, Tonka Bay, Minn. 55331.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Tonka Bay, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4 (a)).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Minnetonka..	Around shoreline and in cove areas.	931

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

Issued June 22, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19558 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4276]

Proposed Flood Elevation Determinations for Hinds County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Hinds County, Miss. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines

of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Chancery Court Building, 316 South President Avenue, Jackson, Miss. Send comments to: Mr. Herbert Berryhill, President, Board of Supervisors, Hinds County, Chancery Court Building, Jackson, Miss. 39205.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Hinds County, Miss., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the national Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bakers Creek	Champion Hill Rd., 100 ft*.	208
	Lancaster Rd., 10 ft*	217
	Natchez Trace Parkway, 100 ft*.	242
	North Midway Rd., 10 ft*.	251
	Illinois Central Gulf RR., spur line, 100 ft*.	280
	McRaven Rd., 10 ft*	294
Bakers Creek Tributary 1.	Illinois Central Gulf RR., 10 ft*.	246
	Airport Rd., 50 ft*	251
	Snake Creek Rd., 10 ft**	259
	Dunn-Pease Rd., 10 ft*	294
Big Creek	Interstate Highway 55, 10 ft*.	262
	Old U.S. Highway 51, 10 ft*.	268
Big Creek	Davis Rd., 10 ft*	287
	Broadwater Rd., 10 ft*	314
	Raymond Rd., 10 ft*	329
	North Siwell Rd., 10 ft**	341
	Brookview Dr., 10 ft*	351
	Mississippi Highway 8, 50 ft*.	364
Big Creek Tributary 1.	Siwell Rd., 20 ft*	285
	Private road 1st crossing, 100 ft*.	312
	Private road 2d crossing, 10 ft*.	326
Big Creek Tributary 3.	Gore Rd., 10 ft*	314
	Parks Rd., 100 ft*	323
	Springridge Rd., 10 ft*	332
Bogue Chitto	Natchez Trace Parkway, 1st crossing, 10 ft*.	250
	Cynthia Rd., 10 ft*	254
Bogue Chitto Tributary 1.	Magnolia Rd., 10 ft*	256
	North Side Dr 10 ft*	272
	Vicksburg Rd., 40 ft*	302
Hanging Moss Creek.	County line road, 10 ft**	340
Harris Creek	Interstate Highway 55, upstream lane, 10 ft*.	269
	Old U.S. Highway 51, 10 ft*.	271
Pearl River	Confluence with Cany Creek.	268
Rhodes Creek	Fortner Rd., 10 ft*	266
	West Frontage Rd., 100 ft*.	273
	Old U.S. Highway 51, 100 ft*.	280
Smith Creek	McRaven Rd., 100 ft*	256
	Wells Rd., 10 ft*	266
	Springridge Rd., 20 ft*	280
	North Siwell Rd., 100 ft*	326
Smith Creek Tributary 1.	State Highway 18, 100 ft**.	293
	State Highway 18, 100 ft*.	303
Smith Creek Tributary 2.	Confluence with Smith Creek.	310
Smith Creek Tributary 3.	Confluence with Smith Creek, Tributary 1.	291
Snake Creek	Herrin Rd., 10 ft*	218
	Natchez Trace Parkway, 40 ft*.	244
	Raymond-Clinton Rd., 10 ft*.	261
	State Highway 18, 10 ft*	278
Trahon Creek	Old Byram Rd., 10 ft*	264
	Interstate Highway 55, 100 ft*.	273
	Terry Rd., 10 ft*	275
	Forest Hills Rd., 100 ft*	298
Trahon Creek Tributary 1.	Interstate Highway 55, 150 ft*.	264
	Henderson Rd., 50 ft*	321
Vaughn Creek	Georgetown Rd., 100 ft*.	265
	Illinois Central Gulf RR., 10 ft*.	275
	Old U.S. Highway 51, 10 ft*.	276
	Interstate Highway 55, 100 ft**.	282
	Interstate Highway 55, 100 ft*.	286

* Upstream of centerline.
** Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128), and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

Issued June 29, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[78-19559 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4277]

Proposed Flood Elevation Determinations for the City of St. Peters, St. Charles County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of St. Peters, St. Charles County, Mo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Engineering Department, Administration Building, Venture Avenue, St. Peters, Mo.

Send comments to: Mr. John T. Kretzer, Acting City Administrator, city of St. Peters, Venture Drive, St. Peters, Mo. 63376

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance Room 5270, 451 Seventh Street SW., Washington, D.C. 20410 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of St. Peters, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The

community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Dardenne Creek	Upstream of Norfolk & Western RR.	447
	Upstream of State Route C.	448
	Just upstream of I-70	458
	At Mexico Rd. (corporate limit).	461
East Branch of Dardenne Creek.	At the north corporate limit.	467
	Upstream of St. Peters-Cottleville Rd.	477
	Upstream of Oak Hill Lane.	495
	Upstream of Jane Dr	502
Spencer Creek	Norfolk & Western RR. at north corporate limit.	447
	Downstream of I-70	448
	150 ft upstream I-70	453
	Just upstream of Mexico Rd.	456
	Upstream of Willott Rd.	488
	Upstream side Horstmier Rd.	500
	3,500 ft upstream of Horstmier Rd.	526
West Branch of Spencer Creek.	Upstream of Baltizor Rd. (west corporate limit).	456
	900 ft upstream from Baltizor Rd. (corporate limit).	459
	Upstream side of Mexico Rd.	467
	Downstream of Willott Rd. at south corporate limit.	500
East Branch of Spencer Creek.	At confluence with Spencer Creek.	456
	1,900 ft upstream from the confluence with Spencer Creek.	461
	4,200 ft upstream from the confluence with Spencer Creek.	470
	Jugerman Rd. (east corporate limit).	499

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43, FR 7719.)

Issued June 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19560 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4278]

Proposed Flood Elevation Determinations for the Town of Bartlett, Carroll County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Bartlett, Carroll County, N.H. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Bartlett, N.H.

Send comments to: Mr. Chandler, Selectman, Town Office, Bartlett, N.H. 03812.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Bartlett, Carroll County, N.H., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saco River	Approximately 200 ft upstream of the confluence of Rocky Branch.	564
	Approximately 100 ft upstream of U.S. Route 302.	581
	Just downsteam of Bear Notch Rd. Bridge.	671
East Branch Saco River.	Just upstream of the Maine Central RR. Bridge.	530
	Just upstream of Route 16.	552
	Approximately 100 ft upstream of Town Hall Rd.	785
Ellis River	Approximately 150 ft upstream of U.S. Route 302.	542
	Approximately 150 ft upstream of Route 16.	690
Rocky Branch	Just upstream of U.S.302.	573
Bartlett Brook	Just upstream of U.S. Route 302.	653
	Just upstream of Foster St. Bridge.	670

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued June 20, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19561 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4279]

TOWN OF CONWAY, CARROLL COUNTY, N.H.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Conway, Carroll County, N.H. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or

show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Conway, N.H.

Send comments to Mr. Arthur Seavey, Town Manager, Town Hall, Conway, N.H. 03813.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Conway, Carroll County, N.H., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saco River	Eastern corporate limits	413
	Just upstream from Route 302 Bridge.	433
Saco River	Just upstream of Route 16 Bridge.	452
	Just upstream of River Rd.	480
Kearsarge Brook	Approximately 150 ft upstream from Maine Central RR.	490
	Cranemore Rd.	531
Swift River	Just upstream of West Side Rd. Bridge.	456
	Approximately 100 ft downstream from western corporate limits.	478

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

Issued June 20, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19562 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4280]

Proposed Flood Elevation Determinations for the Town of Aurora, Erie County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Aurora, Erie County, N.Y. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Aurora Town Hall, 5 South Grove Street, East Aurora, N.Y. Send comments to: Mr. Abott B. Henshaw, Supervisor of Aurora, Aurora Town Hall, 5 South Grove Street, East Aurora, N.Y. 14052.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for town of Aurora, Erie County, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Cazenovia Creek	Just upstream of Big Tree Rd. (Route 20A) bridge.	816
West Branch	Just upstream of Jewett Holmwood Rd. Bridge.	825
Cazenovia Creek	Approximately 100 ft downstream southern corporate limit.	941
East Branch Cazenovia Creek.	Just upstream of Jewett Holmwood Rd. Bridge.	823
	Just upstream Center St Route 12 bridge.	875
	Just upstream of Emery Rd. (Route 67) bridge.	914
	Just upstream of Darling Rd. (Route 379) bridge.	922

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

Issued June 20, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19563 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4281]

Revision of Proposed Flood Elevation Determinations for the Town of Babylon, Suffolk County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Babylon, Suffolk County, N.Y. Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in the Amityville record on May 26, 1977, and in the Amityville Record published on June 2, 1977, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Babylon Town Hall, 200 East Sunrise Highway, North Lindenhurst, N.Y. 11757. Send comments to: Mr. Thomas F. Fallon, Supervisor of the town of Babylon, Babylon Town Hall, 200 East Sunrise Highway, North Lindenhurst, N.Y. 11757.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the town of Babylon, Suffolk County, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	Elevation in feet, above mean sea level
Great South Bay...	Along Great Neck Creek upstream to Audley Ct.	6
	Buchanan Ave.	6
	Lake St.	6
	Howell Creek	6
	Riviera Dr. east and west.	6
	Along Strongs Creek	6
	Along Neguntatogue Creek.	6
	Along Santapogue Creek upstream to Montauk Highway.	6
	Along West Babylon Creek.	6
	Along Woods Creek	6
	North side of Barrier Island.	6
	All islands between Barrier Island and Main Island.	6
Atlantic Ocean	South side of Barrier Island.	11
	South and west side Fire Island.	11
Fire Island Inlet	South side Barrier Island.	11
	North side Fire Island	11

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued June 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19564 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4282]

Proposed Flood Elevation Determinations for the Village of Elmsford, Westchester County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the village of Elmsford, Westchester County, N.Y. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Hall, Elmsford, N.Y.

Send comments to: Hon. John J. McElroy, Mayor of Elmsford, 15 South Stone Avenue, Elmsford, N.Y. 10523.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the village of Elmsford, Westchester County, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plan management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Saw Mill River	Downstream corporate limits.	174
	Tarrytown-White Plains Rd.	175
	Cross Westchester Expressway.	176
	Upstream corporate limits.	176
Knollwood Brook	Downstream corporate limits.	213

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Knollwood Brook..	Knollwood Rd.....	213
	Cross Westchester Expressway.	216
	Alma Place.....	221
	Woodside Ave.....	228
	Upstream corporate limits.	270

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued June 22, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19565 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4283]

Proposed Flood Elevation Determinations for the Town of Holland, Erie County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Holland, Erie County, N.Y. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Holland Town Hall, Pearl Street, Holland, N.Y. 14080.

Send comments to: Mr. William Franczak, Town Supervisor, Town Hall, Pearl Street, Holland, N.Y.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of the Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Holland, Erie County, N.Y., in accordance with section 110 of the Flood Diasaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain managment measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
East Branch Cazenovia Creek.	Approximately 100 ft upstream of Route 16 Bridge (approximately 2,800 ft south of the north of corporate limit).	954
	Approximately 100 ft upstream of Route 16 Bridge, southwest of Humphrey Cemetery.	982
	Just upstream North Canada St.	1,022
	Just upstream Highway 396 (extended).	1,037
	Just downstream Glenwood Holland Rd. Route 223 Bridge.	1,083

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued June 20, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19527 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4284]

VILLAGE OF PELHAM, WESTCHESTER COUNTY, N.Y.

Proposed Flood Elevation Deteriminations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Pelham, Westchester County, N.Y. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Hall, Pelham, N.Y. Send comments to: Hon. Joseph Trotta, Mayor of Pelham, 195 Sparks Avenue, Pelham, N.Y. 10803.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Pelham, Westchester County, N.Y. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community

may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hutchinson River	Downstream corporate limits.	14
	Conrail	19
	Hutchinson River Parkway, approximately 700 ft downstream of Lincoln Ave.	26
	Lincoln Ave	30
	Hutchinson River Parkway, approximately 950 ft upstream of Lincoln Ave.	33
	Cross County Parkway downstream.	37
	Cross County Parkway upstream.	45
	Upstream corporate limits.	62
Branch 1 Hutchinson River.	Highbrook Ave	49
	Approximately 380 ft upstream of Highbrook Ave.	60
	Approximately 540 ft upstream of Highbrook Ave.	70
	Approximately 650 ft upstream of Highbrook Ave.	75
	Approximately 960 ft upstream of Highbrook Ave.	79

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued June 22, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19528 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4285]

Proposed Flood Elevation Determinations for the Township of Millcreek, Erie County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Millcreek, Erie County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Millcreek Township Hall, 3608 West 26th Street, Erie, Pa. 16501. Send comments to: Mr. J. R. Brick, Township Supervisor of Millcreek, 3608 West 26th Street, Erie, Pa. 16501.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Millcreek, Erie County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Erie	West of Presque Isle State Park.	577
	East of Presque Isle State Park.	578
Walnut Creek	Zuck Rd	857
	Zimmerly Rd	874
	Interstate Route 79	883
	Confluence of Beaver Run.	893
	Mall access road	899
	U.S. Route 19	909
	Southern corporate limit.	952
Beaver Run	Confluence with Walnut Creek.	893
	U.S. Route 19	899
	Patton St. (extended)	903
	Washington Ave	904
	Spring Valley Dr. (extended).	911
Mill Creek	City of Erie corporate limit.	805
	Evans Rd	824
	Lake Pleasant Rd	904
	Cider Mill Rd	921
	Wattsburg Rd. (upstream).	938
Mill Creek Tributary No. 1.	Wattsbug Rd. (upstream).	939
	Conrad Rd. (upstream)	958

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued June 27, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc.78-19531 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4286]

Proposed Flood Elevation Determinations for the Township of Upper Macungie, Lehigh County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Upper Macungie, Lehigh County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed

rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Upper Macungie Municipal Building, R.F.D. No.1, Breinigsville, Pa. 18031. Send comments to: Mr Harry K. Johnson, Chairman of the Board of Supervisors of Upper Macungie, Upper Macungie Municipal Building, R.F.D. No. 1, Breinigsville, Pa. 18031.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Upper Macungie, Lehigh County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Schaefer Run	Downstream corporate limits.	380
	Confluence with Iron run.	382
	Flower Rd	393
	Brookdale Rd	400
	Confluence with Breinig Run.	401
	Butz Rd	404
Iron Run	Confluence with Schaefer Run.	382
	Foot bridge (1,000 ft upstream of confluence with Schaefer Run).	384
	Route 222 bridge	385
	Private drive (1,170 ft upstream of Route 222 bridge).	391
Breinig Run	Confluence with Schaefer Run.	401
	Old Route 222	405
	New Route 222	412
Hassen Creek	Downstream corporate limits.	375
	Private drive (320 ft upstream of downstream corporate limits).	376
	Private drive (750 ft upstream of downstream corporate limits).	379

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued June 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19532 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4287]

Proposed Flood Elevation Determinations for the City of Castroville, Medina County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Castroville, Medina County, Tex. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Castroville, Tex. Send comments to: Mayor Eugene Suehse, Drawer S, Castroville, Tex. 78009.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Castroville, Medina County, Tex., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1336 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rater for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Medina River	Just upstream of Constantinople St.	745
	Just upstream of U.S. Highway 90.	750

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

Issued June 30, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19533 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4288]

Proposed Flood Elevation Determinations for the City of Fort Worth, Tarrant County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Fort Worth, Tarrant County, Tex. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Fort Worth, Tex. Send comments to: Hon. Hugh Parmer, Mayor of Fort Worth, 1000 Throckmorton Street, Fort Worth, Tex. 76102.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Fort Worth, Tarrant County, Tex. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Big Fossil Creek	Upstream side of Alta Vista Rd.	578
	Upstream side of Watuaga-Smithfield Rd.	608
	A.T. & S.F. RR	700
	Wagley Robertson Rd	730
Cement Creek	Mouth	580
	35th St	584
	Upstream side of Interstate Highway 820.	683
	Upstream corporate limits.	687
Clear Fork Trinity River.	Mouth	535
	Henderson St	539
	Lancaster St	544
	Interstate Highway 20	549
	University Dr	558
	Hulen St	568
	Bryant Erwin Rd	587
	Loop 820	603
	Upstream corporate limits.	611
Cottonwood Creek	Mouth	480
	Randol Mill Rd	489
	Upstream side Dallas-Fort Worth Turnpike.	506
	Cooke Lane	522
	Sandy Lane	570
	Muse St	582
	Milam St	598
Dry Branch	Mouth	508
	Upstream side of Lower Birdville Rd.	523
	Marsalis St	547
	Upstream side Beach St.	556
	Upstream side Robinwood St.	565
	Carnation Dr	570
	Hollis St	588
Farmer's Branch	Upstream side Interstate Highway.	715
	Upstream side Alamed St.	749
King's Branch	Downstream corporate limits.	591
	Ridgemar Rd	603
	Green Oaks Rd	619
Little Fossil Creek	Beach St	563
	Upstream side of Texas & Pacific RR.	574
	Upstream side of St. Louis & Southwestern RR.	579
	Sylvania Ave	592
	Interstate Highway 35 West.	602
	Great Southwest Parkway.	608
	Upstream side Fort Worth & Denver RR.	619
	Loop Interstate Highway 820.	625
	Upstream side of Old Richey Airport Rd.	630
	Upstream corporate limits.	650
Live Oak Creek	Mouth	600
	Silver Creek Rd	604
	Upstream corporate limits.	662
Lorean Branch	Trinity Blvd	498
	Chicago, Rock Island & Pacific RR.	507
Marine Creek	Mouth	528
	Fort Worth & Denver RR.	530
	Exchange Ave	539
	Clinton Ave	547
	Upstream side of North West 30th St.	567
	West Long St	574
	North West 35th St	590
	Rock Island Ave	606
	Sherman Ave	614
	Upstream side of Frontage Rd.	703
	Upstream corporate limits.	703
Mary's Creek	Mouth	608
	Ridglea Country Club Dr.	612
	Upstream side of Old Benbrook Rd.	631
	Frontage Rd	673
	Longview Rd	697
	New FM 2871	702
	Downstream side of U.S. Route 80.	717
	Upstream side of U.S. Route 180.	722
	Upstream corporate limits.	738
Silver Creek	Mouth	600
	Silver Creek Rd	612
Sulpher Branch	Mouth	475
	Arlington-Bedford Rd	475
	State Route 183	477
Sycamore Creek	Mouth	515
	East Lancaster Ave	524
	Vickery Blvd	534
	Upstream side of East Rosedale St.	543
	Polytechnic Freeway	547
	Colvin Ave	559
	South Riverside Dr	573
	Southern Pacific RR	582
	Elva Warren St	588
	Seminary Dr	601
	Texas & Pacific RR	619
	Oak Grove Rd	628
	Downstream side Interstate Highway 820.	639
	North-South Freeway	649
	Hemphill St	660
	Sycamore School Rd	700
Valley View Creek	Upstream side of Trinity Blvd.	485
	Upstream side of Chicago, Rock Island & Pacific RR.	504
	State Route 183	506
Village Creek	Mouth	476
	Fort Worth-Dallas Turnpike.	483
	Randol Mill Rd	486
	U.S. Route 80 and 180	504
Walker's Branch	Soldier Hurst Rd	487
	Trinity Blvd	498
	Lower Precinct Line Rd.	503
	Upstream corporate limits.	509
Walnut Creek	Mouth	633
	Texas & Pacific RR	647
	Upstream corporate limits.	650
West Fork Trinity River.	Downstream corporate limits.	473
	Arlington-Bedford Rd	474
	Lower Precinct Line Rd.	483
	Upstream side Loop Interstate Highway 820.	500
	East 1st St	509
	Beach St	513
	Riverside Dr	516
	4th St	520
	Interstate Highway 35	524
	Samuels Ave	528

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	North Main St	535
	University Dr	540
	State Route 183	555
	Meandering Rd	561
	Upstream side of Lake Worth Dam.	589
	Upstream corporate limits.	589
Wildcat Branch	Mouth	564
	Interstate Highway 820	568
	Radford Rd	574
	Stallcup Rd	582
	Village Creek Rd	610
Stream No. 1	Mouth	668
	State Route 156	674
	Atcheson, Topeka & Santa Fe RR.	718
Stream No. 2	Mouth	695
	Hicks Rd	734
	Upstream corporate limits.	740
Stream No. 3	Mouth	682
	FM 156—1st crossing	692
	U.S. Route 287 and 81	720
Stream No. 4	Mouth	638
	Harman Rd	686
Stream No. 5	Mouth	586
	Downstream side of Wataugh-Smithfield Rd.	593
	Old Denton Rd	610
	Upstream side of Interstate Highway 35.	645
	Frontage Rd	670
	Upstream corporate limits.	683
Stream No. 6	Mouth	632
	Upstream corporate limits.	654
Stream No. 7	Mouth	600
	Upstream corporate limits.	607
Stream No. 8	Mouth	600
	North Shore Dr	605
	Upstream corporate limits.	629
Stream No. 9	Mouth	605
	Nine Mile Bridge Rd	633
Stream 10	Mouth	600
	Upstream side of North Shore Dr.	611
	Shelby Lane	616
	Joe Elle Lane	620
Stream No. 11	Mouth	541
	Ohio Gardens Rd	548
	River Oaks Blvd	563
Stream No. 12	Mouth	527
	Brennan St	532
	Peak St	546
	28th St	552
	Upstream side of Dewey St.	564
	Veracruz St	578
	Swartz St	590
	32nd St	595
	St. Louis RR	599
	Long Ave	604
	36th St	617
	Beaumong St	625
	Jasper St	630
	Michael Terminal St	636
	Hardy St	643
	Decatur Ave	650
Stream No. 13	Mouth	584
	Meachum Blvd	601
Stream No. 14	Mouth	576
	St. Louis & Southwestern RR.	578
	Upstream side of Meachum Blvd.	609
Stream No. 15	Mouth	505
	Randol Mill Rd	516
	Lawrence Rd	564
	Dallas-Fort Worth Turnpike.	572
	McNeer Rd	576
Stream No. 16	Mouth	504
	Woodhaven Rd	510
	Upstream side of Dallas-Fort Worth Turnpike.	520
	Ederville Rd	524
Stream No. 17	Mouth	489
	Upstream side of Randol Mill Rd. (1st crossing).	505
	Upstream side of Randol Mill Rd. (3d crossing).	526
Stream No. 18	Mouth	539
	John T. White Rd	575
Stream No. 19	Mouth	676
	Upstream side of Mary's Creek Rd.	702
	Upstream side of FM 2871.	716
Stream No. 20	Mouth	703
	Upstream side Chapin Rd.	707
	U.S. Route 80	748
Stream No. 21	Downstream corporate limits.	682
	Upstream side of Chapin Rd.	697
	Dr. Harris Rd	717
Stream No. 22	Chapin Rd	699
	U.S. Highway 80	728
Stream No. 23	Mouth	606
	Shadow Dr	651
	Floyd Dr	657
	Upstream side of Fortune Rd.	687
	Upstream side of Clayton Rd.	692
Stream No. 24	Mouth	584
	Bryant Irvin Rd	595
	Upstream side of Texas & Pacific RR.	599
	Stove Foundary Rd	610
	Upstream side of Spring Rd.	637
	Upstream side of Clayton Rd.	672
Stream No. 25	Mouth	569
	Upstream side of Texas & Pacific RR.	573
Stream No. 26	Mouth	591
	Bryant Irvin Rd	612
	Upstream side Loop 820	617
Stream No. 27	Downstream corporate limits.	709
	West Clevurne Rd	746
Stream No. 28	Mouth	653
	Edgecliff Rd	670
	Upstream side Southcrest Dr.	680
Stream No. 29	Edgecliff Rd	687
	James Ave	694
	Old Crowley Rd	697
	Upstream side Crowley Rd.	707
Stream No. 30	Mouth	562
	Mockingbird Lane	575
	Colonial Parkway	579
Stream No. 31	Mouth	557
	Colonial Parkway	557
	Glenco Terrace	571
	Upstream side of Forest Park Blvd.	596
	Warner St	611
Stream No. 32	Mouth	583
	Weisenberger St	585
	Butler St	588
Stream No. 33	Mouth	561
	East Berry Rd	574
Stream No. 34	Mouth	568
	Riverside Dr	575
	Upstream side of Yuma Ave.	592
	Texas & Pacific RR	601
Stream No. 35	Mouth	523
	Woodrow St	523
	Upstream side of Beach St.	539
	Connor St	543
Stream No. 36	Mouth	528
	Upstream side of Polytechnic Freeway.	536
	Upstream side of Vickery Blvd.	548
	Exeter St	548
Stream No. 37	Mouth	564
	Interstate Highway 820	566
	Upstream side Fitzhugh St.	586
	Stallcup Rd	597
Stream No. 38	Mouth	564
	Upstream side of Cravens Rd.	569
	Upstream side Interstate Highway 820.	574
	Upstream side of Carey St.	589
	Hilldale St	593
Stream No. 39	Mouth	564
	Upstream side Interstate Highway 820.	571
	Parker-Henderson Rd	600
Stream No. 40	Mouth	585

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued June 27, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19534 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4289]

Proposed Flood Elevation Determinations for the Unincorporated Areas of Kerr County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the unincorporated areas of Kerr County, Tex. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at County

Clerk's Office, County Courthouse, Kerrville, Tex. 78028.

Send comments to: County Judge Julius Neunhoffer, Kerr County Courthouse, Kerrville, Tex. 78028.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the unincorporated areas of Kerr County, Tex., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, (national geodetic vertical datum)
Guadalupe River...	Farm Rd., 480.....	1,506
	Confluence of Turtle Creek.	1,534
	Confluence of Johnson Creek.	1,692
	State Highway 39.....	1,751
Johnson Creek	Just upstream State Highway 39.	1,694
	Just downstream State Highway 41.	1,919
North Fork Guadalupe River.	Just upstream Farm Rd. 1350.	1,790
South Fork Gaudalupe River.	Western crossing of State Highway 39.	1,865
Town Creek.....	Just upstream Interstate Highway 10 (west bound lane).	1,688
East Town Creek...	Approximately 150 ft upstream confluence with Town Creek.	1,690
Quinlan Creek.....	Just upstream Interstate Highway 10 (west bound lane).	1,722

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued June 30, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19535 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4290]

Proposed Flood Elevation Determinations for the City of Pullman, Whitman County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Pullman, Whitman County, Wash. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 325 Paradise Street, Southeast, Pullman, Wash.

Send comments to: Hon. Karin Kiessling, Mayor, city of Pullman, P.O. Box 615, Pullman, Wash. 99163.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Pullman, Wash., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South Fork Palouse River.	State Street Bridge—70 ft.[1]	2,338
	Kamiaken Street Bridge—30 ft.[1]	2,344
	Spring Street Bridge—60 ft.[1]	2,350
	Koppels Farm Bridge—40 ft.[1]	2,358
	Trailer Creek Bridge—30 ft.[1]	2,365
Missouri Flat Creek.	State St.—10 ft.[1].....	2,337
	Grand St.—60 ft.[1].....	2,344
	Burlington Northern RR. Bridge 75A—50 ft.[1]	2,356
	Stadium Way—40 ft.[1].....	2,364
Airport Road Creek.	State Highway 270—70 ft.[1]	2,405
	Airport Rd.—70 ft.[1].....	2,424
Wawawai Creek.....	U.S. Highway 195—120 ft.[1]	2,426
	Private access—120 ft.[1]...	2,439
Dry Fork Creek.....	Union Pacific RR.—40 ft.[1]	2,342
	West Main St.—20 ft.[1].....	2,352
	McKenzie St.—80 ft.[1].....	2,362
	South St.—10 ft.[1].....	2,374
	Rossiter St.—30 ft.[1].....	2,401
	Cemetary Rd.—40 ft.[1].....	2,441
	2d private road—100 ft.[1].	2,477
Paradise Creek	State Highway 270—50 ft.[1]	2,366
	2d crossing Union Pacific RR. Bridge—50 ft.[1]	2,382
	3d crossing Union Pacific RR. Bridge—30 ft.[1]	2,397
	5th crossing Union Pacific RR. Bridge—20 ft.[1]	2,429
	5th private road—20 ft.[1].	2,442

[1] Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued June 29, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19536 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4291]

Proposed Flood Elevation Determinations for the City of Rock Springs, Sweetwater County, Wyo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Rock Springs, Sweetwater County, Wyo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, C and Broadway Street, Rock Springs, Wyo. Send comments to: Hon. Paul J. Wataha, Mayor, city of Rock Springs, P.O. Box 1030, Rock Springs, Wyo. 82901.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Rock Springs, Wyo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Bitter Creek	Downstream corporate limits.	6,219
	300 ft upstream of tributary 1 confluence.	6,223
	Dewar Dr*	6,246
	Elk St	6,253
	Pilot Butte Ave	6,258
	Union Pacific RR*	6,266
Tributary 1	Interstate Highway 80	6,225
	Extension Dewar Dr*	6,233
Dead Horse Canyon Creek.	Second St*	6,266
	Connecticut Ave*	6,308
	State Highway 430 (50 ft upstream of centerline).	6,357
Killpecker Creek	Spring Dr. (150 ft downstream of centerline).	6,262
	Spring Dr*	6,271
	Interstate Highway 80	6,279
	Corporate limits	6,295
Sweetwater Creek.	Union Pacific RR*	6,238
	West Second St (50 ft downstream of centerline).	6,240
	West Second St*	6,246
	Corporate limits	6,247

*Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued June 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19537 Filed 7-17-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4292]

Proposed Flood Elevation Determinations for the Town of Wheatland, Platte County, Wyo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Wheatland, Platte County, Wyo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 600 Ninth Street, Wheatland, Wyo. Send comments to: Hon. Charles T. Parsons, Jr., Mayor, town of Wheatland, Town Hall, 600 Ninth Street, Wheatland, Wyo. 82201.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Adminstrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Wheatland, Wyo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter require-

ments on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance of existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rock Creek	Oak Street—20 ft*	4,718
	Antelope Gap Rd—90 ft*.	4,732
	Slide Gate at Canal No. 2—70 ft*.	4,759
	Colorado and Southern RR.—200 ft*.	4,770
	40 ft downstream of corporate limit, approximately 5,925 ft upstream of Cole St.	4,792
Wheatland Creek	U.S. Highway 87—40 ft*.	4,693
	U.S. Interstate 25 approximately 200 ft downstream of centerline.	4,722
	U.S. Interstate 25—60 ft*.	4,730
	Oak St.—35 ft*	4,731
	Walnut St—approximately 200 ft*.	4,749

*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued June 22, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-19538 Filed 7-17-78; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE

Office of the Secretary

[32 CFR Part 45]

[DOD Instruction 1336.1]

CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY (DD FORM 214/5 SERIES)

Proposed Rule

AGENCY: Office of the Secretary of Defense.

ACTION: Proposed rule.

SUMMARY: The Department of Defense proposes to publish a new instruction governing the issuance of DD Form 214, Certificate of Release or Discharge from Active Duty, and DD Form 215, Correction to Certificate of Release or Discharge from Active Duty. The revised form updates reporting requirements of the military services and other Government agencies. It will also provide the separating member with a more suitable document for use as a summary of military service when seeking most types of civilian employment, and will provide the military services with a consolidated report of the significant aspects of the member's service. Furthermore, it will also provide the Veterans Administration, the Department of Labor and the State Directors of Veterans Affairs, when requested by the member, with selected information that will be used in adjudicating an individual's claim for various veterans' benefits.

DATE: Comments must be received on or before August 17, 1978.

ADDRESS: Office of the Deputy Assistant Secretary of Defense (Military Personnel Policy), the Pentagon, Room 3C980, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT:

Lt. Col. Gary A. Johnson, USAF, telephone 202-697-9525.

SUPPLEMENTARY INFORMATION: The separating member will receive copy No. 1 of the DD Form 214, which contains items 1 through 19 and the option to receive copy No. 4, which will include the special additional information section that may contain potentially adverse information. The copies sent to the Veterans Administration, the Department of Labor and the State Directors of Veterans Affairs will not contain items 22 through 24, which are intended for internal Department of Defense use only. The automatic distribution of a copy of the DD Form 214 to the Department of Labor is justified on the basis of their report to us that some $513 million was paid to ex-service members in unemployment compensation alone during fiscal year 1977 involving more than 375,000 claims that were processed. The member will have the option of requesting that a copy of this form be sent to his/her designated State Director of Veterans Affairs. Shading of the form in certain areas, spot carbon, security ink, and improved storage requirements will serve to deter its use from unintended purposes or to preclude unauthorized alterations. In order to preclude unnecessary duplication of the various pages of the DD Form 214, the sample forms below are limited to an image of copy Nos. 2, 4, 7, and 8 of the eight page carbon set, a DD 214 worksheet, and a sample DD Form 215.

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

JULY 13, 1978.

Accordingly, it is proposed to add a new Part 45 to 32 CFR, Chapter I, reading as follows:

Sec.
45.1 Purpose.
45.2 Applicability and scope.
45.3 Policy and procedures.
45.4 Responsibilities.
45.5 State Directors of Veterans Affairs.

§ 45.1 Purpose.

This part is issued to give definitive guidance concerning (a) the preparation and distribution of the revised DD Form 214 to conform with the requirements of Title 10, U.S.C. Sections 972 and 1168; and (b) the control and publication of separation program designators (SPD's).

§ 45.2 Applicability and scope.

(a) The provisions of this part apply to the Office of the Secretary of Defense, the military services, the Organization of the Joint Chiefs of Staff, and the Defense Agencies (hereafter referred to as "DOD Components"). The term "military services," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

(b) Its provisions include procedures on the preparation and distribution of DD Forms 214, 214-ws, and 215 which record and report the transfer of active duty military personnel and the separation of persons from a period of service. (Note: Computer generated formats are acceptable substitutes provided ASD (MRA&L) approval is obtained.) DD Forms 214 and 215 (or their substitutes) will provide:

(1) *The military services* with a source of information relating to military personnel for administrative purposes, and for making determinations of eligibility for enlistment or reenlistment.

(2) *The servicemember* with a brief, clear-cut record of the member's active service with the Armed Forces at the time of transfer, release, or discharge, or when the member changes status or component while on active duty.

(3) *Appropriate governmental agencies* with an authoritative source of information which they require in the administration of Federal and State laws applying to personnel who have been discharged, otherwise released, or transferred to a Reserve component of the military services.

(c) Its provisions include procedures on the control and distribution of all lists of SPD's.

§ 45.3 Policy and procedures.

(a) Administrative issuance or reissuance of DD Forms 214 and 215.

(1) The DD Form 214 will normally be issued by the command from which the member was separated. In those instances where a DD 214 was not issued, the services concerned may establish procedures for administrative issuance.

(2) The DD Form 214, once issued, will not be reissued except:

(i) When directed by appropriate appellate authority, executive order or by the Secretary concerned.

(ii) When it is determined by the services concerned that the original DD Form 214 cannot be properly corrected by issuance of a DD Form 215 or if the correction would require issuance of more than one DD Form 215.

(3) Whenever a DD Form 214 is administratively issued or reissued, an appropriate entry stating that fact and the date of such action will be made in block 15 of the DD Form 214 unless the appellate authority, executive order, or Secretarial directive specifies otherwise.

(b) The military services will assure that every member (except those listed in § 45.3(c) being separated from the military services is given a completed DD Form 214 describing relevant data regarding the member's service and the circumstances of termination. DD Forms 214 are not intended to have any legal effect on termination of the member's service.

(1) *Release or discharge from active service.* (i) The original of DD Form 214 showing separation from a period of active service with a military service, including release from a status that is legally determined to be void, will be physically delivered to the separatee, prior to departure from the separation activity (*a*) on the effective date of separation; or (*b*) on the date authorized travel time commences.

(A) Copy No. 4, containing the statutory or regulatory authority, reenlistment eligibility code, separation program code, and narrative reason for separation also will be physically delivered to the separatee prior to departure, if requested as indicated by a check in the affirmative block of item 26.

(B) Remaining copies of DD Form 214 will be distributed on the day following the effective date of separation (see § 45.3(e)).

(ii) When separation is effected under emergency conditions which preclude physical delivery, or when the recipient departs in advance of normal departure time (e.g., on leave in conjunction with retirement; or at home awaiting separation for disability), the original DD Form 214 will be mailed to the recipient on the effective date of separation.

(iii) If the separation activity is unable to complete all items on the DD Form 214, the form will be prepared as completely as possible and delivered to the separatee. The separatee will be advised (*a*) that a DD Form 215 will be issued by the military service concerned when the missing information becomes available; and (*b*) that it will not be necessary for the separatee to request a DD Form 215 for such information (see § 45.3(e)(4)).

(iv) If an optical character recognition format is utilized by a military service, the first carbon copy of the document will be physically delivered or mailed to the separatee as prescribed in subparagraphs (1) (i), (ii), and (iii) of this paragraph.

(2) *Release from active duty for training or full time training duty.* Personnel being separated from a period of active duty for training or full-time training duty will be furnished a DD Form 214 only when they have served 90 days or more. However, personnel being separated for physical disability, and those serving under special active duty for training programs of the National Guard or Reserve will be furnished a DD Form 214, regardless of the length of time served on active duty.

(3) *Continuing on active duty.* Members who change their status or component as outlined below while they are serving on active duty will be provided a completed DD Form 214 upon:

(i) Discharge for immediate enlistment or reenlistment (optional—at the discretion of the military services).

NOTE.—Military services not providing the DD Form 214 will issue instructions requiring those military offices which maintain a member's records to provide necessary service data to the member for application to appropriate civilian individuals, groups, and governmental agencies. Such data will include service component, entry date and grade.

(ii) Termination of enlisted status to accept an appointment to warrant or commissioned officer grade.

(iii) Termination of a temporary appointment to accept a permanent warrant or commission in the Regular or Reserve components of the Armed Forces.

(iv) Termination of an officer appointment in one of the military services to accept appointment in another service.

(c) *DD Form 214 need not be furnished to.* (1) Personnel found disqualified upon reporting for active duty and who do not enter actively upon duties in accordance with orders.

(2) Personnel whose active duty, active duty for training, or full-time training duty is terminated by death.

(3) Personnel being removed from the temporary disability retired list.

(4) Officers dismissed from the service pursuant to the sentence of a general court-martial or officers dropped from the rolls.

(5) Enlisted personnel receiving temporary appointments to warrant or commissioned officer grades.

(6) Personnel whose temporary warrant or commissioned officer status is terminated and who remain on active duty to complete an enlistment.

(7) Termination of Reserve component status to integrate into a Regular component.

(d) *Preparation.* The military departments will issue instructions governing the preparation of DD Form 214, consistent with the following:

(1) DD Form 214 is an important record of service which must be prepared accurately and completely. Any unavoidable corrections and changes made in the unshaded areas of the form during preparation shall be neat, legible, and initialed on all copies by the authenticating official. The recipient will be informed that making any unauthorized change or alteration of the form will render it void.

(2) Since DD Form 214 is often used by civilian personnel, abbreviations should be avoided.

(3) Copies of DD Form 214 transmitted to various governmental agencies shall be legible, especially those provided to the Veterans Administration and the Department of Labor.

(4) The authority for a member's transfer or discharge will be cited by reference to the appropriate military service regulation, instruction, or manual, followed by the appropriate separation program designator on copies 2, 4, 7 and 8 only. A narrative description to identify the reason for transfer or discharge will not be used on copy 1 as indicated in § 45.3(e)(1).

(5) To assist the former servicemember in employment placement and job counseling, formal inservice training courses successfully completed during the period covered by the form will be listed in block 14, military education; e.g., medical and dental, electronics, supply, administration, personnel, or heavy equipment operations. Training courses for combat skills will not be listed. See Guide to the Evaluation of Education Experiences in the Armed Services, published by the American Council on Education, for commonly accepted course titles and abbreviations.

(6) For the purpose of reemployment rights (DOD Directive 1205.12 [1]) all extensions of service, except those under 10 U.S.C. 972 are considered to be at the request and for the convenience of the Government. In these cases, block 15, remarks, of DD Form 214 will be annotated to indicate "Extension of service was at the request

[1] Filed as part of original. Copies may be obtained, if needed from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pa. 19120, Attention: Code 301.

and for the convenience of the Government.

(7) When one or more of the data items on the DD Form 214 are not available and the document is issued to the separatee, the applicable block(s) will be annotated "See Remarks." In such cases, block 15, will contain the entry "DD Form 215 will be issued to provide missing information."

(8) The authorizing official (E-7, GS-7 or above) will sign the original in ink in such a manner that the signature on all carbon copies is legible or a second signature may be necessary on a subsequent carbon copy.

(9) The following entries are the only ones authorized in item 21, as appropriate: "Honorable, Under Honorable conditions (general), Under Other Than Honorable Conditions, Under Other Than Honorable Conditions (Bad Conduct), Dishonorable."

(e) *Distribution.* The military services will prescribe procedures governing the distribution of copies of the DD Forms 214 and 215, consistent with their internal requirements and the following: (1) *DD Form 214*—(i) *Copy No. 1 (original).* To the member.

(ii) *Copy No. 2.* To be used as the military services' record copy.

(iii) *Copy No. 3.* To the Veterans Administration, Data Processing Center (214), Austin, Tex. 78772. A reproduced copy will also be provided to the hospital with the medical records if the individual is transferred to a VA hospital. If the individual completes VA Forms 21-526e, "Veterans Application for Compensation or Pension at Separation from Service," include a copy of the medical records forwarded to the VA regional office having jurisdiction over the member's permanent address.

(iv) *Copy No. 4.* To the member, if requested by the member as indicated by a check and initial in the affirmative block of item 21. If the member does not request this copy, it may be retained in the master military personnel record in the event the member later requests a copy.

(v) *Copy No. 5.* To the U.S. Department of Labor, Unemployment Insurance Systems Design Center, P.O. Box 44246, Capitol Station, Baton Route, La. 70804.

(vi) *Copy No. 6.* To the State Director of Veteran's Affairs (see § 45.5), if requested in writing by the individual checking "Yes" in block 17; State to be specified by the individual. If the member does not request the copy be mailed, it may be utilized as prescribed by the military service concerned.

(vii) *Copies Nos. 7 and 8.* To be distributed in accordance with regulations issued by the military service concerned.

(2) *Additional copy requirements.* Discharged alien deserters. Provide one reproduced copy of copy number one to the U.S. Department of State, Visa Office—SCA/VO, State Annex No. 2, Washington, D.C. 20520, to assist them in precluding the unwarranted issuance of visas to discharged alien deserters in accordance with DOD Directive 1325.2.[2]

(3) *DD Form 214-ws.* Utilized to facilitate the preparation of DD Form 214. The document will be used and disposed of in accordance with regulations issued by the military service concerned.

(4) *DD Form 215.* Utilized to correct errors in DD Form 214 discovered after the original has been delivered and/or distribution of copies of the form has been made and to furnish to separatee information not available when the DD Form 214 was prepared by the separation activity. The distribution of DD Form 215 will be identical to the distribution of DD Form 214.

(5) *Requests for copies of DD Form 214 subsequent to separation.* Agencies maintaining a separatee's DD Form 214 will provide a copy only upon written request by the member. Unless otherwise requested, agencies will provide to the member one copy with the special additional information section and one copy with that section deleted.

(i) In those cases where the member has supplied an authorization to provide a copy of the DD Form 214 to another individual or group, the copy furnished will not contain the special additional information, unless otherwise specified by the member concerned.

(ii) A copy will be provided to authorized personnel for official purposes only.

(f) *Procurement.* Arrangements for procurement of DD Forms 214, 214-ws, and 215 will be made by the military services.

(g) *Modification of Forms.* The modification of the content or format of DD Forms 214, 214-ws, and 215 may not be accomplished without prior authorization of the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) (ASD(MRA&L)). Requests to add or delete information will be coordinated with the other military services in writing, prior to submission to the ASD(MRA&L). If a military service uses computer capability to generate forms, the items of information may be rearranged.

§ 45.4 Responsibilities.

(a) The DD Forms 214 and 215 are a source of significant and authoritative information used by civilian and governmental agencies to validate veteran eligibility for benefits. As such, they are valuable forms and must be safeguarded at all times. These forms are subject to fraudulent use and are sensitive forms. They will be transmitted, stored and destroyed in a manner which will prevent unauthorized use. The military services will issue instructions consistent with the following:

(1) All DD Forms 214 will be surprinted with a reproducible screen tint on items 1, 3, 4, 12 and 18 through 27 to make alterations readily discernible. No corrections will be permitted in the screened areas.

(2) All forms will be secured after duty hours.

(3) All obsolete forms will be destroyed.

(4) All forms to be discarded, including those which are blank or partially completed, and reproduced copies of DD Form 214, will be destroyed; no forms will be discarded intact.

(5) Blank forms given to personnel for educational or instructional purposes, and forms maintained for such use, are to be clearly voided in some unalterable manner.

(6) The commander or commanding officer of each unit or activity authorized to issue DD Form 214, will appoint, in writing, a commissioned officer, warrant officer, or enlisted member (grade E-7 or above), or DOD civilian (GS-7 or above) who will requisition, control and issue blank DD Forms 214 and 215.

(7) The military services will monitor the use of DD Form 214 and periodically review its issuance to insure compliance with procedures for safeguarding.

(b) The DD Form 214-ws will contain the word "Worksheet" on the body of the form and item 18 will be surprinted with a black, or black and white, pattern to impede attempts to fraudulently use the worksheet as a DD Form 214. This DD Form 214-ws will be treated in the same manner as the DD Form 214.

(c) The military services will issue appropriate instructions to separation activities stressing the importance of the DD Forms 214 and 215 in obtaining veteran's benefits, reemployment rights, and unemployment insurance.

(d) Standard separation program designator (SPD) codes for officer and enlisted personnel developed under the provisions of DOD Instruction 5000.12[2] are published in DOD Manual 5000.12M[3]

(1) Requests to add, change, or delete an SPD code shall be forwarded by the DOD component concerned with appropriate justification to the assigned responsible agency accountable for evaluating, recommending approval of, and maintaining such codes:

Department of the Navy, Bureau of Naval Personnel (PERS 3), Washington, D.C. 20370.

[2] See footnote 1.

[3] Can be made available for inspection by calling 202-695-5116.

(2) Requests to add, change, or delete an SPD code will be submitted in accordance with section V, DOD Instruction 5000.12 [2] with prior written approval by the ASD (MRA&L), or his/her designee.

(e) All lists of SPD codes, including supplemental lists, published by the DOD components will be stamped "For Official Use Only" and will not be furnished to any agency or individual outside the Department of Defense.

(1) Appropriate provisions of the Freedom of Information Act, 5 U.S.C. 552 as amended, will be used to deny the release of the lists to the public. An individual being separated or discharged is entitled access only to his/her SPD code. It is not intended that these codes stigmatize an individual in any manner. They are intended for internal use by the Department of Defense in collecting data to analyze statistical reporting trends that may, in turn, influence changes in separation policy.

(2) Agencies or individuals who come into the possession of these lists are cautioned on their use because a particular list may be outdated and they do not adequately reveal the full circumstances relating to an individual's separation or discharge.

§ 45.5 State Directors of Veterans Affairs.

Alabama: Director, Department of Veterans Affairs, P.O. Box 1509, Montgomery, Ala. 36106.

Alaska: Director, Division of Veterans' Affairs, Pouch DA, Juneau, Alaska 99801.

Arizona: Director, Department of Economic Security, Veterans Service, P.O. Box 6123, Phoenix, Arix. 85005.

Arkansas: Director, Veterans Service Office, 1200 West 3rd, Little Rock, Ark. 72201.

California: Director, Department of Veterans' Affairs, P.O. Box 1559, Sacramento, Calif. 95807.

Colorado: Director, Veterans Affairs Section, Department of Social Services, 1575 Sherman St., Rm. 103, Denver, Colo. 80203.

Connecticut: Commandant, Veterans Home and Hospital, 287 West St., Rocky Hill, Conn. 06067.

Delaware: Director, Veterans Services Division, Department of Finance, Emily P. Bissell Hospital, 3000 Newport Gap Pike Bldg., Wilmington, Del. 19808.

District of Columbia: Chief, Office of Veterans Affairs, 941 North Capitol St., NE., Room 1211 F, Washington, D.C. 20421.

Florida: Director, Division of Veterans Affairs, P.O. Box 1437, St. Petersburg, Fla. 33731.

Georgia: Director, Department of Veterans Service, Veterans Bldg., State Capitol, Atlanta, Ga. 30334.

Hawaii: Director, Department of Social Services, Veterans Affairs Section, P.O. Box 339, Honolulu, Hawaii 96809.

Idaho: Director, Division of Veterans Services, P.O. Box 7765, Boise, Idaho 83707.

Illinois: Director, Department of Veterans Affairs, P.O. Box 5054, 126 West Jefferson St., Springfield, Ill. 62705.

Indiana: Director, Department of Veterans Affairs, 707 State Office Building, Indianapolis, Ind. 46204.

Iowa: Executive Secretary, Bonus Board, State Capitol, Des Moines, Iowa 50319.

Kansas: Executive Director, Veterans Commission Division, Department of Human Resources, 701 Jackson St., Topeka, Kans. 66603.

Kentucky: Manager, Kentucky Center for Veterans Affairs, 600 Federal Pl. Rm. 136J, Louisville, Ky. 40202.

Louisiana: Director, Department of Veterans Affairs, 4th Floor, Old State Capitol, Baton Rouge, La. 70801.

Maine: Commissioner, Bureau of Veterans Services, Camp Keys, Augusta, Me. 04333.

Maryland: Director, Veterans Commission, 113 Federal Bldg., Rm. G-07, 31 Hopkins Plaza, Baltimore, Md. 21201.

Massachusetts: Commissioner of Veterans Services, 100 Cambridge St., Rm. 1002, Boston, Mass. 02202.

Michigan: Executive Secretary, Veterans Trust Fund, 3500 North Logan St., Rm. 379, Lansing, Mich. 48913.

Minnesota: Commissioner, Department of Veterans Affairs, Veterans Service Bldg., St. Paul, Minn. 55155.

Mississippi: Commissioner, Veterans Affairs Commission, 637 North President St., Jackson, Miss. 39202.

Missouri: Director, Division of Veterans Affairs, P.O. Drawer 147, Jefferson City, Mo. 65101.

Montana: Administrator, Veterans Welfare Commission, P.O. Box 1702, Helena, Mont. 59601.

Nebraska: Director, Department of Veterans Affairs, First Floor, State Capitol, Lincoln, Nebr. 68509.

Nevada: Commissioner, Veterans Affairs, 1201 Terminal Way, Reno, Nev. 89502.

New Hampshire: Director, State Veterans Council, 100 State House Annex, Concord, N.H. 03301.

New Jersey: Director, Division of Veterans Service, P.O. Box 1237, Trenton, N.J. 08625.

New Mexico: Director, Veterans Service Commission, P.O. Box 2324, Santa Fe, N.Mex. 87503.

New York: Director, Division of Veterans Affairs, 13th Floor, Empire State Plaza, Agency Building No. 4, Albany, N.Y. 12223.

North Carolina: Director, Department of Veterans Affairs, 227 East Edenton St., Raleigh, N.C. 27601.

North Dakota: Commissioner, Department of Veterans Affairs, P.O. Box 1287, Fargo, N.Dak. 58102.

Ohio: Chief, Division of Soldiers Claims and Veterans Affairs, 11 State House Annex, Columbus, Ohio 43215.

Oklahoma: Director, Department of Veterans Affairs, P.O. Box 53067, Capitol Station, Oklahoma City, Okla. 73105.

Oregon: Director, Department of Veterans Affairs, 1225 Ferry St., SE., Salem, Oreg. 97310.

Pennsylvania: Deputy Adjutant General, Office of Veterans Affairs and Assistance, Fort Indiantown Gap, Annville, Pa. 17003.

Puerto Rico: Director, Veterans Office, 1332 Jesue T. Pinero Ave., Puerto Nuevo, P.R. 00921.

Rhode Island: Chief, Soldier's Welfare Services, 46 Aborn St., Providence, R.I. 02903.

South Carolina: Director, Department of Veterans Affairs, 227 Brown Bldg., 1205 Pendleton St., Columbia, S.C. 29201.

South Dakota: Director, Division of Veterans Affairs, P.O. Box 298, Capitol Bldg., Pierre, S. Dak. 57501.

Tennessee: Commissioner, Department of Veterans Affairs, 215 8th Ave., North, Nashville, Tenn. 37203.

Texas: Director, Veterans Affairs Commission, Box 12277, Capitol Station, Austin, Tex. 78711.

Utah: Director, Department of Social Services, Office of Veterans Affairs, 243 East 4th South, Salt Lake City, Utah 84111.

Vermont: Director, State Veterans Affairs Section, City Hall, Main St., Montpelier, Vt. 05602.

Virginia: Director, Division of War Veterans Claims, 210 Franklin Rd., SW., Roanoke, Va. 24011.

Virgin Islands: Director, Department of Veterans Affairs, P.O. Box 708, Christiansted, St. Croix, V.I. 00820.

Washington: Director, Department of Veterans Affairs, P.O. Box 9778, Olympia, Wash. 95804

West Virginia: Director, Department of Veterans Affairs, 612 Atlas Bldg., Charleston, W. Va. 25301.

Wisconsin: Secretary, Department of Veterans Affairs, 77 North Dickinson St., Madison, Wis. 53702

Wyoming: No DVA.

CAUTION NOT TO BE USED FOR IDENTIFICATION PURPOSES

ANY ALTERATIONS IN SHADED AREAS RENDER FORM VOID

1 LAST NAME FIRST NAME MIDDLE NAME			2 DEPARTMENT COMPONENT AND BRANCH	3 SOCIAL SECURITY NUMBER	
4a GRADE RATE OR RANK	4b PAY GRADE	5 DATE OF BIRTH	6 PLACE OF ENTRY INTO ACTIVE DUTY		
7 LAST DUTY ASSIGNMENT AND MAJOR COMMAND			8 STATION WHERE SEPARATED		
9 COMMAND TO WHICH TRANSFERRED			10 SGLI COVERAGE AMOUNT $___,000 ☐ NONE		
11 PRIMARY SPECIALTY NUMBER TITLE AND YEARS AND MONTHS IN SPECIALTY (ADDITIONAL SPECIALTY NUMBERS AND TITLES INVOLVING PERIODS OF ONE OR MORE YEARS)			12 RECORD OF SERVICE	YEAR	MONTH / DAY
			a DATE ENTERED AD THIS PERIOD		
			b SEPARATION DATE		
			c NET ACTIVE SERVICE THIS PERIOD		
			d TOTAL PRIOR ACTIVE SERVICE		
			e TOTAL PRIOR INACTIVE SERVICE		
			f FOREIGN AND OR SEA SERVICE		
			g EFFECTIVE DATE OF PAY GRADE		
			h RESERVE OBLIG TERM DATE		
13 DECORATIONS MEDALS BADGES CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (ALL PERIODS OF SERVICE					
14 MILITARY EDUCATION (COURSE TITLE NUMBER WEEKS AND MONTH AND YEAR COMPLETED)			14.1 Member contributed to Post-Vietnam Era Veterans Educational Assistance Program ☐ Yes ☐ No		
15 REMARKS					
16 MAILING ADDRESS AFTER SEPARATION			17 MEMBER REQUESTS COPY 6 BE SENT TO _____ DIR OF VET AFFAIRS ☐ YES ☐ NO (STATE)		
18 SIGNATURE OF MEMBER BEING SEPARATED Date			19 TYPED NAME GRADE TITLE AND SIGNATURE OF OFFICIAL AUTHORIZED TO SIGN		
SPECIAL ADDITIONAL INFORMATION (FOR USE BY AUTHORIZED AGENCIES ONLY)					
20 TYPE OF SEPARATION			21 CHARACTER OF SERVICE (INCLUDES UPGRADES)		
22 SEPARATION AUTHORITY			23 SEPARATION CODE	24 REENLISTMENT CODE	
25 NARRATIVE REASON FOR SEPARATION				26 MEMBER REQUESTS COPY 4 _____ INITIALS	
27 DATES OF TIME LOST DURING THIS PERIOD					

DD FORM 214 PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE THIS IS AN IMPORTANT RECORD SAFEGUARD IT

CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY SERVICE-2

DATA REQUIRED BY THE PRIVACY ACT. AUTHORITY. 10 U.S.C. 1168. PRINCIPAL PURPOSE: RECORD AND REPORT THE RELEASE OR DISCHARGE OF MILITARY PERSONNEL FROM ACTIVE DUTY AND TO FACILITATE VERIFICATION OF ELIGIBILITY FOR VETERANS BENEFITS. ROUTINE USES: TO REVISE SERVICEMEMBER'S RECORD. TO PROVIDE AUTHORIZED GOVERNMENT AGENCIES DATA REQUIRED IN PERFORMING FUNCTIONS REQUIRED BY LAW. DISCLOSURE: VOLUNTARY. FAILURE TO DISCLOSE DATA COULD DELAY RECEIPT OF BENEFITS.

CAUTION: NOT TO BE USED FOR IDENTIFICATION PURPOSES

ANY ALTERATIONS IN SHADED AREAS RENDER FORM VOID

1. LAST NAME, FIRST NAME, MIDDLE NAME		2. DEPARTMENT, COMPONENT AND BRANCH	3. SOCIAL SECURITY NUMBER
4a. GRADE, RATE OR RANK	4b. PAY GRADE	5. DATE OF BIRTH	6. PLACE OF ENTRY INTO ACTIVE DUTY
7. LAST DUTY ASSIGNMENT AND MAJOR COMMAND			8. STATION WHERE SEPARATED
9. COMMAND TO WHICH TRANSFERRED			10. SGLI COVERAGE: AMOUNT $___.00 NONE

11. PRIMARY SPECIALTY NUMBER, TITLE AND YEARS AND MONTHS IN SPECIALTY (ADDITIONAL SPECIALTY NUMBERS AND TITLES INVOLVING PERIODS OF ONE OR MORE YEARS)	12. RECORD OF SERVICE	YEAR	MONTH	DAY
	a. DATE ENTERED AD THIS PERIOD			
	b. SEPARATION DATE			
	c. NET ACTIVE SERVICE THIS PERIOD			
	d. TOTAL PRIOR ACTIVE SERVICE			
	e. TOTAL PRIOR INACTIVE SERVICE			
	f. FOREIGN AND OR SEA SERVICE			
	g. EFFECTIVE DATE OF PAY GRADE			
	h. RESERVE OBLIG. TERM. DATE			

13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (ALL PERIODS OF SERVICE)

14. MILITARY EDUCATION (COURSE TITLE, NUMBER OF WEEKS AND MONTH AND YEAR COMPLETED)	14.1 Member contributed to Post-Vietnam Era Veterans Educational Assistance Program ☐ Yes ☐ No

15. REMARKS

16. MAILING ADDRESS AFTER SEPARATION	17. MEMBER REQUESTS COPY TO BE SENT TO DIR. OF VET. AFFAIRS ☐ YES ☐ NO (STATE)
18. SIGNATURE OF MEMBER BEING SEPARATED Date	19. TYPED NAME, GRADE, TITLE AND SIGNATURE OF OFFICIAL AUTHORIZED TO SIGN

SPECIAL ADDITIONAL INFORMATION (FOR USE BY AUTHORIZED AGENCIES ONLY)

20. TYPE OF SEPARATION	21. CHARACTER OF SERVICE (INCLUDE UPGRADES)	
22. SEPARATION AUTHORITY	23. SEPARATION CODE	24. REENLISTMENT CODE
25. NARRATIVE REASON FOR SEPARATION		26. MEMBER REQUESTS COPY 4 ____ INITIALS
27. DATES OF TIME LOST DURING THIS PERIOD		

DD FORM 214 WS PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE. THIS IS AN IMPORTANT RECORD SAFEGUARD IT

CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY SERVICE-2

WORK SHEET

CAUTION: NOT TO BE USED FOR IDENTIFICATION PURPOSES

ANY ALTERATIONS IN SHADED AREAS RENDER FORM VOID

LAST NAME, FIRST NAME, MIDDLE NAME	DEPARTMENT, COMPONENT AND BRANCH	SOCIAL SECURITY NUMBER

MAILING ADDRESS

ORIGINAL DD FORM 214 IS CORRECTED AS INDICATED BELOW	
ITEM NO	CORRECTED TO READ

DATE	TYPED NAME, GRADE, TITLE AND SIGNATURE OF OFFICIAL AUTHORIZED TO SIGN

DD FORM 215 PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE

CORRECTION TO DD FORM 214, CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY MEMBER-1

[FR Doc. 78-19707 Filed 7-17-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 1]

[Gen. Docket No. 78-205; FCC 78-478]

REIMBURSEMENT OF EXPENSES FOR PARTICIPATION IN COMMISSION PROCEEDINGS

Inquiry

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: The notice of inquiry solicits comments and reply comments concerning the establishment of a program to reimburse certain expenses of public participants in FCC rulemaking proceedings. Comments are solicited which will assist the Commission in answering the following questions: (a) Whether a reimbursement program should be established at the Commission? (b) If so, whether the Commission presently possesses legal authority to establish a program or whether the Commission must receive express authority from Congress before establishment of such a program? and (c) What specific form a reimbursement program should take if we determine a program should be established?

DATES: Comments must be received on or before September 15, 1978. Reply comments must be received on or before October 15, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Belle B. O'Brien, Office of Consumer Assistance, 202-632-7000.

SUPPLEMENTARY INFORMATION:

Adopted: June 30, 1978.

Released: July 10, 1978.

In the matter of reimbursement of expenses for participation in Commission proceedings, Gen. Docket No. 78-205.

By the Commission: Commissioner Lee dissenting and issuing a statement in which Commissioner Quello joins; Commissioner Washburn concurring and issuing a statement; Commissioner Fogarty issuing a separate statement.

INTRODUCTION

1. In recent years, there has been a significant increase in participation in the proceedings of the Commission and other Federal agencies by individuals and organizations representing segments of the public other than the industries regulated by these agencies. During this period of increased public participation in Federal agency proceedings, many individuals and organizations have acquired considerable competence and expertise in their particular areas of interest, including matters which come before the Commission. The participation of these individuals and organizations can reasonably be expected, at least in some proceedings, to contribute substantially to a full and fair determination of the issues involved.

2. In fact, the courts have held that the Commission has an affirmative obligation to seek out and consider the views of nonindustry parties, even if such parties do not initially come forward in its rulemakings. For example, in *National Association of Independent Television Producers and Distributors* v. *FCC*, 502 F. 2d 249 (2d Cir. 1975), which considered the adequacy of the Commission's record in its "prime time access rule" proceeding, the Court stated:

> As we have noted, Congress has directed the FCC to make the public interest paramount in regulating the broadcast media. Communications Act of 1934 section 303, 47 U.S.C. 303 (1970). The Supreme Court has repeatedly stressed the primacy of the interests of the viewing public in the FCC's exercise of its powers. See, e.g., *Red Lion Broadcasting Co.* v. *FCC*, 395 U.S. 367, 390 (1969).
>
> Thus the Commission must place the public interest above private interests in carrying out its duties. *FCC* v. *Pottsville Broadcasting Co.*, 309 U.S. 134, 138 (1940), and must identify the public interest basis for its actions. *Greater Boston Television Corp.* v. *FCC*, 444 F. 2d 841, 852 (D.C. Cir. 1970) cert. denied, 406 U.S. 950 (1971); *WAIT Radio* v. *FCC*, 418 F. 2d 1153, 1157 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972).
>
> The courts have held that under such circumstances the FCC and other federal agencies must listen to the views of groups representing various segments of the public before taking action. As we stated in *Scenic Hudson Preservation Conference* v. *FPC*, 354 F. 2d. 608, 620 (2d Cir. 1965), cert. denied, 384 U.S. 941 (1966), the role of the Commission "does not permit it to act as an umpire blandly calling balls and strikes for adversaries appearing before it; the right of the public must receive active and affirmative protection at the hands of the Commission."
>
> The Commission may reach compromises, *Gross* v. *FCC*, 480 F. 2d 1288, 1290 (2d Cir. 1973); *GTE Service Corp.* v. *FCC*, 474 F. 2d 724, 729 (2d Cir. 1973); *WBEN, Inc.* v. *United States*, 396 F. 2d 601, 614 (2d Cir.), cert. denied, 393 U.S. 914 (1968), but it may not simply compromise between the interests of different broadcasting groups and gloss over the more fundamental public interests. See *WBEN, Inc.* v. *United States, supra*, at 618.
>
> If parties do not volunteer to represent the various facets of the public interest the Commission must take the initiative to seek out such parties and develop a meaningful record. *Calvert Cliffs' Coordinating Committee* v. *AEC*, 449 F. 2d 1109, 1119 (D.C. Cir. 1971); *Office of Communication of United Church of Christ* v. *FCC*, 425 F. 2d 543, 548-49 (D.C. Cir. 1969). Id. at 257, 258.

As the Court stated, it is the adequacy of our own record which is the paramount concern, and it is for the benefit of our own processes that public participation must be encouraged.

3. We recognize the usefulness to the Commission of having other points of view in addition to those held by regulated economic interests. As Professor Ernest Gellhorn has aptly stated:

> The demand for broadened public participation in governmental decisionmaking rests on the belief that government, like all other institutions, rarely responds to interests not represented in its deliberations. An administrative agency is usually exposed only to the views of its staff, whose position necessarily blends a number of discrete public interests, and of private persons with a clear financial stake in the proceeding. The emergence of individuals and groups willing to assist administrative agencies in identifying interests deserving protection, in producing relevant evidence and argument suggesting appropriate action, and in closing the gap between the agencies and their ultimate constituents presents an opportunity to improve the administrative process. [1]

4. Both before and after the *NAITPD* case, the Commission has taken several steps to assist the public in participating in our processes. We have published brochures on "The Public and Broadcasting" and "How FCC Rules Are Made." We have issued weekly "Actions Alert," detailing our new and pending rulemakings, which are mailed to hundreds of groups representing various "facets of the public interest." We have published more extensive special "Feedback Editions" of Actions Alert on rulemakings of special interest to consumers of communications services, specifically inviting participation. We have taken other affirmative steps, such as scheduling oral arguments in important rulemaking proceedings, to insure participation by parties without a direct economic interest in the outcome.

5. Our affirmative efforts have resulted in added participation from the public. But members of the public have expressed concern about the difficulty of participating effectively in some proceedings because of insufficient resources. [2] Because of a lack of resources, the public has often been limited to participating in FCC proceedings through legal arguments only, rather than being able to provide us with the necessary underlying economic, statistical and other data and analysis that would be most helpful.

6. The scope of public participation has also been limited, for the most part, to broadcasting and some cable matters. With a few exceptions, common carrier issues which have far reaching economic and social impact on the public have required economic and legal resources beyond the reach of most individual consumers or consumer organizations. Issues currently before the Commission such as our MTS/WATS market structure and computer inquiries have, to date, had limited public participation. We recently have been urged by both the HEW Office of Consumer Affairs and the Commerce Department's National Telecommunications and Information Administration to provide increased resources for public participation in our inquiry concerning whether long distance telephone service should be provided on a competitive basis. Likewise, in spite of Commission efforts to increase public participation in the working groups and notices of inquiry for WARC 1979, consumers have remained under represented in basic allocations decisions at next year's World Administrative Radio Confer-

[1] Gellhorn, "Public Participation in Administrative Proceedings," 81 Yale Law Journal 359, 403 (1971). See also Cramton, "The Why, Where, and How of Broadened Public Participation in the Administrative Process," 60 Geo. L. J. 525, 529-30 (1972).

[2] On November 30, 1976, in response to a petition for rulemaking filed by the Federal Communications Bar Association, the Commission issued a memorandum opinion and order, 61 FCC 2d 7143 (1976), which amended the Commission's rules to authorize hearing officers to grant limited indirect financial assistance to hearing participants. In December 1976, Media Access Project (MAP) filed a petition asking the Commission to reconsider its decision. In its petition, MAP requested, among other things, that the Commission reconsider its rejection of the FCBA's request that the Commission reimburse reasonable expenses in rulemaking proceedings. The MAP petition for reconsideration has helped us to focus on the issues which we raise today and to the extent the petition requested that we issue a notice of inquiry seeking comments on the establishment of a reimbursement program, it is granted by our action in this proceeding.

ence that will affect the public for the next 20 years.

7. Recognizing the contribution that public participation can make to the effective functioning of the administrative process, many other Federal agencies have established (or are in the process of establishing) programs to reimburse certain costs incurred by participants who otherwise would be unable to participate effectively and provide the greatest assistance to developing a complete record in agency proceedings. The most recent example is the Civil Aeronautics Board (CAB), which published a notice of proposed rulemaking on April 4, 1978,[3] soliciting comments on its proposal to reimburse public participants for costs incurred participating in agency proceedings.[4]

8. There has also been increasing legislative recognition that public participation should be encouraged in agency proceedings. Since August 1975, the Federal Trade Commission has been compensating eligible public participants in selected rulemaking proceedings for expert witness fees, attorneys' fees, and other costs pursuant to a reimbursement program authorized by Congress in the Magnuson-Moss Warranty-FTC Improvement Act, 15 U.S.C. 57A.[5] The FTC has been spending approximately $500,000 annually on its reimbursement program. The Department of State and the Environmental Protection Agency also have received explicit authority from Congress to establish reimbursement programs.[6]

9. In addition, bills have been introduced in both the House of Representatives (H.R. 8798) and the Senate (S. 270) in the 95th Congress which would authorize all Federal agencies to reimburse eligible individuals and groups for expert witness fees, attorneys' fees, and other costs incurred participating in agency proceedings. The bills define "proceedings" broadly to include rulemaking, ratemaking, and licensing proceedings. To be eligible to receive compensation, the bills essentially require that: (1) The participant is an effective representative of an interest the representation of which contributes or can reasonably be expected to contribute substantially to a fair determination of the proceeding, and (2) the economic interest of the person in the outcome of the proceeding is small in comparison to the costs of effective participation in the proceeding by that person or the person does not have sufficient resources available to participate effectively in the proceeding without compensation.[7]

10. This notice of inquiry is issued by the Commission in light of the administrative and legislative developments discussed above to solicit comments which will assist the Commission in answering the following questions:

A. Whether a reimbursement program should be established at the Commission?

B. If so, whether the Commission presently possesses legal authority to establish the program or whether the Commission must receive express authority from Congress before establishment of such a program?

C. What specific form a reimbursement program should take if we determine a program should be established?

THE COMMISSION'S AUTHORITY FOR ESTABLISHMENT OF A REIMBURSEMENT PROGRAM

11. We seek comment on whether we possess the authority to establish a reimbursement program without express authorization from Congress or whether we must seek express congressional authorization. Section 4(g) of the Communications Act of 1934, as amended,[8] provides that the Commission "may make such expenditures * * * as may be necessary for the execution of the functions vested in the Commission and as from time to time may be appropriated for by Congress." The current act appropriating funds for the Commission for the fiscal year ending September 30, 1978, provides "For necessary expenses for the Federal Communications Commission * * *."[9] In a series of opinions discussed below, the Comptroller General has interpreted the statutes governing other regulatory agencies which contain virtually identical language as authorizing reimbursement to public participants under certain conditions.

12. In 1972, the Comptroller General, in response to a request from the Federal Trade Commission (FTC) ruled that the FTC could reimburse indigent respondents and intervenors for certain costs incurred participating in FTC adjudicatory proceedings.[10] The Comptroller General noted that the FTC's appropriations were available for "necessary expenses," and ruled that "the use of Commission appropriations to assure such full preparation of cases by impecunious litigants would constitute a proper exercise of administrative discretion regarding the expenditure of appropriated funds."[11]

13. In February 1976, pursuant to the request of the Nuclear Regulatory Commission, the Comptroller General determined that the NRC, under its general authority to use its appropriations for "necessary expenses"—

> has the statutory authority to facilitate public participation in its proceedings by using its own funds to reimburse intervenors when (1) it believes that such participation is required by statute or necessary to represent adequately opposing points of view on a matter, and (2) when it finds that the intervenor is indigent or otherwise unable to bear the financial costs of participation in the proceedings.[12]

This ruling extended the Comptroller General's 1972 ruling in at least three respects. First, the NRC ruling was more clearly applicable to all types of agency proceedings. Secondly, it liberalized the indigency requirement to include intervenors who are "otherwise unable to bear the financial costs of participation in the proceedings." Third, it authorized the payment of attorneys' fees. The Comptroller General stated that:

> [W]e have long held that where an appropriation is made for a particular object, purpose or program, it is available for expenses which are reasonably necessary and proper or incidental to the execution of the object, purpose or program for which the appropriation was made, except as to expenditures in contravention of law or for some purposes for which other appropriations are made specifically available * * *.
>
> The question, of course, is whether it is necessary to pay the expense of indigent intervenors in order to carry out NRC's statutory functions * * *. We believe only the administering agency can make that determination.[13]

However, the Comptroller General did state, that, notwithstanding his ruling authorizing reimbursement, "it would be advisable for such parameters of such financial assistance, and the scope and limitations on the use of appropriate funds for this purpose to be fully set forth by the Congress in legislation, as was done in the case of the FTC by the 'Magnuson-Moss' Act."[14]

14. In a letter dated May 10, 1976, to Congressman John E. Moss, the Comptroller General extended the NRC ruling to nine other regulatory agencies, including FCC.[15] In this

[3] 43 FR 14044 (April 4, 1978).

[4] For the convenience of commenters in this proceeding who wish to review other agency proposals, appendix A lists several agencies which have initiated rulemaking proposals and the citations to the FEDERAL REGISTER where these proposals may be found.

[5] Pub. L. No. 93-637, section 202, 88 Stat. 2183 (1975).

[6] Foreign Relations Authorization Act, Pub. L. No. 95-105, section 113, 91 Stat. 844, 848-49; Toxic Substances Control Act, Pub. L. No. 94-469, section 6(c)(4)(A), 90 Stat. 2003, 2023-24.

[7] S. 270, 95th Cong., 2d Sess., section 2(a); H.R. 8798, 95th Cong., 1st Sess., section 2(a). S. 270 and H.R. 8798 are very similar bills, although they do contain minor differences.

[8] 47 U.S.C. 154(g).

[9] Act of August 2, 1977, Pub. L. 95-86, 91 Stat. 437.

[10] Letter to Miles W. Kirkpatrick, Chairman, Federal Trade Commission, file B-139703, July 24, 1972.

[11] Id., at 3.

[12] "In re Costs of Intervention—Nuclear Regulatory Commission", file B-922888, February 19, 1976, p. 7.

[13] Id., at 3.

[14] Id., at 8.

[15] Letter to Congressman John E. Moss, Chairman, Oversight and Investigations

Footnotes continued on next page

ruling, the Comptroller General again emphasized that:

[I]t is within the discretion of each individual agency to determine whether the participation of the particular party involved is necessary in order for it to properly carry out its functions and whether the party is indigent or otherwise unable to finance its participation.[16]

15. In a letter dated September 22, 1976, to Congresswoman Yvonne Brathwaite Burke relating specifically to the FCC, the Comptroller General reaffirmed the Commission's authority to reimburse certain expenses incurred by participants in FCC proceedings.[17] In doing so, he stressed the dual nature of the required showing:

As indicated in our decisions, the prerequisite to such payments is a determination by the agency that the payments are "necessary" to the accomplishments of its functions. Certainly this would include obtaining presentations or other forms of participation which enable the full and fair resolution of matters before the Commission. However, we would emphasize that our decisions are limited to situations in which the payment, as well as the participation, is necessary: that is, lack of financial resources on the part of the person involved would preclude participaton without reimbursement. Accordingly, the Commission must determine that both the participation itself and payment therefor are necessary.[18]

In addition, the Comptroller General answered the following narrower questions with respect to the FCC's authority. First, payments can be made to participants other than formal parties. Second, the Commission has authority to reimburse participants for all expenses, including witness fees, attorneys' fees, and related travel and preparation expenses, which are reasonable and necessary to obtain the required participation. Finally, the ruling stated that although advance payments to participants are prohibited by statute (31 U.S.C. 529), participants may be reimbursed as participation is actually accomplished prior to the close of the Commission proceeding.

16. The last in this series of rulings by the Comptroller General was issued in December 1976 at the request of the Acting Commissioner of the Food and Drug Administration.[19] The Comptroller General clarified his previous decisions by ruling that "it would be sufficient if any agency determines that a particular expenditure for participation 'can reasonably be expected to contribute substantially to a full and fair determination of' the issues before it, even though the expenditure may not be 'essential' in the sense that the issues cannot be decided at all without such participation."[20]

17. On June 30, 1977, the United States Court of Appeals for the Second Circuit held in an en banc split decision that the Federal Power Commission lacked statutory authority to award counsel fees and other expenses to participants in FPC proceedings. *Greene County Planning Board* v. *FPC*, 559 F.2d 1227 (2d Cir. 1977) (en banc), cert. denied, 98 S. Ct. 1280 (February 21, 1978).[21] The Court rejected the rationale of the Comptroller General's rulings that the FPC's statutory authority to expend appropriations for "expenses necessary for the work of the Commission" [22] was sufficient to authorize reimbursement. Relying heavily on the Supreme Court's decision in *Alyeska Pipeline Service Co.* v. *Wilderness Society*, 421 U.S. 240 (1975), and the FPC's own determination that it lacked statutory authority to reimburse intervenors, the Court held that the FPC could not reimburse participants in its proceedings absent explicit Congressional authorization.[23]

18. The Greene County Planning Board filed a petition for certiorari (No. 77-481) on September 21, 1977. On October 1, 1977, the Federal Energy Regulatory Commission (FERC) succeeded the FPC as a party to the case pursuant to the Department of Energy Organization Act.[24] FERC then reversed itself and concluded that its governing statute did authorize reimbursement. On January 12, 1978, the Solicitor General filed a brief on behalf of FERC urging the Supreme Court to remand the case to the Second Circuit for reconsideration in light of FERC's reversal of position. However, on February 21, 1978, the Supreme Court denied the petition for certiorari with Justices Brennan and Stewart stating that they would have granted the petition. Subsequently, the Department of Justice's Office of Legal Counsel has advised at least two agencies (Civil Aeronautics Board and Department of Transportation) that *Greene County* does not in its opinion preclude an agency "from determining whether its organic statutes and other relevant statutes permit some kind of compensation program to be established."[25]

19. In light of these recent developments, we solicit comments concerning the extent of our authority to establish a reimbursement program, at least on a pilot research and demonstration basis, absent explicit Congressional action. It may well be that even if the Commission were to determine that it presently possesses sufficient statutory authority to establish a reimbursement program, budgetary constraints would preclude us from establishing such a program at more than a token level absent an appropriation from Congress to cover its expenses. In that case, if the Commission requested and received an appropriation to be used for a reimbursement program, presumably the requirements of *Greene County* will have been met.[26]

Form of a Reimbursement Program

20. If we decide to establish a reimbursement program at the Commission, we must then determine the form of the program and the specific details of its administration. The questions which follow are intended to focus attention on the most significant details of the administration of a reimbursement program which occur to us at this time. We seek comment on the specific questions raised below and on any additional aspect of a reimbursement program upon which a commenter wishes to focus. We particularly invite comments from other Gov-

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Footnotes continued from last page
Subcommittee, Committee on Interstate and Foreign Commerce, file B-180224, May 10, 1976.

[16] Id., at 2.

[17] Letter to Congresswoman Yvonne Brathwaite Burke, file B-139703, September 22, 1976.

[18] Id., at 3.

[19] "In re Costs of Intervention—Food and Drug Administration," file B-139703, December 3, 1976.

[20] Id., at 5. The Comptroller General also ruled that reimbursement could not be based solely on the fact that a participant's economic interest in the outcome is small in comparison to the costs of effective participation. Unless the agency first determines that the participant is indigent or otherwise unable to finance its participation, reimbursement may not be authorized.

[21] For a discussion of the *Greene County* decision and the Comptroller General's decisions concerning reimbursement see 66 GEO L. J. 931 (1978).

[22] 90 Stat. 889, 898. Like the FCC, the FPC's governing statute authorized the FPC to make "such expenditures * * * as are necessary to execute its functions." 16 U.S.C. 793.

[23] The FPC took the position that it lacked authority to reimburse private participants, and the Court stated that "[t]his interpretation of the Federal Power Act by the agency charged with its administration is entitled to great deference from this Court." 559 F.2d at 1239 n.2.

[24] The FPC ceased to exist and most of its functions and responsibilities were transferred to the FERC. Pub. L. 95-91, 91 Stat. 565, and Executive Order No. 12009, 42 FR 46267.

[25] Letter dated March 1, 1978, from John A. Harmon, Assistant Attorney General, Department of Justice, to Philip J. Bakes, Jr., General Counsel, CAB, quoted in the Civil Aeronautics Board's notice of proposed rulemaking "Compensation of Participants in Board Proceedings," 43 FR 14044, 14050, April 4, 1978.

[26] Comment is invited as to whether substantive legislation such as the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act is required to comply with *Greene County* or whether Congressional approval of a specific appropriation request for that purpose will suffice. Further, if some legislative action is required, must any substantive legislation or appropriation "set the conditions under which payments * * * should be made"? See *Greene County*, 559 F. 2d at 1239.

ernment agencies which have already instituted reimbursement programs and from individuals and groups who have participated in such programs.

21. *In what types of proceedings should reimbursement be made available?* Our present view is that a reimbursement program, if established, should operate, at least in its initial phase, in our notice and comment inquiries and rulemakings. Some comments will undoubtedly urge that the program should extend to all formal and informal proceedings of the Commission such as ratemaking or adjudicatory proceedings. Public participation in other types of Commission proceedings may well bring to the Commission the same benefits of a more complete record as in rulemaking. Certainly, it is important for the Commission to be exposed to diverse points of view in all proceedings. However, we must be realistic about what can be accomplished at this time. As a practical matter, establishment of a meaningful program beyond the pilot stage will probably be dependent on specific congressional funding. The maximum amount appropriated to date to any federal agency has been $500,000 per year to the Federal Trade Commission to fund a reimbursement program applicable to rulemaking proceedings only. We believe that any such program we undertake should likewise begin on a modest scale to provide for a period of experimentation and evaluation of results. It seems most appropriate to begin with our rulemaking proceedings, since that is where we have been told most explicitly by the courts that we need to obtain public inpurt for an adequate record, and where we have made our greatest efforts to date to obtain such inpurt.

22. In addition, at the outset we will have to begin to refine and adapt through experience the initial criteria we develop for this program. We will need to allocate limited funds to many competing applicants, to determine where we have the greatest need for input, and to decide which applicants have the greatest competence to assist us. Methods must be established to avoid disbursing the available funds to a small number of participants or exhausting the funds early in the year. Decisions such as these should be easier if the program is limited to rulemaking because the costs of participation should be more predictable and less open-ended in rulemaking than in adjudicatory and ratemaking proceedings. We are strongly inclined, therefore, to limit a reimbursement program only to rulemaking proceedings, at least initially. Commenters may discuss reimbursement in proceedings other than rulemaking if they wish. However, we request that such discussion be set apart from the discussion of a reimbursement program applicable to rulemaking, and that the discussion include an estimate of the funds required to support a more all-encompassing program.

23. *Who should be eligible to participate?* Unless the Commission decides to request legislation from Congress which specifically establishes different eligibility criteria, the criteria for reimbursement have been largely determined for us—and other agencies without explicit reimbursement legislation—by the Comptroller General. Under his guidelines an applicant (a) must represent an interest whose representation can reasonably be expected to contribute substantially to a full and fair determination of the particular proceeding, in light of the number and complexity of the issues presented, the importance of public participation, and the needs for representation of a fair balance of interests, and (b) the applicant must be unable to finance its participation in that particular proceeding without reimbursement. Additionally, for an applicant to be eligible its economic interest in the outcome of the proceeding must be small in comparison to the costs of effective participation (or if the applicant is a group or organization then the economic interest of a substantial majority of its members must be small in comparison to the costs of effective participation). Finaly, an applicant must be competent to represent the interest it espouses. Comments are requested on these criteria and means to apply them fairly and on any additional criteria that commenters wish to suggest.

24. *How should applications be processed?* Comments are solicited on the many questions which arise in connection with the processing of applications. Who should act on applications for reimbursement? Should it be the Commission itself, an individual employee acting under delegated authority (such as the Chief of the Consumer Assistance Office, the General Counsel, or the Chief of the Office of Plans and Policy), or a special board of staff members from these or other offices or bureaus. Should a person actually participating in the rulemaking proceeding to which the application relates be precluded from participating in the actual award decision? Should the decisions of such board or staff member making awards be final or should there be a mechanism for review of the applications by the full Commission or a panel of Commissioners? [27]

25. *How should the program be administered?* Other questions are involved in the disbursement of funds for the program. How should we avoid expending a disproportionate amount of funds on a particular proceeding or exhaustion of the funds early in the fiscal year? Should there be a maximum limit on the funds available to one participant within a year? Or a maximum limit on the funds available to a participant in one proceeding, such as $25,000? Or should the Commission retain complete flexibility in this regard? Should an applicant be permitted to make a supplemental request after it has already commenced its participation in a proceeding? If so, what type of showing should such applicant be required to make? By the same token, should the Commission require the applicant to pledge that its participation will be satisfactorily completed if for some reason the full amount awarded cannot be provided? If the expenses incurred by a participant are less than the authorized amount, we would, of course, limit reimbursement to the amount actually expended. Furthermore, the individual, office, or board which makes awards would have discretion to choose among competing applicants who seek to represent the same interest in a proceeding, to decide to partially fund an application or two or more applications, or to decide not to fund any application seeking to represent interests in a particular proceeding. Obviously, the limited amount of funds available for the program require that the individual or board administering the program have broad discretion to exercise the above options.

26. *What expenses should be reimbursed?* What types of expenses should be reimbursed under the program? Should a participant be reimbursed only for out-of-pocket costs (such as fees for experts such as accounts, legal fees, witness fees, transcript costs, travel costs) or also for the value of the time expended by an individual participant or by a regular employee of an organizational participant? Should a participant be reimbursed if work is to be done by an expert retained for the purpose but could be done just as well by a regular salaried employee of the participant skilled in that discipline? In the employment situation, the individual's salary will be paid by his employer, regardless of whether his work involves participation in a Commission proceeding. In determining which expenditures should be reimbursed, what consideration should be given to the fact that the applicant has regular salaried employees on its payroll? What if the employee is uniquely qualified to provide assistance needed by the Commis-

[27] In light of section 5(d), 47 U.S.C. 155, it appears that legislation may be required if action by such individual or board member is to be final.

sion and that assistance can be obtained only if the participant is reimbursed for the employee's services? If we determine that a participant should be reimbursed for the value of time expended, what is the appropriate level of reimbursement? Should we base the level of compensation on the level of compensation for a Commission employee with comparable qualifications and experience or use some other scale? What bearing does the Comptroller General's rulings have on any or all of these questions?

27. *What is the appropriate method of reimbursement?* Comment is also requested on the appropriate method of reimbursement. Although it appears that we cannot lawfully make advance payments absent explicit statutory authority,[28] we do not necessarily intend to defer payment until the end of the proceeding. In lengthy proceedings, should progress payments be made at regular intervals when an applicant's continued participation might otherwise be jeopardized or should reimbursement await termination of the proceeding?

28. Comment is requested concerning any additional feature of a reimbursement program, or problems associated with a program, which commenters consider it worthwhile to call to our attention.

29. Authority for issuance of this Notice is contained in Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i). Pursuant to procedures contained in § 1.415 of the rules and regulations, 47 CFR 1.415, interested persons may file comments in this proceeding on or before September 15, 1978, and reply comments on or before October 15, 1978. Comments and reply comments will be available for inspection in the Commission's Dockets Reference Room at its headquarters in Washington, D.C. All relevant and timely comments and reply comments will be considered by the Commission prior to final action in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided the nature and source of such information, and the fact of the Commission's reliance on it, are noted in the docket. Formal participants shall file an original and five (5) copies of their comments, reply comments and other materials. Participants wishing each Commissioner to have a personal copy of its comments may file an original and eleven (11) copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given consideration, regardless of the number of copies submitted.[29]

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPENDIX A

RULEMAKING PROPOSALS AT OTHER FEDERAL AGENCIES

1. Civil Aeronautics Board published a notice of proposed rulemaking to establish a reimbursement program on April 4, 1978, at 43 FR 14044.

2. National Highway Traffic Safety Administration, Department of Transportation, published a regulation establishing a 1-year demonstration reimbursement program on January 13, 1977, at 42 FR 2864. The January 13 notice also contained an advance notice of proposed rulemaking to establish a reimbursement program on a department-wide basis for all DOT rulemakings.

3. National Oceanic and Atmospheric Administration, Department of Commerce, published a notice of proposed rulemaking to establish a reimbursement program on August 11, 1977, at 42 FR 40711.

4. Consumer Product Safety Commission published a notice of a proposed regulation to establish a reimbursement program on March 23, 1977, at 42 FR 15711.

5. Federal Trade Commission published guidelines for participation in its reimbursement program on June 14, 1977, at 42 FR 30480.

6. Food and Drug Administration, Department of Health, Education, and Welfare, published an advance notice of proposed rulemaking to establish a reimbursement program on August 25, 1976, at 41 FR 35855.

7. Environmental Protection Agency published an advance notice of proposed rulemaking to establish a reimbursement program on January 7, 1977, at 42 FR 1492.

JULY 7, 1978.

DISSENTING STATEMENT OF COMMISSIONER ROBERT E. LEE IN WHICH COMMISSIONER JAMES H. QUELLO JOINS IN RE REIMBURSEMENT OF EXPENSES FOR PARTICIPATION IN COMMISSION PROCEEDINGS

"God Bless Those Who Sue My Clients"—
Anonymous Attorney

It seems to me that, in its zeal to help everybody, the Federal Government has been playing musical money—shuffling money from citizen to citizen until finally it is consumed by a giant bureaucracy. With this notice, the FCC has joined the game.

Unfortunately, the Commission's timing is atrocious. Everyone is concerned about inflation and undue big Government spending. Taxpayers are beginning to revolt against frivolous Government programs. This is hardly the time to propose a new spending program which may ultimately benefit only the lawyers.

The Commission is also the wrong entity to propose reimbursement. Commissioners aren't elected and don't have to answer directly to the taxpayers about their use of public money. Members of Congress who do can better decide whether some citizens should cross-subsidize the participation of others.

I recognize that "this is only an inquiry." I have heard that phrase many, many times during my life at the Commission. But, we *are* making a commitment, even if it is a weak one, and resources which we desperately need to do our job will be spent on this proposal. A lot of people will expect the Commission to meet this commitment and will be disappointed if the Commission doesn't keep its promise.

I don't think that the Commission can keep this promise. Apart from the serious legal question about the Commission's authority to reimburse fees,[1] the practical impediments are substantial.

Obviously, we cannot reimburse the expenses of every person or group who could have standing in Commission proceedings. We would have to pay off everyone in the country at some point! So, if we don't run a lottery or give out token amounts of money, we will have to act as judges to pick the most worthy participants. We will have to figure out ways to decide who most needs money, who really represents the public, whose participation will be most meaningful and of the most quality, and how much that participation should be subsidized. If we are true to the spirit of full public participation, we will need a kind of reimbursement program fairness doctrine to be sure we are subsiding a full spectrum of viewpoints.

I expect we will slow our processes considerably with comparative reimbursement proceedings. In fairness to those who will count on Government money, we shouldn't start the comment period in rulemaking matters until we decide who will get the money. This means, of course, that we may delay proceedings while we solicit and act on reimbursement applications.

We will also need staff for the reimbursement effort. Once we have developed standards, including a possible fee schedule for lawyers and other experts, we will have to process reimbursement applications and audit expense claims.

I would much prefer that the Commission devote its limited resources to the substance of the issues before us rather than to collecting paper. If we need more data in some cases, we can contract research projects designed to provide the data we need. If we need more specialized expertise on our staff, we can hire the appropriate people.

I don't want to fritter away the limited resources we do have on reimbursement claims. I want the staff to help me carry out my job—representing the public interest. It has done a good job in the past. If we want it to do an even better job, we should give it the resources, not siphon them to selected parties in adversary proceedings.

Finally, I am opposed to this inquiry because I can see a hydra growing already. The item suggests expanding the program from rulemakings to adjudicatory proceedings. During the meeting, one Commissioner proposed including small businesspersons as well as citizens groups in the program. I can see a lot of hands out for government money, and I wonder where will it end. In my opinion, it should not have begun.

I dissent.

[28] 31 U.S.C. 529. We might consider it permissible to advance travel expenses, as we do for Commission employees.

[29] See attached statements.

[1] See *Greene County Planning Bd.* v. *FPC*, 559 F. 2d 1227, 1237 (2d Cir. 1977) (En banc), cert. denied, 434 U.S. 1086, 98 S. Ct. 1280 (1978) reaffirming *Greene County Planning Bd.* v. *FPC*, 455 F. 2d 412 (2d Cir.), cert. denied, 409 U.S. 849 (1972).

JUNE 29, 1978.

CONCURRING STATEMENT OF COMMISSIONER ABBOTT WASHBURN

NOTICE OF INQUIRY ON REIMBURSEMENT OF PUBLIC PARTICIPANTS IN FCC PROCEEDINGS

No one will dispute the value of public participation in Commission proceedings. The positive aspect of broad participation is to build a more complete record for the Commission, to make the Commission more aware of interests which otherwise might not be fully aired in the regulatory process, and to lead to better decision-making by the Commission.

While the goal is noble, the proposal to reimburse expenses raises troublesome questions. For example, generating wider public participation through reimbursement by the Commission may not be clearly within our legal authority.

It has been my position that the Commission ought to have some indication of congressional guidance before proceeding to reimburse litigants out of appropriated taxpayer's funds. It is the Congress' responsibility to appropriate public funds. If public participation is to be financed by appropriated funds, the public's elected representatives are the ones best suited to determine whether and to what extent this should be done. Responses to this notice may cause me to change my present view. That remains to be seen. In any event the responses will provide the Commission and the Congress with useful information to help in reaching a decision as to whether such a program is needed at the FCC, and if so, how it should be designed.

Among the questions requiring answers are:

Who would determine eligibility for reimbursement?

On what standards?

In which FCC proceedings would funding be made available?

For how long? And at what rate?

SEPARATE STATEMENT OF COMMISSIONER JOSEPH R. FOGARTY

IN RE: NOTICE OF INQUIRY IN THE MATTER OF REIMBURSEMENT OF EXPENSES FOR PARTICIPATION IN COMMISSION PROCEEDINGS

I am very pleased that the Commission has reversed its earlier position refusing to consider the need and alternatives for fostering greater citizen representation and participation in our regulatory process.[2] While it may be that ultimate authority and the funds for a citizens' reimbursement program will have to come from Congress, that argument does not relieve this Commission of the responsibility to assess immediately our own regulatory needs and to make any necessary legislative proposals to Congress. This Notice of Inquiry begins that long-needed and long-avoided process and gives substance to the Commission's long-stated commitment to furthering citizen involvement in our proceedings.

[FR Doc. 78-19714 Filed 7-17-78; 8:45 am]

[2] See "Rules and Policies to Facilitate Participation of Indigent Persons in Commission Proceedings", 61 FCC 2d 1143 (1976); Statement of Commissioners Benjamin L. Hooks and Joseph R. Fogarty, concurring in part; dissenting in part, id. at 1151.

[6712-01]

[47 CFR Parts 63 and 64]

[CC Docket No. 78-95; CC Docket No. 78-96]

REGULATORY POLICIES CONCERNING THE PROVISION OF DOMESTIC PUBLIC MESSAGE SERVICES BY ENTITIES OTHER THAN THE WESTERN UNION TELEGRAPH CO. AND PROPOSED AMENDMENTS

Extension of Comment Period

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: The due date for reply comments is extended from July 17, 1978 to July 31, 1978, pursuant to an unopposed request for this extension by the Western Union Telegraph Co.

DATES: Reply comments are now due on or before July 31, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Michael S. Slomin, Policy and Rules Division, Common Carrier Bureau, 202-632-9342.

SUPPLEMENTARY INFORMATION:

Order

Adopted: July 11, 1978.

Released: July 11, 1978.

In the matter of Graphnet Systems, Inc., application to participate in the Hinterland Delivery of International Communications Messages, CC Docket No. 78-95, File No. W-P-C 1430; Regulatory policies concerning the provision of Domestic Public Message Services by Entities other than the Western Union Telegraph Co. and proposed amendments to parts 63 and 64 of the Commission's rules, CC Docket No. 78-96.[1]

1. Western Union Telegraph Co., by motion filed July 6, 1978, has requested that the time for filing reply comments herein be extended from July 17, 1978 until July 31, 1978. In support, Western Union cites the complexity of the proceeding, and the failure of many parties to serve copies of their comments on Western Union, despite Western Union's "obvious interest" in this proceeding. Moreover, Western Union notes that our grant of its previous motion for extension of time had the effect of reducing by one week the time for analysis of comments, and it seeks restoration of this time interval for analysis.

2. No party has opposed grant of the requested extension, nor does it appear that any party will be prejudiced thereby. While it is the policy of the Commission that extensions of time shall not be routinely granted, § 1.46(a) of the Commission's rules, under these circumstances it would appear that the public would be better served by comprehensive analysis of all filed comments. Accordingly, pursuant to authority delegated in § 0.303(c) of the Commission's rules, 47 CFR 0.303(c): *It is hereby ordered*, That reply comments herein shall be filed on or before July 31, 1978.

WALTER R. HINCHMAN,
Chief, Common Carrier Bureau.

[FR Doc. 78-19712 Filed 7-17-78; 8:45 am]

[1] See 43 FR 24861, June 8, 1978.

[6712-01]

[47 CFR Part 67]

[Docket No. 21263; FCC 78-480]

JURISDICTIONAL SEPARATIONS

Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers Between the United States Mainland and Hawaii, Alaska, and Puerto Rico/Virgin Islands

AGENCY: Federal Communications Commission.

ACTION: Federal Joint Board Order.

SUMMARY: The Joint Board which has been convened in this proceeding is establishing dates for filing comments and replies concerning two pleadings regarding a separations plan that have been filed by the State of Hawaii.

DATES: Comments are due on or before August 28, 1978; replies are due on or before September 22, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Francis Young, Common Carrier Bureau, 202-632-7084.

Adopted: June 30, 1978.

Released: July 11, 1978.

By the Federal-State Joint Board:

Order. In the matter of integration of rates and services for the provision of communications by authorized Common Carriers between the U.S. mainland and Hawaii, Alaska, and Puerto Rico/Virgin Islands, Docket No. 21263.[1]

1. The Federal-State Joint Board convened in this proceeding has before it for consideration: (a) The Petition for Expedited Consideration and Adoption of Separations Plan Proposed by State of Hawaii; and (b) Hawaii Ozark Separations Plan: Proposed by the State of Hawaii (June

[1] See 43 FR 26336, June 19, 1978.

1978); filed June 9, 1978 by the State of Hawaii. These pleadings appear similar to a petition for rulemaking as contemplated by the Commission's rules and regulations. Accordingly, the Joint Board will treat them in a similar manner by providing parties the opportunity to file comments and replies. Such comments and replies should address the question of whether the pleadings should be considered at this stage of the Joint Board's deliberation as well as the substance of the pleadings.

2. Accordingly, *it is ordered*, That comments on the pleadings filed before the Federal-State Joint Board on June 9, 1978, by the State of Hawaii shall be filed no later than August 28, 1978.

3. *It is further ordered*, That any interested person may file a reply to any comments not later than September 22, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
W. J. TRICARICO,
Secretary.

[FR Doc. 78-19859 Filed 7-17-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-207]

TELEVISION BROADCAST STATION IN MIAMI, FLA.

Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Action taken herein proposes the substitution of television channel 64 for channel 39 at Miami, Fla. The proposed substitution would resolve the short-spacing to channel 25 at West Palm Beach which results from choices for station sites.

DATES: Comments must be received on or before September 4, 1978. Reply comments must be received on or before September 25, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: July 6, 1978.

Released: July 12, 1978.

In the matter of Amendment of §73.606(b) *Table of Assignments*, Television Broadcast Stations. (Miami and West Palm Beach, Fla.) BC Docket No. 78-207.

1. The Commission on its own motion hereby issues a Notice of Proposed Rulemaking proposing the substitution of television channel 64 for channel 39 at Miami, Fla. to resolve a short-spacing between channel 39 and channel 25 at West Palm Beach, Fla., that would result from the selection of transmitter sites. An application has been tendered for channel 39 at Miami by Contemporary Television Broadcasting, Inc., and an application is pending (BPCT-5036) for channel 25 at West Palm Beach, Fla., filed by Malrite of Florida, Inc.

2. As presently assigned, the channel assignments meet the separation requirements. However, the transmitter sites proposed by the respective applicants for channel 39 and channel 25 do not permit the stations to meet the separation requirements. The proposed operation of the channel 39 station at a site proposed north of Miami would result in short-spacing to the channel 25 station south of West Palm Beach. Substitution of channel 64 for channel 39 at Miami would resolve this short-spacing and would enable the station to locate at a site in the vicinity of the existing Miami Antenna Farm.

3. The channel 64 assignment could be made in compliance with the Commission's distance separation requirements and other technical criteria without requiring changes to television assignments at other communities listed in the Table of Assignments.

4. The Commission believes that consideration of this channel substitution would be in the public interest. Accordingly, the Commission proposes to amend the Television Table of Assignments (§ 73.606(b) of the Commission's rules) with regard to Miami, Fla., as follows:

Miami, Fla., present channel Nos.: *2, 4, 6, 7−, 10+, *17−, 23−, 33, 39, 45+. Proposed channel Nos.: *2, 4, 6, 7−, 10+, *17−, 23−, 33, 45+, 64.

5. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below, and are incorporated by reference herein.

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

6. Interested parties may file comments on or before September 4, 1978, and reply comments on or before September 25, 1978.

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 TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making 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. *Cut-off 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 the 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 Rule Making 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.

6. *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. 78-19849 Filed 7-17-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-164; FCC 78-382]

ELIGIBILITY FOR NONCOMMERCIAL EDUCATIONAL FM AND TV BROADCAST STATION LICENSES

Inquiry

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry.

SUMMARY: The Commission, on its own motion, proposes to consider changes in its rules governing eligibility to become a licensee of a noncommercial educational FM or TV station.

DATES: Comments must be received on or before August 15, 1978, and reply comments on or before September 15, 1978.

ADDRESSES: Eligibility Standards Proceeding, Federal Communications Commission, P.O. Box 19600, Washington, D.C. 20036

FOR FURTHER INFORMATION CONTACT:

Jonathan David, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: June 7, 1978.

Released: July 13, 1978.

In the matter of amendment of the Commission's rules governing the eligibility for noncommercial educational FM and TV broadcast station licenses, BC Docket No. 78-164.

1. The Commission has under consideration its rules governing who is eligible to become a licensee of an educational FM or TV broadcast station. Under § 73.501 of the Commission's rules, the 20 channels at the lower end of the FM band are reserved for noncommercial educational FM broadcasting. Individual TV channels are set aside for such use in the Television Table of Assignments § 73.606(b).[1] As indicated in §§ 73.503 and 73.621 of the rules, these reserved channels will be licensed only to non-profit "educational organizations." The question before us is who fits this description and thus becomes eligible.

2. Over the years, the Commission has had occasion to consider various cases dealing with what was meant by educational organizations or educational broadcasting. For the most part, these were actions relating to specific applications. However, in 1960 in an action of more general applicability, we rejected as being too narrow a proposal which would have limited licensing of stations on these reserved channels to institutions which are accredited by state departments of education or are recognized by regional and national accrediting organizations. S. Nisenbaum, 19 R.R. 1175 (1960). In so doing, the Commission pointed out that other organizations seeking authorizations would continue to be granted "* * * only after thorough consideration of their qualifications as a non-profit educational organization and their showing that they would provide * * * a service for the advancement of an educational program," at 1177. Although the rules have remained essentially unchanged for some period of time, educational broadcasting itself has evolved during this time. In recent years, there has been a considerable growth in the licensing of "public" broadcast stations in this reserved band. These are stations, licensed to organizations which are devoted to providing educational programing in the broader sense, not limiting themselves to the earlier role which focused heavily on instructional programing. Nonetheless, the term "educational" continued to apply,[2] as each of the entities in question established a non-profit educational organization to pursue their stated educational objectives. This was consistent with the Commission's observation (made in connection with educational television stations in 1965) that "* * * the channels reserved for educational use are intended to serve the educational and cultural broadcast needs of the entire community to which they are assigned * * *," Fifth Report, Memorandum Opinion and Order on Fostering Use of UHF Television Channels, 2 FCC 2d 527 at 542 (1965).

3. As these evolutionary developments were taking place, particularly following passage of the Public Broadcasting Act of 1967, it became increasingly clear that the whole issue of licensing eligibility for the "noncommercial educational" television allocations and FM band needed to be reexamined. Partly this was a matter of insuring that the standards reflected the existing situation and the Commission's views regarding how best to use these channels. It also involved the need to develop standards which provided the clearest possible guidance for the processing of applications. At first, this had been no real problem. Gradually, however, cases arose in which the educational nature of an applicant or its purposes might not be entirely clear. Our concern has been to insure that an applicant's proposal is designed to serve educational purposes. In so doing, the Commission had examined the totality of the application to determine the applicants' primary purposes and to insure that they were educational. However, this gave rise to questions in cases where a "public broadcasting" or other applicant had additional goals in mind as well as purely "educational" ones in the narrowest instructional sense of that word. Because our standards had remained unchanged, the Commission has had to deal with these cases on an ad hoc basis to determine whether the licensee's principal emphasis was on programs of an educational nature.[3]

4. With these facts in mind it is clear that the Commission needs to conduct an inquiry into the area of eligibility standards. We have some preliminary thoughts which are contained in the five alternatives set forth below. These alternatives, we stress, are not necessarily intended to be exclusive. They could be used in combination, so that an applicant that met one of a number of alternative eligibility standards would be qualified. Other suggestions as to the approach we might follow are also welcome. Overall, this series of options is designed to offer for comment a series of possible ways to develop new standards which would take recent developments into account. Hopefully, they would end the difficulties occasioned by continued use of an old ad hoc standards and processing guidelines to apply to new situations. To understand more specifically what is involved in the proposed responses, some more detailed description of the alternatives is required. The fact that an alternative is included should not be taken as indicating that the alternative is likely to be adopted. In fact, we have reservations about aspects of several of the alternatives.

5. Depending on the course of action adopted, various changes in the Commission's rules relating to noncommercial educational stations could be nec-

[1] In a few instances, individual FM channels in the commercial portion of the FM band are also set aside for educational use.

[2] In Docket No. 20735, we indicated an intention to explore a wide range of issues relating to educational FM assignments and other policies. We are today acting on portions of this docket, but to the extent that docket was anticipated to address basic questions of the eligibility for and role of educational stations, we will deal with these here, where we can address the eligibility question as it applies to both radio and television. In addition, we are today dealing with another docket, Docket 21136, which addresses the basic question of the "noncommercial" nature of both educational FM stations and the television allocations reserved for this purpose. Satisfactory resolution of that issue may assist in our resolution of definitional issues in this inquiry and we urge parties commenting in both to cross-reference their comments.

[3] This question was presented, for example, by the Pacifica Foundation, Washington, D.C., application, 24 FCC 2d 223 (1969), and by the Moody Bible applications for stations at East Moline, Ill. (BPED-1845) and Boynton Beach, Fla. At the time the Commission granted the latter applications it established processing standards to apply in such cases in the future. These standards are attached as appendix A to this Notice.

essary and parallel changes in application forms also would be required. Among the rules which could be affected are those directly governing who is eligible to be the licensee of an educational FM or TV station and what kind of service the stations are expected to provide. [Section 73.503 applies to educational FM stations and Section 73.621 applies to TV stations.] The original and renewal applications for noncommercial educational FM and TV stations may need revision. After review of the responses to this Notice of Inquiry we can commence any necessary rule making procedures. As can be seen from the outline of the alternatives, the possible approaches vary greatly.

6. Alternative One. One possible approach would be to delete the current requirement in the Commission's rules which limits these reserved channels to noncommercial educational purposes. Instead, they could be used by any non-profit organization recognized as such by the Internal Revenue Service, and could therefore be used for other noncommercial purposes not previously permitted by the Commission. Such a change could be accomplished through a few changes in the present rules along with some changes in the pertinent application forms. While using this approach would help avoid the problems in examining the purposes of an organization, it could be argued that employing this approach would be contrary to Congressional intent in its recognition of a particular type of noncommercial radio and TV, through the Public Broadcasting Act of 1967. The term "public broadcasting" has gained considerable currency in the statute and elsewhere even though it does not have a precise definition. Also, it is necessary to bear in mind that even where the term is used, as in section 390 et seq. of the Communications Act, there continues to be a reference to educational television and radio. While it could be argued that these provisions are not intended to limit the Commission's licensing policies, there is some reason to believe that a change of this sort could be counter to the understanding of the Congress on how these reserved channels were to be used. In addition, if these channels were used for these other purposes to such an extent that it was to the exlusion of educational uses, it could have the effect of defeating the Congressional intent to underwrite the construction of educational television and radio facilities. In effect then, in exchange for its simplicity of accomplishment, this alternative represents the most profound departure from past practice and the premises on which other agencies and the Congress have acted. This can be seen from an examination of the educational purposes outlined in section 396(a) of the Act, which was added by The Public Broadcasting Act of 1967.[4] Thus, those wishing to urge adoption of this alternative should address these points in their filings and explain how the change could be adopted consistent with these Congressional declarations.

7. Alternative Two. Pursuant to sections 390 et seq. of the Communications Act, added by The Educational Broadcast Facilities Act of 1962, grants are provided for the construction of educational broadcasting facilities, and this grant program is administered by the Department of Health, Education, and Welfare (HEW). Since HEW has adopted guidelines to implement the statutory provisions[5] which provide eligibility standards, the Commission could use these standards in lieu of its own. The effect might be to limit somewhat the group of eligible entities, as these standards seem to be somewhat more restrictive than those used by the Commission. Whether this result would be desirable turns on a decision by the Commission of the kinds of operations it wishes to foster, bearing in mind that HEW's standards as to private educational institutions are more limiting than the Commission's. While use of this approach would not necessarily avoid the difficult judgmental problems which would arise, it would shift the onus to HEW to resolve these issues. Those wishing to advocate this approach should explain the advantages they see in such a relinquishment of Commission authority to make the judgment involved in deciding on the acceptance of applications for filing.[6]

8. Alternative Three. Another possibility involves a redefinition of the eligibility standards employed by the Commission so as to encompass only those full-time, general curriculum schools or institutions which are qualified to award degrees or issue diplomas. These schools would be those which are accredited or whose credits are transferable to other qualified institutions. If this approach were used, it would not be necessary to inquire as deeply into the educational purposes of the applicant since there would be an expectation that any such station would operate in conjunction with the educational institution. As with the previous alternative, there would be the advantage of the ease of administration, but the result would be to greatly restrict those eligible. In fact, the result could be that some of the very organizations outlined in section 392(a)(1) of the Act which were established in the last two decades specifically to operate these stations would become ineligible. This category of educational organizations is a broad one, running the gamut from Pacifica to the Greater Washington Educational Telecommunications Association, licensee of Stations WETA-TV and WETA-FM in Washington, D.C. Also, since there are a sizeable number of existing stations in this category, use of this standard would also require a decision on what to do about "grandfathering." Those urging this approach should respond to these points.

9. Alternative Four. Instead of using the nature of the entity in question to decide eligibility, the Commission could focus on the nature of the educational program to be furthered. As matters now stand, organizational applicants are called upon in our applica-

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[4] Section 396(a), The Congress hereby finds and declares—

(1) That it is in the public interest to encourage the growth and development of noncommercial educational radio and television broadcasting, including the use of such media for instruction purposes;

(2) That expansion and development of noncommercial educational radio and television broadcasting and of diversity of its programming depend on freedom, imagination, and initiative on both the local and national levels;

(3) That the encouragement and support of noncommercial educational radio and television broadcasting, while matters of importance for private and local development, are also of appropriate and important concern to the Federal Government;

(4) That it furthers the general welfare to encourage noncommercial educational radio and television broadcast programming which will be responsive to the interests of people both in particular localities and throughout the United States, and which will constitute an expression of diversity and excellence;

(5) that it is necessary and appropriate for the Federal Government to complement, assist, and support a national policy that will most effectively make noncommercial educational radio and television service available to all the citizens of the United States;

(6) That a private corporation should be created to facilitate the development of educational radio and television broadcasting and to afford maximum protection to such broadcasting from extraneous interference and control.

[5] It should be noted that section 392(g)(1) specifies that such facilities will be used only for educational purposes.

[6] We note that pending legislation in both the House and Senate would transfer this program to the Commerce Department's National Telecommunications and Information Administration, and change some of the eligibility provisions and priorities of funding for the program. Parties commenting on this approach should address how adoption of this legislation would affect their stations.

tion process to state how the station would be used in furtherance of an educational program, but the statement provided is often not particularly precise or informative. In fact, institutional applicants are not even required to respond to this specific question, although similar information is elicited in response to several other related questions. If greater stress were put on the nature of the proposed programming rather than in the statement of purpose contained in the articles of incorporation, it might be possible to limit the inquiry into the nature of the applicant's organization to those points necessary to establish that it is permitted to operate a station in the fashion indicated and that it possesses the requisite qualifications. While this approach avoids the problems encountered in evaluating who would be eligible, it would not avoid at least some inquiry into what programming would be offered. It would continue to be necessary to determine if the purposes were educational in nature and if the thrust of a station would be educational. Such close scrutiny of programming may give rise to First Amendment concerns. Moreover, its use could lead to problems in defining what is meant by educational programming. Suggestions from proponents of this approach on how to avoid these problems are invited.

10. Alternative Five. Under this alternative, for noninstitutional applicants, our focus would be to insure that these stations function in a fashion reflective of service to their locality. Unlike the preceding choices, this alternative would avoid the necessity of examining the nature and purposes of the applicant to see if they were educational rather than other, albeit meritorious, ones. Drawing on our ascertainment and related principles, these stations would be redefined as public broadcasting/community service stations. This could obviate the need to examine the program proposal to see if a certain percentage of programming is educational. Instead, these stations would be expected to render service to their communities and to be reflective of the needs they found to exist there. While the presentation of light entertainment programming would not be foreclosed, the essence of these stations would be community service in its various aspects, including but not limited to educational service alone. Implementing this approach might require some alteration and strengthening of the existing educational station ascertainment requirements, particularly as to radio stations, but it would be a logical extension of the Commission's noncommercial educational ascertainment policies now in force. Moreover, it would be an extension of our view of the importance of localism. This policy has the same underpinning which underlies the process of licensee/public dialogue utilized in both the commercial and noncommercial broadcasting. In addition to the above requirement, to avoid the need for the Commission to involve itself in scrutiny of the licensee's programming efforts, the Commission could substitute a requirement that the governing board of the licensee be composed of those individuals who represent significant groups and organizations which are found in the community. These representatives could then decide on the programming and insure that it is responsive. The members of such a governing board would be like the list of community leaders as it would appear on an ascertainment survey. Needless to say, this would not exclude religious groups. In fact, the expectation would be that they would be included. The only limitation that would possibly be invoked in this regard would be one intended to insure that no single religious view or persuasion were expressed to the exclusion of others. Although a standard such as this could be limited to applications for new stations, if the Commission wished to apply it to existing stations, it could be done through a requirement that the licensee establish an advisory group or it could be done by requiring a more thorough ascertainment procedure, or both. While the advisory group or controlling board is a new concept in terms of Commission requirement, it already exists to some degree on a voluntary basis in various places, where the noncommercial educational licensee, particularly community based "public broadcasting" licensees, draws on a number of diverse elements to form its board. Moreover, use of such a requirement could avoid some of the problems which have arisen on occasion over charges brought to the Commission at renewal, that some educational licensees are not representative of their communities and do not program with the needs of the entire community in mind. Because of the increasing scarcity of the noncommercial educational channels, more specific requirements of broad community service may well be most consistent with our mandate to insure the most efficent use of the spectrum. Comments on the advantages and disadvantages of this approach are invited.

11. The Commission is eager to obtain comments from all interested parties. Our goal is to formulate policy guidelines that will promote certainty as well as fairness and which in so doing will best serve the purposes for which the channels have been reserved. We have no firm views at this stage and welcome all suggestions on these plans, any variations on them or on any other suggestions which might be offered. Depending on the nature of the responses we contemplate issuing a notice of proposed rulemaking. We urge the parties to deal with more than the abstract merit of the proposals they favor. They should discuss the practical effect of their possible adoption and the means of their administration.

12. Pursuant to the applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments on or before August 15, 1978, and reply comments on or before September 15, 1978. 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. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such reply comments shall be accompanied by a certificate of service.

13. In accordance with the provisions of § 1.429 of the Commission's rules and regulations, an original and five copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission. In order to be considered [7] all filings must be filed with the Commission at the following address:

Noncommercial Educational Standards Proceeding, Federal Communications Commission, P.O. Box 19600, Washington, D.C. 20036.

14. All timely 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.

15. Authority for the actions taken herein is contained in Sections 4(i), 301, 303 and 403 of the Communications Act of 1934, as amended.

FEDERAL COMMUNICATIONS COMMISSION.
WILLIAM J. TRICARICO,
Secretary.

Attachment: Appendix [8]

APPENDIX

PROCESSING GUIDELINES

Institutional applicants:

"Institutional" applicants (i.e., those which operate a bona fide fulltime school) may qualify for noncommercial educational

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[7] This special filing procedure is designed to avoid problems which otherwise could arise if, as may be the case here, there is a large flow of informal comments. Those filing in person may deliver their documents to the Secretary of the Commission.

[8] The appendix sets forth the standards now used by the staff in processing applications. This is the first occasion that the standards themselves have been made public.

FM stations only in those communities where they operate a bona fide fulltime school. This is the case regardless of whether the school and its courses of instruction are religiously oriented or secular.

Organizational applicants:

Organizational applicants may qualify in any community. But, they must demonstrate that they have an educational goal and are committed to the advancement of an educational program.

In considering whether organizational applicants have a suitable educational program, we will give primary weight to those programs which may properly be categorized as "instructional" or "general educational." The definitions of these terms are as follows:

Instructional (I) includes all programs designed to be utilized by any level of educational institution in the regular instructional program of the institution. In-school, in-service for teachers, and college credit courses are examples of instructional programs.

General educational (GEN) is an educational program for which no formal credit is given.

We recognize the fact that noncommercial educational FM stations may present a wide variety of programming including such matters as light entertainment, gospel or popular music, and sports. Nevertheless, for the purpose of determining the applicant's qualifications, we must place principal emphasis on those programs, as defined above, which are clearly educational in nature.

In determining whether a program may properly be categorized as "instructional" or "general educational," we will not disqualify any program simply because the subject matter of the teaching or instruction is religious in nature. While not all religious programs are educational in nature, it is clear that those programs which involve the teaching of matters relating to religion would qualify. In this regard, some programs will properly be considered to be both instructional and religious or both general educational and religious. As in all matters relating to programming, we will defer to the judgment of the broadcaster unless his categorization appears to be arbitrary or unreasonable.

[FR Doc. 78-19713 Filed 7-17-78; 8:45 am]

[6712-01]

[47 CFR Part 76]

[CT Docket No. 78-206; RM-3102; FCC 78-460]

CABLE TELEVISION CERTIFICATE OF COMPLIANCE PROCESS

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commission is considering changing the rules concerning the cable television Certificate of Compliance process. This is in furtherance of efforts to "deregulate" the cable industry, and would replace the present system of certification with a simpler, more streamline registration process.

DATES: Comments must be received on or before August 14, 1978, and reply comments on or before September 1, 1978.

ADDRESS: Office of the Secretary, Federal Communications Commission, 1919 M. Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Jim Ewalt, Cable Television Bureau, 202-632-6468.

SUPPLEMENTARY INFORMATION:

Adopted: June 28, 1978.

Released: July 12, 1978.

By the Commission: Commission Quello absent; Commissioner Washburn concurring in the result.

In the matter of amendment of part 76 of the Commission's rules relating to the Cable Television Certificate of Compliance Process, CT Docket No. 78-206, RM-3102.

1. Notice of proposed rulemaking is hereby given in the above-referenced matter which relates to changes in the rules concerning the cable television Certificate of Compliance process.[1]

2. In 1972, in the "Cable Television Report and Order," FCC 72-108, 36 FCC 2d 143 (1972), the Commission adopted Subpart B of Part 76 of the rules, which provided essentially that no cable television system could commence operation or add carriage of a television broadcast signal unless it had first filed for and obtained from the Commission a "Certificate of Compliance." All existing cable television systems were required to file for a Certificate of Compliance by March 1977. When these requirements went into force, in March of 1972, the Commission had cable television rules on the books relating to broadcast signal carriage, technical standards, access to and use of nonbroadcast channels, fairness, equal opportunities for political candidates, lotteries, obscenity and sponsorship identification, cross-ownership, pay cable television programing, the appropriate division of regulatory jurisdiction between the Federal and local levels of government, and equal employment opportunity. This body of regulation was felt to be necessary to protect cable subscribers and television viewers generally from a loss or degradation of local television service, to protect consumers of cable service from dangers inherent in cable as a monopoly or quasi-monopoly industry, and to promote diversity of content and control over cable television distributed programing. It was felt that cable was about to enter into a period of unparalleled growth in terms of number of subscribers and the sophistication of the service those systems could potentially offer.

3. Our perception of cable television in 1972 was that it partook of some of the characteristics of radio broadcasting and some of the characteristics of a public utility or common carrier but was identical to neither and deserving of separate regulatory treatment. Thus, in the "Cable Report" the Commission affirmed its view that:

> cable systems are neither broadcasters nor common carriers within the meaning of the Communications Act. Rather, cable is a hybrid that requires identification and regulation as a separate force in communications. 36 FCC 2d 143, 211 (1972), para. 191.

In accordance with this view, the Certificate of Compliance process was to be something of a cross between the system of licensing a radio station for between 3 and 5 years and the process of granting indeterminate certificates of public convenience and necessity to communications common carriers under Section 214 of the Communications Act.

4. The Certificate of Compliance application and review process was intended to serve a number of related purposes: To "assure that effective public notice of new proposals is given; assure that applications contain full information on the details of system operations; and assure that new cable proposals are, without exception, reviewed for consistency with our rules." 36 FCC 2d at 185, para. 109. The process was thought of as a means of obtaining citizen input with respect to the operation of particular cable systems and it was regarded as an important means of screening service proposals prior to systems' commencing operations and establishing equities and expectations that could, if later changed, cause dislocations and subscriber dissatisfaction. In general, it was hoped that the process would be a useful complement to the substantive regulatory program.[2]

5. Significant changes in regulatory philosophy and in the details of our cable television regulation have occurred since 1972. Of greatest relevance to this review are the substantive revisions that have been made in

[1] We note the *Petition for Rule Making* (RM-3102) filed May 8, 1978, by the Community Antenna Television Association which also proposes elimination of the certification process. We are terminating RM-3102 in order to consolidate the proceedings and accordingly, all comments received in response to RM-3102 will be considered here.

[2] The process was also intended to be useful to the cable system operator by letting it know at the outset whether the activity it was proposing complied with a rather complicated set of rules. The Commission's seal of approval through this process would be a protection against an investment being later put in jeopardy through charges of noncompliance.

the cable television rules produced by the Commission's efforts to "de-regulate" this industry. The most significant of these changes, for purposes of this proceeding, are: (1) The deletion of the franchise standards of § 76.31(a) of the rules,[3] the decision to eliminate the Certificate of Compliance process for those systems with under 1,000 subscribers,[4] and that series of changes that generally allow the addition of local signals prior to any review and that afford cable operators additional flexibility in the distant signals of which carriage is permissible.[5] Moreover, the speed with which the industry has grown and the rapidity with which new types of services are being developed and introduced have not matched the expectations of 1972. Both of these factors, plus a continuing concern for the most efficient allocation of our own regulatory resources, suggest to us the need to re-examine the continued imposition of the certification process.

6. Another important development supporting a re-examination of our certificating process was the adoption of amendments to the Communications Act [6] permitting the Commission to impose forfeitures (fines) on cable television system operators for violations of Commission rules. These amendments provide the Commission with a new and significant enforcement tool to assure compliance with the cable television rules. With these changes in the rules and with the new incentives for compliance provided by the forfeiture authority, it appears to us that the process of certification may have become an undue procedural burden, both on the Commission and on the industry, rather than an efficient and economical means for resolving disputes concerning new cable operations and obtaining compliance with the rules.

[3]Report and Order in Docket 21002, FCC 77-530, 66 FCC 2d 380 (1977) reconsideration pending. The franchise standards provided that the FCC would not permit a cable television system to commence the carriage of any television broadcast signals unless that system had a local franchise or other appropriate authorization containing certain specific provisions. For example, the franchise could be no longer than 15 years in duration and had to be granted after a full public proceeding.

[4]Second Report and Order in Docket 20561, FCC 78-288, 68 FCC 2d (released May 10, 1978).

[5]Order, FCC 73-1214, 43 FCC 2d 1072 (1973) (allowing addition of local signals without certification); Report and Order in Docket 20487, FCC 75-1409, 57 FCC 2d 625 (1976) (largely deleting the "leapfrogging" rules); First Report and Order in Docket 20553, FCC 76-189, 58 FCC 2d 442 (1976) (concerning carriage of specialty stations).

[6]Communications Act Amendments of 1978, section 2, Pub. L. 95-234, 92 Stat. 33, amending 47 U.S.C. 503(b).

Alternatives to the Existing Process

7. Accordingly, we proposed to eliminate the Certificate of Compliance process. We invite comments on the soundness of this proposal and upon the necessity for and configuration of alternatives to the existing process. We have set out two possible approaches to fulfilling functions covered by the current process in the hope that they will provide a helpful focus for persons wishing to submit comments. We emphasize that these are merely meant as aids and are not intended to limit public comments nor the approach, if any, we may ultimately adopt.

SIMPLE REGISTRATION

8. The rules now contain two examples of registration systems, either of which could serve as a model for a replacement for the certification process. The first involves the type of registration required of a cable television system with less than 1,000 subscribers (§ 76.10). All that is required of such a system is that it furnish the following information to the Commission within 30 days after it commences operation:

(a) The legal name of the operator and whether the operator is an individual, private association, partnership, or corporation. If the operator is a partnership, the legal name of the partner responsible for communications with the Commission;

(b) The assumed name (if any) used for doing business in the community;

(c) The address, including zip code, to which all communications are to be directed;

(d) The date the system provided service to 50 subscribers;

(e) The name of each separate community and area served; and

(f) The television broadcast signals carried.

This information, when received by the Commission, is used primarily as an input for the cable television data base. The name and address are used to send information requests and other notices to the system operator and provide a record of the system's existence if complaints are received concerning its operations.

REGISTRATION AND AUTOMATIC STAY

9. The other type of registration is that used in connection with the addition of most local signals to existing cable television operations. When the cable television rules were adopted in 1972 they provided that no signal could be added until a Certificate of Compliance had first been obtained. It subsequently appeared that this imposed an undue impediment to the addition by existing systems of local signals whose carriage we were attempting to affirmatively encourage (and the carriage of which was in fact generally required). The rules were therefore amended to provide that these signals could be added under a registration procedure.[7] Under this procedure the cable operator simply notified the Commission and the other interested parties listed in § 76.13(f) and (g) of the signal to be added. If no objections were made to such carriage within 30 days then carriage could commence without further Commission action. If an objection was received, carriage could not be commenced until the Commission had ruled on the objection.[8] This type of registration process, in addition to providing the Commission with needed information, is a means of affording public notice of an action proposed and creates a forum for the resolution of any complaint concerning that action prior to its effectuation.

10. Although such automatic stay provisions have been used by the Commission in the past and their legality sustained on review, they are not without certain difficulties.[9] Foremost among them is that an automatic stay provision delegates to private parties that are pursuing private, and not necessarily public, interests substantial power to delay the inauguration of cable service. The possibility of abuse of our processes for anticompetitive or other improper purposes cannot be ignored.

11. Thus, we believe it incumbent upon any person submitting comments in supprt of an automatic stay to propose a mechanism or mechanisms to reduce incentives to abuse such a provision. Obvious possibilities include limiting the class of allegations or objections which would trigger an automatic stay on limiting the duration of such a stay. Again, we do not intend these examples to limit public comment, but we emphasize that we will not risk the automatic stay's danger of delaying service to the public unless we are convinced that means to deter or minimize abuse are securely in hand.

TYPES OF INFORMATION TO BE FILED

12. Either type of registration process, of course, can be varied in terms

[7]Order, FCC 73-1214, 43 FCC 2d 1072 (1973).

[8]This process was similar to the one contained in § 74.1105 of the 1966 rules. See Second Report and Order in Dockets 14895, 15233, and 15971, FCC 66-220, 2 FCC 2d 725 at para. 100 (1966).

[9]The constitutionality of former § 74.1105 with respect to its automatic stay provision was sustained in *Bucks County Cable TV, Inc.* v. *FCC*, 427 F. 2d 438 (3rd Cir. 1970). It should be noted that the procedures there in question did specifically state that the Commission would in such cases "expedite its consideration and promptly issue a ruling." See former § 74.1109(f).

of the amount of information that must be filed. As an illustration, the latter type involving the possibility of objection and automatic stay (or even objection without stay) could be limited simply to information concerning signal carriage. With the filing of information concerning ownership, access channel operations, local franchise, and equal employment opportunity programs, it could be expanded to operate as a forum for resolution of questions concerning these rules. In some respects this is a question of timing and in others it is a question of whether certain information will be filed with the Commission at all. That is, some information such as ownership data is initially filed with a Certificate application and is then updated periodically in the "Annual Report of Cable Television Systems" (form 325). Other information, such as a system's local franchise, is filed only with the initial application and not thereafter.[10] It is our belief that this initial filing should be no more burdensome in terms of the information requested than the annual form 325 filing. However, if we are to continue to receive information relating to local franchises and equal employment opportunity programs, it may be appropriate that this information also be filed with the initial registration rather than subsequently. Specific comment on this question is requested.

WHEN FILINGS SHOULD BE MADE

13. A consideration related to the type of information to be filed is the timing of that filing. One approach is to require only the name and location of the system and the broadcast signals to be carried. If this is the appropriate area of our concern, it suggests that a new or amended registration should be filed only when a system commences operation or there are changes in the broadcast signals carried. The existing process, with its broader focus, requires that an application be filed not only prior to service first being commenced and before the addition of new signals but also specifies that the Certificate granted is only coextensive with the "unamended expiration date of the franchise under which the certificated community unit is operating or will operate." (§ 76.11(d).)[11] While we will not hesitate to require any informational filings necessary to meet our obligations to the public, we have no desire to impose any requirement beyond the minimum necessary to permit us to do so. To be useful to us, comments concerning the events which would occasion filings or the imposition of regular filing intervals must reflect this concern.

CHANGES IN SUBSTANTIVE RULES

14. The procedural changes in the process whereby the cable rules are enforced and new signal carriage offerings reviewed may also require consideration of substantive changes in some of the rules. The signal carriage rules, for example, provide generally that within television markets (major or smaller) distant noncommercial educational television stations may be carried without limit as to number "in the absence of objection * * * by any local noncommercial educational station or State or local educational television authority." (§§ 76.59(c) and 76.61(d).)[12] It may, therefore, be necessary to simply consider the objections of educational authorities through the special relief processes. In other areas the rules are not absolute but require the exercise of some degree of judgment. Such judgments have in the past been reviewed by the Commission through the CAC process. Thus, for example, the signal carriage rules applicable to cable systems in smaller television markets specify that a system may, and upon appropriate request must, carry the signals of:

> Television broadcast stations licensed to other communities *which are generally considered* to be part of the same smaller television market (Example: Burlington, Vt.-Plattsburgh, N.Y. television market) (emphasis added) (§76.59(a)(4)).

Sections 76.59(d)(1) and 76.61(e)(1) permit carriage of any specialty station as that term is defined in § 76.5(kk) of the rules. With respect to which stations meet this definition, it was specifically contemplated when the rules were adopted, that the burden would be on the cable operator in the CAC process to demonstrate that the signal in question came within the definition. Because this involved questions such as whether a particular program is religious in nature, the rule left some matters for resolution in the certification process. Similarly, under § 76.54(b) audience survey information may be submitted for the purpose of establishing that individual signals are significantly viewed and thus subject to carriage. We have employed the CAC process to ascertain whether the survey was undertaken by an "independent professional" survey organization as the rules require and whether the sampling technique employed meets the statistical tolerances specified.

15. In other areas as well, such as those relating to State-Federal relations and the franchise fee limitation of § 76.31, the rules have not been viewed as entirely self-executing. Accordingly, in changing the nature of the review process, it will be necessary either to make sure that the applicable rules are self-executing or to establish alternative procedures for making those judgments previously made in the course of acting on Certificate applications. Comments identifying such rules and suggesting necessary substantive or procedural changes will be helpful.[13]

FORFEITURES AS AN ALTERNATIVE ENFORCEMENT MECHANISM

16. An additional legal issue of some importance is presented by the terms of the forfeiture amendments to the Communications Act that would be the primary alternative enforcement mechanism were the certificate process to be abandoned. The Communications Act amendments provide different procedures for those who hold a "license, permit, certificate, or other authorization issued by the Commission" and those who, while subject to Commission regulations, are not specifically licensed, certified, or authorized. Compare 47 U.S.C. 503(b)(4) and 47 U.S.C. 503(b)(5). Before a forfeiture may be imposed on a person whose operation is not specifically authorized that person must have been sent a citation of the violation charged, been given a reasonable opportunity for a personal interview with an official of the Commission, and have subsequently engaged in the conduct described in the citation. Those who have a closer relationship with the Commission through the licensing process are subject to fines for rule violations, without a prior warning and an opportunity to desist from the violation.

17. We believe that the forfeiture authority provides an adequate enforcement mechanism regardless of whether cable television systems are considered "authorized" or not. Nevertheless, important legal consequences turn on whether a cable system could be termed "authorized" within the

[10] Franchises and franchise changes were, however, filed with form 325 prior to adoption of the certification process. See Third Report and Order in Docket 18397, FCC 71-1035, 32 FCC 2d 13, paragraph 10 (1971).

[11] This rule has been interpreted to require a new application whenever there are franchise changes significant in terms of the Commission's interests. See *Clarification of Rules and Notice of Proposed Rule Making*, FCC 74-384, 46 FCC 2d 175, paragraph 74 (1974).

[12] For a description of the practical operation of these rules, see *Colby-Bates-Bowdoin Educational Telecasting Corporation* v. *FCC*, 534 F 2d 11, 37 RR 2d 192 (1st Cir. 1076) and *Colby-Bates Educational Telecasting Corporation* v. *FCC*, —— F. 2d ——, 42 RR 2d 1084 (1st Cir. 1978).

[13] We emphasize, however, that this is not the proceeding for comments on the Rules generally. We are interested here only in substantive changes that may be necessary as a consequence of new procedural requirements. We do not anticipate, for example, having the pending reconsideration of our *Report and Order in Docket 21002*, fn. 3, *supra*, addresses in these comments other than in this specific context.

meaning of the 1978 Communications Act amendments under a process whereby service may be commenced within 30 days of formal notice being given if no complaint of illegality is received. This is a question on which we welcome comment.

SPECIFIC QUESTIONS FOR COMMENT

18. In sum, we believe the existing Certificate of Compliance process may no longer be justified on a cost/benefit basis. Our inclination is to substitute rules providing for either a simple registration process or, in the alternative, an automatic or semi-automatic system of registration and authorization, but we are not wedded to these proposals. Comments are specifically solicited on:

What public interest purpose, if any, is served by the Commission's obtaining information concerning cable operators' service plans before the fact;

The type of information that should be supplied to the Commission prior to or at the time, for example, a cable system commences operation, adds a new television broadcast signal, or obtains a new or significantly amended local franchise;

Whether the information provided to the Commission should also be directly served on other interested parties such as, for example, the local franchising authority, all television broadcasters in the market (35-mile zone), or all broadcasters with mandatory carriage rights;

Whether a cable operator should be authorized to commence operation or the provision of a new service immediately upon filing the required information or whether the commencement of service should be stayed indefinitely or for a fixed period during which time objections to the proposed service could be reviewed by the Commission;

Whether a standard form should be adopted for use in connection with any registration procedure adopted;

What, if any, changes in the substantive rules should be made as a consequence of the elimination of the Certificate of Compliance forum;

What is the relationship between any change in the process whereby cable operations are "authorized" and the recently amended forfeiture provision of the Communications Act? What is the appropriate mix of enforcement tools that the Commission should retain? What is the most simplified registration process that can be adopted that still constitutes an "authorization" for purposes of imposing forfeitures?

AUTHORITY AND COMMENT FILING PROCEDURES

Authority for the rulemaking proposed herein is contained in sections 1, 2, 3, 4 (i) and (j), 301, 303, 307, 308, 309, and 403 of the Communications Act of 1934, as amended. All interested parties are invited to file written comments on or before August 14, 1978, and reply comments on or before September 1, 1978. In reaching a decision on this matter, we may take into account any other relevant information before us, in addition to the comments invited by this Notice.

In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and five copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission. Participants filing the required copies who also wish each Commissioner to have a personal copy of the comments may file an additional six copies. Members of the general public who wish to express their interest by participating informally in the rulemaking proceeding may do so by submitting one copy of the comments, without regard to form, provided only that the docket number is specified in the heading. Responses will be available for public inspection during regular business hours in the Commission's Docket Reference Room at its headquarters, 1919 M Street NW., Washington, D.C. Further information on the procedures to be followed or on the status of this proceeding may be obtained from James Ewalt, Cable Television Bureau, Federal Communications Commission, 202-632-6468.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-19858 Filed 7-17-78; 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.

[4310-10]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

MEETING

Notice is hereby given in accordance with the Council's Procedures for the Protection of Historic and Cultural Properties (36 CFR part 800) that the regular meeting of the Advisory Council on Historic Preservation will be held on August 2-3, 1978, in Washington, D.C. The entire meeting is open to the public.

The Council was established by the National Historic Preservation Act of 1966 (Pub. L. 89-665, as amended, Pub. L. 94-422) to advise the President and Congress on matters relating to historic preservation and to comment upon Federal, federally assisted and federally licensed undertaking having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Secretaries of the Interior; Housing and Urban Development; Commerce; Treasury; Agriculture; Transportation; State; Defense; Health, Education, and Welfare; and the Smithsonian Institution; the Attorney General; the Administrator, General Services Administration; Chairman of the Council on Environmental Quality; Chairman of the Federal Council on the Arts and Humanities; Architect of the Capitol; Chairman of the National Trust for Historic Preservation; President of the National Conference of State Historic Preservation Officers; and 12 non-Federal members appointed by the President.

The meeting will begin at 9 a.m. on Wednesday and Thursday, August 2-3, 1978, in Room 4830, Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

The agenda for the meeting includes the following:

I. Report of the Chairman.
II. Report of the Executive Director.
III. Report of the General Counsel.
IV. Report of the Director, Office of Special Studies.
V. Report of the Director, Office of Intergovernmental Programs and Planning.
VI. Report of the Office of Review and Compliance.
VII. Other Business.

Additional information concerning either the meeting agenda or the submission of oral and written statements to the Council is available from the Executive Director, Advisory Council on Historic Preservation, Suite 530, 1522 K Street NW., Washington, D.C. 20005, 202-634-4153.

Dated: July 17, 1978.

ROBERT R. GARVEY, Jr.
Executive Director.

[FR Doc. 78-19948 Filed 7-17-78; 8:45 am]

[4310-10]

PUBLIC INFORMATION MEETING

Notice is hereby given in accordance with section 800.5(c) of the Council's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR part 800) that on August 7, 1978, at 7 p.m. a public information meeting will be held at the Springfield Opera House, Springfield, Mass. The purpose of this meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views on the proposed renovation of the Opera House, an undertaking assisted by the Department of Commerce, Economic Development Administration, that will adversely affect the Court Square Historic District, Springfield, Mass., a property in the National Register of Historic Places.

The following is a summary of the agenda of the public information meeting:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.
II. A description of the undertaking and an evaluation of its effects on the property by the Department of Commerce, Economic Development Administration.
III. A statement by the Massachusetts State Historic Preservation Officer.
IV. Statements from local officials, private organizations, and the public on the effects of the undertaking on the property.
V. A general question period.

Speakers should limit their statement to 5 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005, 202-254-3967.

Dated: July 14, 1978.

KEN TAPMAN,
General Counsel.

[FR Doc. 78-19952 Filed 7-17-78; 8:45 am]

[3410-02]

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

GRAIN STANDARDS

Name Change for the Des Moines Grain Exchange

Notice is hereby given that the Des Moines Grain Exchange, Inc., which is designated under section 7(f) of the U.S. Grain Standards Act (7 U.S.C. 79(f)) to operate as an official inspection agency at Des Moines, Iowa, and Iowa Falls, Iowa, is changing its name to Central Iowa Grain Inspection Service, Inc., to be effective July 1, 1978. The change in name does not involve a change in management or ownership.

As a point of clarification, it should be noted that the United States Grain Standards Act (7 U.S.C. 71 et seq.) (Act), has been amended by Pub. L. 94-582, effective November 20, 1976, and by Pub. L. 95-113, effective October 1, 1977, to extensively modify the official inspection system.

The amended Act provides that the Administrator of the Federal Grain Inspection Service (FGIS), after conducting investigations and other studies, will designate official agencies at the various interior points. In implementing these provisions, FGIS is currently in the process of reviewing the designations of all agencies presently designated to provide official inspection services. The amended Act further provides that existing agencies may continue to operate until the Administrator either grants or denies such designation to them or sets a period of time for their termination, not to exceed November 20, 1978.

Therefore, the official inspection agency designation of the Central Iowa Grain Inspection Service, Inc., will continue until the Administrator of FGIS either grants or denies designation to the Central Iowa Grain Inspection Service, Inc., under the amended Act.

(Sec. 4, Pub. L. 94-582, 90 Stat. 2868 (7 U.S.C. 75a); sec. 8, Pub. L. 94-582, 90 Stat.

2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Effective date: July 18, 1978.

Done in Washington, D.C., on: July 12, 1978.

L. E. BARTELT
Administrator.

[FR Doc. 78-19719 Filed 7-17-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Order 78-7-30, Docket No. 30790, etc.]

UNITED STATES-BENELUX LOW-FARE PROCEEDING

Order Consolidating Applications

Issued under delegated authority July 10, 1978. United States-Benelux low-fare proceeding, docket 30790; application of Aeroamerica, Inc., for a certificate of public convenience and necessity, docket 32979; application of American Airlines, Inc., for a certificate of public convenience and necessity, docket 32958; application of Braniff Airways, Inc., for amendment of its certificate of public convenience and necessity for Route 177, docket 32933; application of Capitol International Airways, Inc., for issuance of a certificate of public convenience and necessity, docket 30856; application of DHL Airways, Inc., for a certificate of public convenience and necessity, docket 32956; application of Eastern Air Lines, Inc., for a certificate of public convenience and necessity, docket 32966; application of Evergreen International Airlines, Inc., for a certificate of public convenience and necessity, docket 32960; application of National Airlines, Inc., for a certificate of public convenience and necessity, docket 32582; application of Northwest Airlines, Inc., for a new or amended certificate of public convenience and necessity, docket 32946; application of Overseas National Airways, Inc., for a certificate of public convenience and necessity, docket 32941; application of Pan American World Airways, Inc., for a certificate of public convenience and necessity, docket 32968; application of Seaboard World Airlines, Inc., for a certificate of public convenience and necessity, docket 32185; application of Trans International Airlines, Inc., for a certificate of public convenience and necessity, docket 31010; application of Trans World Airlines, Inc., for amendment of its certificate of public convenience and necessity for Route 147, docket 32971; application of United States International Airline, Inc., for a certificate of public convenience and necessity, docket 32961; application of World Airways, Inc., for a certificate of public convenience and necessity, docket 30930.

Motions have been filed in each of the above dockets to consolidate the applications in those dockets for processing in docket 30790. Since each motion conforms to the geographic scope of the case stated in order 78-6-97, by the terms of that order the Judge has the authority to grant the motions to consolidate.

Accordingly, it is ordered, That the following applications are consolidated for processing in docket 30790: Aeroamerica, Inc., docket 32979; American Airlines, Inc., 32958; Braniff Airways, Inc., docket 32933; Capitol International Airways, Inc., docket 30856; DHL Airways, Inc., docket 32956; Eastern Air Lines, Inc., docket 32966; Evergreen International Airlines, Inc., docket 32960; National Airlines, Inc., docket 32582; Northwest Airlines, Inc., docket 32946; Overseas National Airways, Inc., docket 32941; Pan American World Airways, Inc., docket 32968; Seaboard World Airlines, Inc., docket 32185; Trans International Airlines, Inc., docket 31010; Trans World Airlines, Inc., docket 32971; United States International Airlines, Inc., docket 32961; and World Airways, Inc., docket 30930.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 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 before that date a petition for review thereof 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. 78-19779 Filed 7-17-78; 8:45 am]

[3510-03]

DEPARTMENT OF COMMERCE

Maritime Administration

CONSTRUCTION OF TWO CONTAINERSHIPS OF ABOUT 2,500 TEU, MA DESIGN C9-S-132A

Computation of Foregin Cost

Notice is hereby given of the intent of the Maritime Subsidy Board, pursuant to the provisions of section 501(a) of the Merchant Marine Act, 1936, as amended, to compute the estimated foreign cost of the construction of two containerships of about 2,500 TEU, MA Design C9-S-132a.

Any person, firm or corporation having any interest (within the meaning of section 501(a)) in such computations may file written statements by the close of business on August 30, 1978, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Dated: July 13, 1978.

By Order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-19862 Filed 7-17-78; 8:45 am]

[3510-03]

DRAFT ENVIRONMENTAL IMPACT STATEMENT

Notice of Availability

Notice is hereby given that copies of the U.S. Department of Commerce Draft Environmental Impact Statement on the Maritime Administration Title XI Tank Vessels Engaged in Domestic Trade will be filed with the U.S. Environmental Protection Agency and made available to the public on July 21, 1978. Copies of the statement will be available at the following locations:

Maritime Administration, Office of Public Affairs, Room 3895, Department of Commerce, Washington, D.C. 20230.

Maritime Administration, Eastern Region Office, 26 Federal Plaza, New York, N.Y. 10007.

Maritime Administration, Central Region Office, 701 Loyola Avenue, New Orleans, La. 70152.

Maritime Administration, Great Lakes Region Office, 666 Euclid Avenue, Room 600, Cleveland, Ohio 44114.

Maritime Administration, Western Region Office, 450 Golden Gate Avenue, San Francisco, Calif. 94102.

Any questions concerning the statement should be directed to Dr. Sidney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-377-4335. Persons desiring to file written comments should submit same to Dr. Galler prior to September 21, 1978.

The draft statement entitled, "Maritime Administration Title XI Tank Vessels Engaged in Domestic Trade," refers to the continued and future financing of bulk liquid tank vessels used solely in domestic trade and constructed under title XI of the Merchant Marine Act of 1936 as amended in 1970 (approximately 320 pages).

By order of the Assistant Secretary for Maritime Affairs, Maritime Administration.

Dated: July 12, 1978.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-19861 Filed 7-17-78; 8:45 am]

[3810-71]

DEPARTMENT OF DEFENSE

Department of the Navy

CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on August 3-4, 1978, at the Pentagon, Washington, D.C. Sessions of the meeting will commence at 8:30 a.m. and terminate at 5:30 p.m. on August 3, and will commence at 8:30 a.m. and terminate at 1 p.m. on August 4. All sessions of the meeting will be closed to the public.

The agenda will consist of matters required by Executive order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive order, including discussions of significant intelligence developments, naval force planning, Anti-Submarine Warfare technologies, and nuclear strategy. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Commander Robert B. Vosilus, United States Navy, Executive Secretary of the CNO Executive Panel Advisory Committee, 1401 Wilson Boulevard, Room 405, Arlington, Va. 22209, telephone number 202-694-3191.

Dated: July 13, 1978.

P. A. WILLE,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 78-19860 Filed 7-17-78; 8:45 am]

[3810-70]

Office of the Secretary of Defense

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, September 5, 1978; Tuesday, September 12, 1978; Tuesday, September 19, 1978; and Tuesday, September 26, 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 specification, 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: July 13, 1978.

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

[FR Doc. 78-19708 Filed 7-17-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF HEARINGS AND APPEALS

Week of April 24 through April 28, 1978

Notice is hereby given that during the week of April 24 through April 28, 1978, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

APPEALS

Big Sky Propane, Inc., Billings, Mont., FEA-1467, propane

Big Sky Propane, Inc., appealed from a decision and order denying the firm's request for an exception from 10 CFR 212.93 which would have permitted it to increase its maximum allowable selling prices for propane. In considering Big Sky's appeal, the DOE found that the firm's operations had been considerably less profitable in the fiscal year ended September 30, 1977, than they had been in the prior fiscal year, the year in which Big Sky began its operations. The DOE concluded, however, that despite this decline Big Sky's operations continued to be reasonably profitable. The DOE therefore determined that Big Sky had failed to demonstrate that it was presently experiencing any serious financial hardship. The DOE further found that the decline in profitability that the firm had experienced was due to decreases in its sales volume, which were primarily attributable to conservation measures undertaken by its customers rather than the DOE regulatory program. Accordingly, the Big Sky appeal was denied.

Carter Exploration Co., Corpus Christi, Tex., FRA-1461, crude oil

Carter Exploration Co. (Carter) appealed from a remedial order which was issued to the firm by the Deputy Regional Administrator of Federal Energy Administration Region VI on August 9, 1977. In the remedial order, the Deputy Regional Administrator found that during the period September 1973 through June 1976 Carter had erroneously classified the two wells on the A. Trevino lease as separate properties and as a result had sold crude oil produced from the lease at unlawful price levels. The remedial order therefore directed Carter to refund the overcharges which it realized to the purchaser of the crude oil. In considering the Carter appeal, the DOE noted that the definition of the term "property" which was applicable during the period of the alleged overcharges was based exclusively upon the right to produce crude oil conveyed by the governing oil and gas lease or other instrument. The DOE therefore determined that the explicit language of the property definition generally did not recognize the existences of separate reservoirs, distinct overriding royalty and working interest arrangements and separate ad valorem tax accountability as establishing a basis for separate property treatment. The

DOE also found that contrary to the contentions advanced by Carter, the circumstances surrounding a crude oil production at the Trevino lease are readily distinguishable from the special cases identified in rulings 1977-1 and 1977-2 in which separate property treatment for portions of premises subject to a single right to produce would be permitted. Finally, the DOE found that Carter had failed to establish that the requirement that the firm consider the Trevino lease as a single property would have imposed a serious hardship or would have constituted a gross inequity. On the basis of these considerations, the Carter appeal was denied.

Mountain Fuel Supply Co., Salt Lake City, Utah, DRA-0033, crude oil

Mountain Fuel Supply Co. (Mountain) filed an appeal from a remedial order which FEA Region VIII issued to it on September 16 1977. In the remedial order, the FEA found that during the period September 1, 1973, through December 31, 1974, Mountain had sold crude oil at prices which exceeded the levels specified in 10 CFR 212.73. The remedial order directed Mountain to refund the overcharges plus interest to its customers. In considering the Mountain appeal, the DOE rejected the firm's argument that the definition of "posted price" as originally set forth in 6 CFR 150.352 was promulgated in violation of the Administrative Procedure Act (the APA). The DOE noted that the promulgation of the definition of "posted price" related back to earlier notices of proposed rulemaking and therefore satisfied the 30-day notice provisions of the APA. The DOE further determined that the definition of "posted price" was interpretative rather than substantitive and was therefore not subject to section 553(d) of the APA. The DOE also held that FEA Region VIII had correctly determined the highest May 15, 1973, posted price at Mountain's Dry Piney Field in Sublette, Wyo. The DOE rejected Mountain's assertion that the highest posted price was established in a contract with the Cowboy Oil Co., since that contract was not an offer to purchase crude oil nor was it circulated publicly among sellers and buyers in the field. The DOE also held that it could require the operator of a property to refund overcharges on sales of crude oil made by the other working and royalty interests in the field. Finally, the DOE determined that the remedial order should be modified in order to specify that to the extent Mountain had not actually received excessive amounts billed, it could certify that it credited the accounts of the purchaser involved. In all other respects, the Mountain appeal was denied.

Leo G. Wetherill, Jr., Kansas City, Mo., FRA-1433, crude oil

Leo G. Wetherill, Jr., filed an appeal in which he requested that a remedial order issued to him by FEA Region VII on August 5, 1977, be modified to relieve him of the requirement that he comply with those provisions of the remedial order which pertain to interest payments. In the August 5 remedial order, Region VII determined that Wetherill had incorrectly charged stripper well prices for the crude oil produced from the Smith Estate property, located in Stafford County, Kans. As a result Region VII concluded that Wetherill had overcharged Koch Industries, Inc., the purchaser of the crude oil produced from the property, by $261,742. The remedial order directed Wetherill to refund this amount, plus interest, to Koch. In his appeal Wetherill contended that he should not be required to make interest payments on those overcharges. In considering Wetherill's Appeal, the DOE rejected his contention that the failure of the Congress to provide the FEA with specific authority to levy interest payments evidenced a purposeful exclusion of that authority. Citing *Koch Industries, Inc.*, 2 FEA Par. 80,580 (May 2, 1975), the DOE observed that Congress did provide the FEA with the broad authority to take such action as it deemed necessary to eliminate or to compensate for the effects of a violation. In addition, the DOE rejected Wetherill's argument that the amendments to section 205.195 which explicitly provided the FEA with the authority to impose interest payments were promulgated in violation of the applicable procedural rulemaking requirements. Finally, the DOE concluded that although it does possess the authority to exercise its discretion not to impose an interest payment requirement, Wetherill had not demonstrated that there was any basis for concluding that he should be permitted to have the use of the funds without charge when he received them unlawfully. Accordingly, the Wetherill appeal was denied.

REQUESTS FOR EXCEPTION

W. N. McMurry, Casper, Wyo., DXE-0615, crude oil

W. N. McMurry filed an application for exception from the provisions of 10 CFR, part 212, subpart D. The request, if granted would result in an extension of exception relief previously granted to McMurry and would permit the firm to continue to sell a portion of the crude oil produced from the West Sage Creek Lease, located in Park County, Wyo., at upper tier ceiling prices. *W. N. McMurry*, 1 DOE Par. 81,024 (November 16, 1977). In considering the exception application, the DOE found that McMurry continued to incur increased operating expenses on the West Sage Creek Lease. The DOE also found that in the absence of exception relief the working interest owners would lack an economic incentive to continue to produce crude oil from the property. In view of these determinations and on the basis of the operating data which McMurry had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit McMurry to sell 42.07 percent of the crude oil produced from the West Sage Creek lease for the benefit of the working interest owners at upper tier ceiling prices.

M. J. Mitchell, Dallas, Tex., DXE-0534, crude oil

M. J. Mitchell filed an application for exception from the provisions of 10 CFR, part 212, subpart D. The exception request, if granted, would result in an extension of the exception relief previously granted to Mitchell and would permit him to sell at market prices 100 percent of the crude oil produced from the Pickrel Ranch Minnelusa sand unit in the Pickrel Ranch field, Campbell County, Wyo. (the Unit). *See M. J. Mitchell*, 1 DOE Par. 81, 032 (December 2, 1977), and cases cited therein. In considering the exception request, the DOE found that Mitchell had continued to incur increased operating costs at the unit and that in the absence of continued exception relief Mitchell would lack an economic incentive to continue to produce crude oil from the unit. The DOE also found that permitting Mitchell to sell his share of the crude oil production at upper tier ceiling prices would create an insufficient incentive for continued operation of the unit. In view of this situation and on the basis of the operating data which Mitchell submitted for the most recently completed 6-month period, the DOE concluded that Mitchell should be permitted to sell at market prices 100 percent of the crude oil produced and sold for his benefit from the unit.

Monsanto Co., Houston, Tex., FEE-4152, FEE-4153, crude oil

Monsanto Co. (Monsanto) filed two applications for exception from the provisions of 10 CFR, part 212, subpart D, which, if granted, would permit the firm to charge upper tier ceiling prices for the crude oil to be produced from the Billeaud and Lucia wells which are located respectively in St. Martin and St. Mary's Parish, La. In considering the applications, the DOE determined that the firm would have no economic incentive to perform the well workovers and resume extraction operations in the absence of exception relief, and as a consequence the nation would be deprived of over 117,000 barrels of otherwise recoverable crude oil. In accordance with precedents established in a number of previous Decisions, the DOE determined that exception relief should be approved which would enable Monsanto to attain a 15 percent rate of return on the capital investments at the two wells and thus provide the firm with the economic incentive to undertake the well workovers. Accordingly, in order to attain a 15 percent rate of return on its investments in the two wells, the DOE granted Monsanto exception relief which permits it to sell 11,882 barrels of crude oil produced from the Billeaud well for the benefit of the working interest owners at upper tier ceiling prices and 10,398 barrels of crude oil produced from the Lucia well for the benefit of the working interest owners at upper tier ceiling prices.

Superior Linen & Apparel Services, Inc., Cincinnati, Ohio, DEE-0203, propane

Superior Linen & Apparel Services (Superior) filed an application for exception from the provisions of 10 CFR 211.12(g) which, if granted, would permit Superior to use imported propane to meet its energy requirements. In considering the exception application, the DOE noted that the provisions of section 211.12(g) were not intended to prevent firms such as Superior, which use propane for commercial purposes from obtaining volumes of imported propane. In addition, the DOE found that Superior's access to natural gas supplies would be severely curtailed during the 1977-78 winter season and that as a result, Superior would be compelled to purchase propane to offset this natural gas curtailment. The DOE also observed that although the allocation regulations did not preclude Superior from purchasing surplus supplies of domestic propane, the firm would sustain a significant administrative and financial burden in its efforts to negotiate individual contracts for these domestic supplies. However, the DOE found that Superior could obtain propane in a more efficient manner by participating in a consortium of Cincinnati businesses which had arranged to purchase volumes of im-

ported propane. On the basis of these considerations, the DOE granted Superior an exception from the provisions of 10 CFR 211.12(g) and permitted the firm to utilize the imported propane which it acquires through its participation in the Cincinnati gas consortium.

Yezbick Corp., Troy, Mich., DEE-0389, motor gasoline

The Yezbick Corp. (Yezbick) requested an exception from the provisions of 10 CFR 211.9 which, if granted, would result in the termination of its base period supplier/purchaser relationship with Texaco, Inc. Yezbick alleged that the maintenance of its base period relationship with Texaco created a serious hardship and gross inequity because Texaco was withdrawing from the Detroit, Mich., market area and planning to supply its base period purchaser through substitute suppliers. In considering the Yezbick request, the DOE found that there was no evidence indicating that Texaco was leaving the Detroit market, but that even if Texaco did plan such a withdrawal, that factor alone would not form a proper basis for exception relief becasue 10 CFR 211.25 contemplates that a withdrawal of this type may be necessary under certain circumstances and that regulatory provisions permit a withdrawing firm like Texaco to fulfill its base period supply obligations through arrangements with other suppliers. Therefore, the burden was on Yezdick to affirmatively show that such regulations consituted a serious hardship or gross inequity. The DOE thus determined that Yezbick had presented no data which substantiated its claim that the maintenance of the base period supplier/purchaser relationship with Texaco adversely affected the firm. Accordingly, the DOE denied Yezbick's exception

PETITION FOR SPECIAL REDRESS

Consumer Federation of America, Washington, D.C. DSG-0012, No. 2 (home) heating oil

The Consumer Federation of America (CFA) filed a petition for special redress in which it requested financial assistance in order to enable it to participate in an evidentiary hearing to be held in August 1978 concerning the prices of No. 2 (home) heating oil. In considering the CFA petition, the DOE discussed the general criteria that it has applied in determining whether financial assistance should be provided to consumer representatives, *viz.*, whether public participation is required by statute or is necessary to represent adequately opposing points of view on a matter, and whether the intervenor is indigent or other wise unable to bear the financial costs of participating in the proceedings. In applying these criteria to this case, the DOE found that the issues to be addressed and the conclusions reached in the August 1978 evidentiary hearing would be of major concern to consumers, and that the representation of consumer interests would substantially contribute to a full and fair determination of the complex and important issues to be considered in that proceeding. The DOE further determined that the second criterion had been satisfied since it was highly unlikely that CFA would be able to participate in the hearing unless it received financial assistance. In addition to those two criteria, the DOE concluded that the quality of the contribution which CFA would be able to make to the evidentiary hearing was high and that the type of presentation which CFA planned to make would be extremely valuable. The DOE therefore granted the CFA petition and directed that CFA be reimbursed up to specified maximum amounts for certain of the expenses which it would incur in participating in the evidentiary hearing. Those expenses include out-of-pocket expenses, payments made in retaining economic and financial consultants, and salaries for time spent by CFA employees on this project. The DOE determined, however, that in view of CFA's interest in the subject of the marketing of No. 2 heating oil, at least part of CFA's participation in the hearing was within the scope of its normal responsibility and that it therefore should be required to bear a portion of the salary expenses of its employees. With respect to CFA's request for reimbursement for legal services, the DOE noted that the August 1978 hearing is expected to be a trial-type proceeding in which the assistance of counsel would be extremely helpful. However, the DOE found that CFA had failed to document that the full amount which it requested for legal services would be necessary. In addition, the DOE determined that the hourly fee which CFA proposed be paid to its attorneys was excessive. It therefore determined that it would reimburse CFA for the fees charged by its counsel in accordance with the salaries which the federal government currently pays to attorneys of comparable experience and skill. In accordance with previous Decisions in which it awarded funding to consumer intervenors, the DOE decided to defer the determination as to the amount of compensation to be provided for legal counsel until at least a portion of the services had been performed. However, in view of the size of the expenditures authorized for nonlegal services as well as the likelihood that the request for counsel fees may be very large, the DOE directed CFA to submit monthly invoices and progress reports describing its expenses in detail and the work performed to date during the intervention effort.

REQUEST FOR MODIFICATION AND/OR RESCISSION

Allied Products Corp., Chicago, Ill., DMR-0001, reporting requirements

Allied Products Corp. filed an application for modification of an FEA notice which had been published in the Federal Register on December 16, 1976. That Notice identified Allied as a corporation which had consumed at least 1 trillion Btu's of energy during 1975, and was therefore among the 50 most energy-consumptive firms in SIC Code 22. 41 FR 45977 (December 16, 1976). As a result of the Notice, Allied is required to participate in a reporting program under the provisions of section 375 of the Energy Policy and Conservation Act (EPCA). In considering Allied's request, the DOE found that, although Allied sold three of the six manufacturing facilities which it operates in SIC Code 22, the firm has experienced only a slight reduction in its energy consumption in SIC Code 22 since 1975. The DOE concluded therefore that Allied failed to demonstrate that it had experienced the type of "significantly changed circumstances" which warranted its removal off the list of the 50 most energy-consumptive firms in SIC Code 22. Allied's Application for Modification was therefore denied.

SUPPLEMENTAL ORDERS

Pasco Liquidating Trust, Washington, D.C. DMR-0007, crude oil

On March 25, 1977 the FEA issued a Decision and Order with respect to an Appeal filed by the Pasco liquidating Trust from a previous Decision granting the firm exception relief from its entitlements purchase obligations during its 1975 fiscal year. *Pasco, Inc.*, 5 FEA Par. 80,548 (March 25, 1977). In that Appeal, Pasco had contended that under Special Rule No. 6, the FEA was required to exclude Pasco's operating profits for October and November 1975 in establishing the appropriate level of entitlement exception relief for 1975. In March 25 Decision, the FEA concluded that the operating profits for those 2 months should be included in its review. The DOE subsequently reconsidered this issue and concluded that the FEA erred by including the firm's operating results for October and November 1975. The DOE found that the appropriate level of Pasco's entitlement exception relief for 1975 should have been based upon a comparison of the firm's historical profitability with its actual operating results for the period January 1 through September 30, 1975. The DOE noted, however that the operating results for that period should be based on an accrual rather than a cash method of accounting for entitlements costs in order to achieve a proper matching of entitlements costs with the other revenues and expenses which Pasco incurred during the same period. On the basis of the revised analysis, the DOE determined that Pasco should be permitted to sell $3,336,200 in additional entitlements during May 1978.

Rock Island Refining Corp., Indianapolis, Ind., DMR-0003 crude oil

On June 14, 1977 the FEA issued a Decision and Order with respect to an Appeal filed by the Rock Island Refining Corp. from a previous Decison granting the firm exception relief from its entitlements purchase obligations during its 1975 fiscal year. *Rock Island Refining Corp.*, 6 FEA Par. 80,506 (June 14, 1977). In that Appeal, Rock Island had contended that under Special Rule No. 6, the FEA was required to exclude Rock Island's operating profits for October and November 1975 in establishing the appropriate level of entitlement exception relief for 1975. In the June 14 Decision, the FEA concluded that the operating profits for those 2 months should be included in its review. The DOE subsequently reconsidered this issue and concluded that the FEA erred by including the firm's operating results for October and November 1975. The DOE found that the appropriate level of Rock island's entitlement exception relief for 1975 should have been based upon a comparison of the firm's historical profitability with its actual operating results for the period December 1, 1974, through September 30, 1975. The DOE noted, however, that the operating results for that period should be based on an accrual rather than a cash method of accounting for entitlements costs in order to achieve a proper matching of entitlements costs with the other revenues and expenses which Rock Island incurred during the same period. On the basis of the revised analysis, the DOE determined that Rock Island should be permitted to sell $1,595,586 in additional entitlements during May 1978.

Texaco Inc., Atlanta, Ga., DEX-0046, motor gasoline

On February 17, 1978, the Department of Energy issued a Decision and Order to Texaco, Inc. by whose terms F. E. "Jack" Glover, Inc. was required to file monthly reports with the DOE concerning the pricing practices that the firm followed in its business as a wholesale purchaser-reseller of motor gasoline. Subsequent to the issuance of that Order, Glover informed the DOE that it had canceled the consignment agreement which governed its purchases of motor gasoline from Texaco and effectively severed all contractual relationships between the firms. Glover also informed the DOE that it was no longer in business as a wholesale purchaser-reseller of motor gasoline. Under these circumstances, the DOE determined that the reporting requirements which the DOE imposed by its February 17 Order were no longer appropriate and they should therefore be rescinded.

REQUESTS FOR STAY

Commonwealth Oil Refining Co., Inc., Penuelas, Puerto Rico, DES-0055, crude oil naphtha

The Commonwealth Oil Refining Co., Inc. (Corco) filed an application for stay in which the firm requested that it be permitted to import crude oil and naphtha into Puerto Rico during the current allocation period on a fee-exempt basis pending a final determination on an application for exception which the firm filed on February 15, 1978. In considering the Corco stay request, the DOE observed that, as a result of a hearing held in Puerto Rico on April 26 and 27, 1978, it would be unable to reach a final determination on the Corco exception request prior to May 1, 1978, the beginning of the current allocation period. The DOE also found that Corco is continuing to experience serious financial difficulties and could experience an irreparable injury if it were required to pay license fees beginning May 1. Since Corco does not possess any fee-free allocation for naphtha, the DOE granted this portion of the firm's exception request. However, the DOE also observed that Corco possesses a fee-free allocation for crude oil sufficient to insure that the firm will not pay any license fees on imported crude oil for approximately 6 months. Consequently, the firm's request with respect to crude oil was denied.

Ely Crude Oil Co., Ely, Nev., DES-0053, crude oil

The Ely Crude Oil Co. filed an application for stay of the provisions of 10 CFR 211.67 (the Entitlements Program). Ely's stay was filed in conjunction with an Application for Exception in which the firm sought to remove any entitlements obligation which would otherwise be incurred by any refiner which purchased the crude oil produced by Ely. The request for stay, if granted, would have provided the firm with the exception relief on an interim basis. In considering the Ely stay request, the DOE found that the firm had failed to satisfy any of the criteria set forth in 10 CFR 205.125(b) which govern the evaluation of an Application for Stay. In particular, the DOE determined that the profit margin which Ely had attained under similar relief granted in a prior exception tended to indicate that full amount of entitlement relief requested would be excessive. Consequently, the DOE denied Ely's stay request.

J&W Refining, Inc., Tucker, Tex., DES-1029, crude oil

J&W Refining, Inc. requested that its obligations under 10 CFR 211.67 (the entitlements program) be stayed pending a final determination of an application for exception which the firm had filed. In considering the request, the DOE observed that in view of the agency's ability to adjust J&W's entitlements position on subsequent entitlement notices, the firm could be compensated for any entitlements purchases which it makes in excess of the level which the DOE ultimately determines is appropriate. Under these circumstances and in view of J&W's failure to submit financial material which demonstrated that it could not meet its entitlement purchase obligations, the DOE concluded that J&W had not made a showing that it would be irreparably injured in the absence of the requested stay. The DOE also found that J&W's contention that it would succeed on the merits of its exception request was not supported by the record. The material furnished by J&W indicated that the firm's alleged financial difficulties were not caused by the entitlements program, but resulted instead in part from the firm's own business decision to purchase and modernize the refinery facility which it formerly leased. J&W's stay request was therefore denied.

Mulling & Prichard, New Orleans, La., DRS-0058, crude oil

Mullins & Prichard (Mullins) filed an application for stay of a remedial order which FEA region VI issued to the firm on May 9, 1977. On March 21, 1978, the DOE denied Mullins' Appeal and affirmed the May 9 remedial order in its entirety. *Mullins & Prichard*, 1 DOE Par. 80,229 (March 21, 1978). If the present stay request were granted, the refund provisions of the remedial order would be held in abeyance pending judicial review and an escrow account which Mullins had established would be maintained. In considering the stay, the DOE noted that on a number of prior occasions it had fully considered and rejected contentions similar to those which Mullins intends to raise in its lawsuit. The DOE also found no justification for continuing to deprive consumers of the refunds to which they are entitled for overcharges which occurred more than 3 years ago. The DOE therefore concluded that approval of stay relief would frustrate the compelling public interest of securing timely compliance with DOE regulations. Accordingly, the application for stay was denied.

North Pole Refining, Washington, D.C., DES-0052, crude oil

North Pole Refining (a subsidiary of Earth Resources Co.) requested that certain provisions of 10 CFR 211.67 (the entitlements program) be stayed pending a final determination of an application for exception which the firm had filed. Specifically, North Pole requested that its Alaska refinery be treated as a separate entity from the other refinery owned by North Pole's parent corporation, Earth Resources Co., for purposes of the entitlements program. After considering the firm's submission, the DOE concluded that the firm's stay request was actually a request for interim exception relief of the type sought in its exception applications. The DOE noted that on March 2, 1978, a proposed decision and Order was issued to North Pole which determined that its exception request should be denied. The DOE concluded that North Pole had otherwise failed to make a *prima facie* showing that it satisfied any of the criteria for a stay as set forth in 10 CFR 205.125(b). Accordingly, the North Pole request for stay was denied.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Hearings and Appeals of the Department of Energy has issued proposed decisions and orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exception relief permits the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

Company	Case No.	Plant	Location	Amount of price increase (per gallon)
Allied Chemical Corp.	DXE-0540	Benedum	Upton, Tex	$0.0384
	DXE-0541	Sligo	Bossier Parish, La	.0233
	DXE-0542	Walnut Bend	Grayson, Tex	.0274
Aminoil USA, Inc	DXE-0623	Aline	Alfalfa, Okla	.0473
	DXE-0624	Fox	Carter, Okla	.0116
	DXE-0625	Huntington Beach	Orange, Calif	.0726
	DXE-0626	Inglewood	Los Angeles, Calif	.0814
	DXE-0627	Taloga	Dewey, Okla	.0415
	DXE-0628	Tioga	Williams, N.D.	.0254
Atlantic Richfield Co.	DXE-0668	Bayou Sale	St. Mary Parish, La	.0116
	DXE-0669	Covington	Garfield, Okla	.0231
	DXE-0670	Crane	Crane, Tex	.0285
	DXE-0671	Dayton	Liberty, Tex	.0597
	DXE-0672	Drumright	Creek, Okla	.0302

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS—Continued

Company	Case No.	Plant	Location	Amount of price increase (per gallon)
	DXE-0673	Eldorado	Schleicher, Tex	.0213
	DXE-0674	Fairway	Henderson, Tex	(1)
	DXE-0675	Grand Chenier	Cameron Parish, La	.0120
	DXE-0676	Indian Basin	Eddy, N. Mex	.0084
	DXE-0677	Longview	Gregg, Tex	.0454
	DXE-0678	Midland	Midland, Tex	.0852
	DXE-0679	North Cowden	Ector, Tex	.0120
	DXE-0680	Nueces River	Live Oak, Tex	.0190
	DXE-0681	Price	Rusk, Tex	.0468
	DXE-0682	Refugio	Refugio, Tex	.0100
	DXE-0683	Seminole	Seminole, Okla	.0432
	DXE-0684	Spivey	Kingman, Kans	.0278
	DXE-0685	Swanson River	Kenai District, Alaska	.0266
Cabot Corp	DXE-0535	Beaver	Beaver, Okla	.0179
	DXE-0536	Estes	Ward, Tex	.0239
Champlin Petroleum Co	DXE-0629	Witcher	Oklahoma, Okla	.0354
Continental Oil Co	DXE-0630	Acadia	Acadia Parish, La	.0849
	DXE-0631	Burnell-North Pettus	Karnes, Tex	.0759
	DXE-0632	Edmond	Edmond, Okla	.0173
	DXE-0633	Hamlin	Jones, Tex	.0125
	DXE-0634	Maljamar	Lea, N. Mex	.0182
	DXE-0635	North Cowden	Ector, Tex	.0197
	DXE-0636	North Okarche	Kingfisher, Okla	.0155
	DXE-0637	Rincon	Starr, Tex	.0456
	DXE-0638	Sussex	Johnson, Wyo	.0772
	DXE-0639	West Seminole	Gaines, Tex	.0269
	DXE-0640	West World	Reagan, Tex	.0645
Delta Drilling Co	DXE-0862	Etexas	Smith, Tex	.0839
Diamond Shamrock Corp	DXE-0641	McKee	Moore, Tex	.0164
Doric Petroleum, Inc	DXE-0457	Enid	Garfield County, Okla	.0060
General Crude	DXE-0687	Salt Creek	Kent, Tex	.05528
Continental Oil Co	DXE-0630	Acadia	Acadia Parish, La	.0849
	DXE-0631	Burnell-North Pettus	Karnes, Tex	.0759
	DXE-0632	Edmond	Edmond, Okla	.0173
	DXE-0633	Hamlin	Jones, Tex	.0125
	DXE-0634	Maljamar	Lea, N. Mex	.0182
	DXE-0635	North Cowden	Ector, Tex	.0197
	DXE-0636	North Okarche	Kingfisher, Okla	.0155
	DXE-0637	Rincon	Starr, Tex	.0456
	DXE-0638	Sussex	Johnson, Wyo	.0772
	DXE-0639	West Seminole	Gaines, Tex	.0269
	DXE-0640	West World	Reagan, Tex	.0645
Delta Drilling Co	DXE-0862	Etexas	Smith, Tex	.0839
Diamond Shamrock Corp	DXE-0641	McKee	Moore, Tex	.0164
Doric Petroleum, Inc	DXE-0457	Enid	Garfield County, Okla	.0060
General Crude	DXE-0687	Salt Creek	Kent, Tex	.05528
Kerr-McGee Corp	DXE-0547	Beaver	Beaver, Okla	.0117
	DXE-0548	Beaver Creek	Fremont, Wyo	.0308
	DXE-0549	Maysville	Garvin, Okla	.0142
	DXE-0550	Pampa	Gray, Tex	.0268
McCulloch Gas Processing Corp	DXE-0537	Belle Fourche	Butte, S.D	.0988
	DXE-0538	Gillette	Campbell, Wyo	.0505
	DXE-0539	Oedekoven	do	.0927
Mobil Oil Corp	DXE-0701	Phillips Bradley	Garvin, Okla	.0262
	DXE-0702	Burnell-North Pettus	Bee, Tex	.0555
	DXE-0703	Cameron	Cameron Parish, La	.0074
	DXE-0704	Chitwood	Grady, Okla	.0201
	DXE-0705	Delhi	Richland Parish, La	(1)
	DXE-0706	Desdemona	Eastland, Tex	.0434
	DXE-0707	Dollarhide	Andrews, Tex	.0148
	DXE-0708	Electra	Wilborgen, Tex	.0153
	DXE-0709	Hickok	Grant, Kans	.0299
	DXE-0710	Indian Basin	Eddy, N. Mex	.0073
	DXE-0711	Iowa	Jeff Davis Parish, La	.0057
	DXE-0712	Kermit	Winkler, Tex	.0154
Do	DXE-0713	Kettleman-North Dome	Kings, Calif	.0418
	DXE-0714	La Gloria	Jim Wells, Tex	(1)
	DXE-0715	Levelland	Hockley, Tex	.0058
	DXE-0716	Lisbon	San Juan, Utah	.0071
	DXE-0717	Nueces River	Live Oak, Tex	.0146
	DXE-0718	Pegasus	Midland, Tex	.0113
	DXE-0719	Rio Bravo	Kern, Calif	.0872
	DXE-0720	Seeligson	Jim Wells, Tex	(1)
	DXE-0721	Sholem Alechem	Stephens, Okla	.0184
	DXE-0722	Slaughter	Hockley, Tex	.0104
	DXE-0723	South Serepta	Bossier Parish, La	.0102
	DXE-0724	Spivey	Hayer, Kans	.0308
	DXE-0725	West Seminole	Gaines, Tex	.0137
Mustang Fuel Corp	DXE-0526	Calumet	Canadian, Okla	.07051
National Helium Corp	DXE-0515	Liberal	Seward County, Kans	.0201
Standard Oil Co. of California	DXE-0459	Gaviota	Santa Barbara, Calif	.3746
	DXE-0460	Cymric	Kern, Calif	.0496
	DXE-0461	Greeley System	do	.0597
	DXE-0462	Huntington Beach	Orange, Calif	.0823
	DXE-0464	Inglewood	Los Angeles, Calif	.0071
	DXE-0465	Kermit	Winkler, Tex	.0140
	DXE-0466	Lapeyrouse	Terrebonne Parish, La	.0504

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS—Continued

Company	Case No.	Plant	Location	Amount of price increase (per gallon)
	DXE-0467	Lisbon Valley	San Juan, Utah	.0124
	DXE-0468	Marathon SCLU	Kern, Calif	.0264
	DXE-0469	McKittrick	....do	.0110
	DXE-0470	Murphy Coyote	Los Angeles, Calif	.0097
	DXE-0472	Red Wash	Uintah, Utah	.0431
	DXE-0473	Reserve-North Tejon	Kern, Calif	.0653
	DXE-0475	Swanson River	Kenai, Alaska	.0274
	DXE-0477	Wilson Creek	Rio Blanco, Colo	[1]
	DXE-0478	32-Z	Kern, Calif	.1497
Sun Co., Inc	DXE-0896	Elmwood	Beaver, Okla	.0180
Do	DXE-0850	Bayou Sale	St. Mary Parish, La	.0317
	DXE-0851	Luby	Nueces, Tex	[1]
	DXE-0852	Mermentau	Acadia Parish, La	.0375
	DXE-0853	Red Fish Bay	San Patricio, Tex	.0144
	DXE-0914	Belle Isle	St. Mary Parish, La	.0169
	DXE-0915	Canales	Nueces, Tex	.0191
	DXE-0916	Fordoche	Pointe Coupee Parish, La	.0227
	DXE-0917	Newhall	Los Angeles, Calif	.0237
	DXE-0918	Spivey	Harper, Kans	.0377
	DXE-0919	Tonkawa	Kay, Okla	.1102
	DXE-0920	Wakita	Grant, Okla	.0312
	DXE-0941	Peoria	Arapahoe, Colo	.0175
	DXE-0942	Sun	Starr, Tex	.0153
	DXE-0943	Victoria	Victoria, Tex	.0293
The Superior Oil Co	DXE-0399	Cymric	Kern County, Calif	.0462
	DXE-0400	Kettleman Hills	Kings County, Calif	.0370
	DXE-0401	Levelland	Cochran and Hockley Counties, Tex.	.0161
	DXE-0402	Portilla	San Patricio County, Tex.	[1]
	DXE-0403	Rio Bravo	Kern County, Calif	[1]
	DXE-0404	TXL	Ector County, Tex	.0080
	DXE-0405	West Seminole	Gaines County, Tex	.0185
Union Oil Co. of California	DXE-0759	Bakke	Andrews, Tex	.0097
	DXE-0760	Bell	Los Angeles, Calif	.1240
	DXE-0761	Bryans Mill	Cass, Tex	.0779
	DXE-0762	Caddo	Carter, Okla	.0142
	DXE-0763	Camrick	Beaver, Okla	.0218
	DXE-0764	Coalinga	Fresno, Calif	.0115
	DXE-0765	Como	Hopkins, Tex	.1098
	DXE-0766	Cotton Valley	Webster Parish, La	.0137
	DXE-0767	Dollarhide	Andrews, Tex	.0194
	DXE-0768	Gillette	Campbell, Wyo	.0384
	DXE-0769	Houma	Terrebonne Parish, La	.0088
	DXE-0770	Kettleman Hills	Kings, Calif	.0510
	DXE-0771	Lisbon	San Juan, Utah	.0155
	DXE-0772	Mermentau	Acadia Parish, La	.0224
	DXE-0773	North Okarche	Kingfisher, Okla	.0238
	DXE-0774	Putnam Oswego	Dewey, Okla	.0264
	DXE-0775	Santa Maria Valley	Santa Barbara, Calif	.0526
	DXE-0776	Stearns	Orange, Calif	.0284
	DXE-0777	Timbalier Bay	Terrebonne Parish, La	.0134
	DXE-0778	Van	Van Zandt, Tex	.0211
	DXE-0779	Worland	Washakie, Wyo	.0349

[1]Denied.

DISMISSAL

The following submission was dismissed for failure to correct deficiencies in the firm's filing as required by the DOE Procedural Regulations:

Ladd Petroleum Corp. Denver, Colo. DEE-0903

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, DC 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: July 10, 1978.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

[FR Doc. 78-19689 Filed 7-17-78; 8:45 am]

[3128-01]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF HEARINGS AND APPEALS

Week of May 8 Through May 12, 1978

Notice is hereby given that during the week of May 8 through May 12, 1978, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

APPEALS

Mo-Tex Petroleum, Inc., Portageville, Mo., DRA-0027, motor gasoline, diesel fuel

Mo-Tex Petroleum, Inc. filed an appeal from a remedial order which the Acting Director of Enforcement of DOE Region VII issued to the firm on October 14, 1977. In the remedial order, the Acting Director of Enforcement found that during the period November 1, 1973 through November 30, 1974, Mo-Tex sold diesel fuel and motor gasoline at prices which were in excess of the maximum permissible prices specified in 6 CFR 150.359 and 10 CFR 212.93. In considering the Mo-Tex appeal, the DOE determined that despite repeated requests the firm had failed to provide information necessary for a decision on the appeal. The DOE further found that Mo-Tex had not shown good cause for its failure to submit the information necessary to consider the appeal. The DOE therefore dismissed the appeal with prejudice pursuant to the provisions of 10 CFR 205.106(a)(2).

Modernistic Gas Service, Inc., Dayton, Ohio, DRA-0100, propane

Modernistic Gas Service, Inc. (Modernistic) filed an appeal from a remedial order which the Director of Enforcement of DOE Region V issued to the firm on December 19, 1977. In that remedial order, the Region V Office found that during the period November 1, 1973 through September 30, 1975, Modernistic and its predecessor had sold propane at prices which were in excess of the maximum permissible prices specified in 6 CFR 150.359 and 10 CFR 212.93. The remedial order directed Modernistic to make refunds through a combination of price reductions and credit memoranda. In its appeal, Modernistic claimed that the DOE improperly held the firm responsible for the repayment of overcharges which were attributable to the operations of Modernistic's predecessor, Modernistic Gas & Appliance Co. In considering the appeal, the DOE found that Modernistic was owned by the same family that had owned the Modernistic Gas & Appliance Co. In addition, the DOE found that Modernistic had acquired all of its predecessor's assets, records and customers. The DOE therefore rejected Modernistic's contention that it should not be held responsible for overcharges which occurred prior to its formal incorporation. Accordingly, the appeal was denied.

Sierra Club, Washington, D.C., DFA-0169, freedom of information

The Sierra Club appealed from a partial denial by the DOE information access officer of a request for information which the firm had submitted under the Freedom of Information Act (the FOIA). In its initial request, the Sierra Club sought a copy of a letter which was written to the President by the Special Assistant to the Secretary. The information access officer released portions of the requested letter but withheld the remainder of the document on the ground that it was exempt from mandatory disclosure as an interagency memorandum under exemption 5 of the FOIA, 5 U.S.C. 552 (b)(5). In considering the Sierra Club appeal, the DOE found that the portions of the letter which had been withheld contained the opinions and recommendations of its author concerning whether the construction of a particular nuclear powerplant was necessary. The DOE determined that this material was predecisional in nature and contained the type of information which exemption 5 was designed to protect from public disclosure. The DOE therefore concluded that the information access officer had properly withheld that information. However, the DOE determined that one sentence was factual and had been erroneously withheld by the information access officer. Accordingly, the appeal was granted in part.

Southwestern Exploration Consultants, Inc., Oklahoma City, Okla., DRA-0093, crude oil

Southwestern Exploration Consultants, Inc., filed an appeal from a remedial order which DOE Region VI issued to the firm on December 19, 1977. In the remedial order, the Region VI Office found that during the period January 1974 through June 1976 Southwestern had improperly sold crude oil at prices which were in excess of the lower tier ceiling prices. The remedial order directed Southwestern to make refunds to its purchasers through prospective price reductions. In its appeal, Southwestern contended that the application of 10 CFR 212.73 to one of its properties was grossly inequitable. In considering this aspect of the Southwestern appeal, the DOE concluded that the firm's contention should be raised in an application for exception rather than in an appeal from a remedial order. With respect to a second property, Southwestern contended that a single well had produced crude oil from two separate formations and should therefore have been considered as two separate wells in calculating the average daily production for purposes of determining possible stripper well status for the property. In considering this contention, the DOE noted that ruling 1975-12 provides that a single well will be considered as two separate wells only if it consists of separate tubing strings. Since the well on the property in question included only one tubing string, the DOE held that it did not qualify for the stripper well exemption. Finally, Southwestern contended that DOE Region VI had erroneously found that a third lease was one "property" as defined in 10 CFR 212.72 since the two wells on the lease had separate working interest ownership arrangements and separate production and storage facilities. The DOE concluded, however, that the application of the property concept in the remedial order was consistent with the provisions of ruling 1977-1. Accordingly, the Southwestern appeal was denied.

REQUESTS FOR EXCEPTION

Marshall R. Young Oil Co., Midland, Tex., FEE-4803, crude oil

Marshall R. Young Oil Co., filed an application for exception from the provisions of 10 CFR, part 212, subpart D, which, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil which it would produce after making certain repairs to a well located on the Sawyer lease in Terry County, Tex. In considering the Young request, the DOE determined that a substantial investment would be necessary to rework the well in order to resume crude oil production. The DOE further determined that Young's production estimates indicated that the required investment would be uneconomic if the crude oil produced from the lease had to be sold at lower tier ceiling prices. In addition, the DOE determined that a substantial quantity of crude oil would not be recovered if the well were not repaired. On the basis of these findings, the DOE determined that an exception should be granted to Young which would provide the firm with a sufficient economic incentive to undertake the capital investment. Accordingly, Young was permitted to sell at upper tier ceiling prices 85.5 percent of the crude oil produced from the Sawyer lease and sold for the benefit of the working interest owners.

Mid-Michigan Truck Service, Inc., Grand Rapids, Mich., DXE-0155, motor gasoline

On July 5, 1977, the Federal Energy Administration issued a supplemental order to Mid-Michigan Truck Service, Inc. in which it approved an extension of exception relief previously granted to the firm. *Mid-Michigan Truck Service, Inc.*, 6 FEA Par. 87,012 (July 5, 1977). In that order, the FEA directed Gulf Oil Corp. to supply Mid-Michigan with its base period use of petroleum products directly rather than through a substitute supplier. Based upon data submitted by Mid-Michigan in its present request and upon the recommendation of the Regional Administrator of FEA Region V, the DOE determined that Mid-Michigan would experience a serious hardship in the absence of continued exception relief. Accordingly, an extension of exception relief was approved through June 30, 1978.

Meason Operating Co., Jackson, Miss., DXE-0946, crude oil

Meason Operating Co. filed an application for exception from the provisions of 10 CFR, part 212, subpart D. The exception request, if granted, would result in an extension of the exception relief previously granted to Meason and would permit the firm to continue to sell at upper tier ceiling prices the crude oil produced from the Arnold Perry lease well No. 1 located in Wilkinson County, Miss. (the Perry lease). *Meason Operating Co.*, 1 DOE Par. 81,038 (December 14, 1977). In considering the Meason request, the DOE determined that the firm had continued to incur increased operating costs and that in the absence of continued exception relief it would lack an economic incentive to produce crude oil from the Perry lease. In view of this situation and on the basis of the operating data which Meason presented for the previous 6 months, the DOE permitted the working interest owners to continue to sell at upper tier ceiling prices all of the crude oil produced for their benefit from the Perry lease.

PETITION FOR SPECIAL REDRESS

Powerine Oil Co., Santa Fe Springs, Calif., FSG-0048, refined petroleum products

Powerine Oil Co. filed a petition for special redress in which it requested that it be relieved of the obligation to respond to a special report order which FEA Region IX issued to the firm on February 17, 1977. In connection with its petition, Powerine also directed a set of interrogatories to the FEA asking it to describe situations in which it had requested other firms to submit information similar to that sought in the February 17 order. The DOE denied Powerine's request for information on the ground that it had failed to demonstrate that the information sought was material to its petition for special redress. In considering the petition itself, the DOE found that the FEA had not erred in issuing a special report order to Powerine subsequent to a notice of probable violation. The DOE also determined that requiring Powerine to comply with the special report order would not constitute a denial of due process since the firm would have a full opportunity to contest the application of the pricing regulations if enforcement action were subsequently taken. In considering Powerine's further contention that the special report order was improper because it essentially directed the firm to audit its own operations, the DOE held that the special report order did not exceed the agency's authority to gather information. The DOE also found that Powerine had failed to demonstrate that compliance with the special report order would cause the firm to suffer a serious financial hardship. The DOE further concluded that there was no support for Powerine's claim that the special report order infringed the fifth amendment privilege against self-incrimination. In this regard, the DOE noted that the privilege against self-incrimination does not encompass corporate books and records in the custody of a corporate officer, and that, in addition, the special report order which was issued to Powerine did not require that the requested information be provided by an officer of the firm. However, the DOE amended the special report order to relieve Powerine of the requirement that it calculate and report overcharges, noting that the DOE should make the ultimate determination as to whether overcharges had occurred. The Powerine petition for special redress was accordingly denied except as noted above.

REQUESTS FOR STAY

Buck's Butane & Propane Service, Inc., San Jose, Calif., DRS-0173, propane

Buck's Butane & Propane Service, Inc. filed an application for stay of a revised remedial order which the Director of Enforcement of DOE Region IX issued to the firm on March 21, 1978. The revised remedial order related to a remedial order which was initially issued to Buck's on April 21, 1977. In considering the present application for stay, the DOE found that the same considerations which had previously led it to grant a stay of the provisions of the April 21, 1977 remedial order were applicable to the present stay request. Accordingly, the Buck's application for stay was granted.

New England Petroleum Corp., New York, N.Y. DES-0861, petroleum products

New England Petroleum Corp. (NEPCO) filed an application for stay of the provisions of 10 CFR 211.67 (the entitlements program) and 10 CFR, part 213, pending a determination of an application for exception which the firm had filed. The stay, if granted, would allow NEPCO to receive additional entitlements for residual fuel oil and other petroleum products that it imports into the east coast market. In addition, NEPCO would be permitted to import finished products at a net license fee equal to the fee for crude oil. In considering the request for stay, the DOE noted that the firm had in effect requested an interim exception and that under applicable precedents NEPCO was required to make a very strong showing that stay relief was appropriate. The DOE concluded that NEPCO had failed to demonstrate that in the absence of stay relief it would be unable to continue its essential operations during the period of time required to reach a determination on the merits of its exception request and that NEPCO had failed to demonstrate a substantial likelihood of success on the merits of its application for exception. The NEPCO application for stay was accordingly denied.

MOTIONS FOR EVIDENTIARY HEARING

International Retail Corp., Baltimore, MD., DEH-0003, motor gasoline

International Retail Corp. (IRC) filed a motion for evidentiary hearing in connection with a statement of objections to a proposed decision and order which the DOE issued to the firm on Janurary 13, 1978. In considering the IRC motion, the DOE concluded that an evidentiary hearing should be convened in order to provide the firm an opportunity to present evidence that Texaco, Inc., had attempted to inhibit competition in the bidding for an operations contract at the West Service Station located on the Delaware Turnpike and that subsequent to the award of the operating contract to IRC, Texaco had stated that it would refuse to supply petroleum products to the station. The DOE dismissed without prejudice IRC's motions with respect to its positions that IRC would likely be forced to resume a supply relationship with Texaco at the West Service Station and that IRC would incur a serious financial hardship if such a relationship were resumed. The DOE found that IRC would have a sufficient opportunity to support its latter positions through the submission of documentary evidence.

Union Oil Co., Los Angeles, Calif., DEH-0002, residual fuel oil; heating oil

Union Oil Co. filed a motion for evidentiary hearing in which it requested that an evidentiary hearing be held in connection with the consideration of the firm's statement of objections to a proposed decision and order issued to the firm on Janurary 30, 1978. In its motion, Union requested that it be permitted to elicit factual evidence concerning the extent to which the provisions of 10 CFR 211.67(a)(3) and special rule No. 8 had increased its entitlement obligations. In considering the request, the DOE concluded that the facts which Union wished to establish were irrelevant to the firm's position in its statement of objections that the two regulatory programs are unconstitutional. Accordingly, Union's request for an evidentiary hearing was denied.

MOTION FOR DISCOVERY

J. N. Abel, Austin, Tex., DRD-0077, crude oil

J. N. Abel filed a motion for discovery in connection with an appeal from a remedial order which she had filed. In her motion, Abel requested that she be permitted to direct two interrogatories to the Office of Enforcement of the Economic Regulatory Administration concerning the DOE's use of prices posted after May 15, 1973, in determining lower tier ceiling prices. In considering the Abel motion, the DOE observed that it had recently amended its procedural regulations to permit discovery if a party can demonstrate that discovery is necessary to obtain relevant and material evidence and that discovery will not cause undue delay. In the present case, the DOE found that the evidence which Abel sought might be relevant and material to the contentions that she raised in her Appeal from the remedial order. The DOE further found that Abel could not herself obtain the information and that DOE personnel could readily respond to the interrogatories. Accordingly, the motion for discovery was granted.

SUPPLEMENTAL ORDER

New England Petroleum Corp., New York, N.Y., DEX-0073, residual fuel oil

On April 26, 1978, the United States District Court for the Southern District of New York entered a judgment and order which directed the DOE to grant New England Petroleum Corp. (NEPCO) exception relief from the old oil entitlements program for the months of December 1975 and January 1976. *New England Petroleum Corporation v. Federal Energy Administration and Exxon Corporation*, 75 Civ. 6011 (S.D.N.Y., April 26, 1978). In accordance with the terms of the court order, the DOE issued a supplemental order which directed that the entitlement list published during May 1978 contain an adjustment permitting NEPCO to receive additional entitlement benefits equal in value to $6,612,012.35.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Caribou Four Corners, Inc., Farmington, N. Mex., DEE-1073

Horne Products, Inc., Americus, Ga., FEE-4386

Pyrofax Gas Corp., Houston, Tex., DRO-0023

Terry Oil Co., Commerce, Calif., DEE-0900

The following submission was dismissed on the grounds that alternative regulatory procedures existed under which relief might be obtained:

J & W Refining, Inc., Dallas, Tex., DSG-0016

The following submission was dismissed on the grounds that no basis exists under which the request may be filed:

Harpel Petroleum Corp., Casper, Wyo., DES-0973

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Firday, be-

tween the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

JULY 10, 1978.

[FR Doc. 78-19688 Filed 7-17-78; 8:45 am

[3128-01]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF HEARINGS AND APPEALS

Week of May 15 through May 19, 1978

Notice is hereby given that during the week of May 15 through May 19, 1978, the decisions and order summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the office of Hearings and Appeals and the basis for the dismissal.

APPEALS

Bredfeldt Oil Co., Dodge City, Kans., DRX-0074, propane

Bredfeldt Oil Co. filed and appeal from a remedial order which the Acting Director for Enforcement of DOE Region VII issued to the firm on November 4, 1977. In the remedial order, Bredfeldt was directed to refund the revenues which it received as the result of charging prices in excess of the maximum allowable prices. In its appeal, Bredfeldt admitted that it had charged prices in excess of maximum permissible levels, but contended that its voluntary reduction in propane prices subsequent to the period during which the overcharges occurred should be allowed as an offset to reduce the amount of required refunds. However, the DOE found no evidence that Bredfeldt had in fact reduced its prices below the prevailing market prices solely for the purpose of making restitution for prior overcharges. Consequently, the Bredfeldt appeal was denied.

Funding Systems, Corp., et al., Crystal Oil Co., Washington, D.C., DEA-0144; DEA-0127, petroleum products

Funding systems Corp., along with two affiliated companies, and the Crystal Oil Co. filed appeals from a June 17, 1977, decision and order in which the FEA Office of Regulatory Programs determined that funding did not qualify as a "refiner" under 10 CFR 211.62 and therefore was not eligible to participate in the old oil entitlements program with respect to the Adobe refinery in La Blanca, Tex. The FEA determination held that Crystal, rather than Funding, must report the operations of the Adobe refinery for the purpose of the entitlement program. After considering the appeals, the DOE affirmed the FEA's finding that Crystal should continue to be treated as the refiner for purposes of the entitlements program on the basis that few material changes has occurred with respect to the operation of the refinery following the purchase and sale transaction. Although Funding held legal title to the refinery, the DOE found that Crystal Continued to operate the refinery and bore the economic risks involved, as well as the responsibility for marketing the refined products produced as the Adobe facility. In addition, although the DOE found that the sales agreement was a legally binding document, the record indicated that Funding had entered into the transaction solely for tax purposes. Under these circumstances, the agency held that the certification requested by Funding was not warranted, especially where a significant increase in entitlement benefits would occur under the small refiner bias of section 211.67(e). The DOE also rejected the parties' contention that the FEA had applied more stringent standards in evaluating Funding's application for certification than it had previously applied in considering similar requests. Therefore, the DOE denied the Appeals.

Shell Oil Co., Houston, Tex., DEA-0141, aviation fuels

Shell Oil Co. filed an appeal from an assignment order issued by DOE Region I to Cheshire Airways, Inc., on December 23, 1977, which denied Cheshire's request for a base period assignment of kerosene-base jet fuel. Shell's appeal, if granted, would rescind the December 23 order. In considering the appeal, the DOE found that kerosene-base jet fuel and aviation gasoline were distinct products for purposes of the mandatory petroleum allocation regulations. In view of this determination, the DOE concluded that the December 23 order erred in finding that Cheshire's purchases of aviation gasoline from Shell had resulted in the establishment of a base period supplier/purchaser relationship for jet fuel. The DOE therefore granted the Shell appeal and rescinded the December 23 order.

REQUESTS FOR EXCEPTION

Clark Equipment Co., Buchanan, Mich., DEE-0854, reporting requirements

Clark Equipment Co. filed an application for modification in connection with a notice which the FEA had published in the FEDERAL REGISTER on December 16, 1976. That notice identified Clark as a corporation which consumed at least 1 trillion Btu's of energy during 1975. The firm was therefore listed among the 50 most energy-consumptive firms in SIC Code 37 and was required to participate in a reporting program under section 375 of the Energy Policy and Conservation Act (EPCA). Approval of the request for modification would relieve Clark of the obligation to report its annual energy use in that SIC Code category. In considering the request, the DOE found that Clark had terminated certain of its production activities in SIC Code 37 and also found that, as a result, the firm's 1978 energy consumption in that SIC Code category would amount to only 10 percent of its 1975 energy use and that the level of energy consumption was substantially less than the amount of energy consumed in 1975 by any other firm reporting in SIC Code 37. In addition, the DOE found that Clark's sales revenues for its SIC Code 37 operations during the firm's 1978 fiscal year would be reduced by approximately 35 percent as a result of the termination of those production activities. The DOE concluded that Clark had experienced "significantly changed circumstances" and accordingly granted the request for modification, thereby relieving the firm of the obligation to report energy consumption data to the DOE under the provisions of section 375 of the EPCA.

Maurice L. Brown Co., Kansas City, Mo., FEE-4455, crude oil

The Maurice L. Brown Co. filed an application for exception from the provisions of 10 CFR, part 212, subpart D which, if granted, would permit the firm to sell the crude oil produced from the Midwest Federal lease located in Lea County, N. Mex., at upper tier ceiling prices. In considering the exception application, the DOE found that the cost of producing crude oil from the Midwest Federal lease had increased to a level where those costs exceeded the revenues which the firm could realize from the sale of crude oil at the lower tier ceiling price. The DOE found that, under these circumstances, Brown did not have an incentive to continue producing crude oil from the Midwest Federal lease. The DOE also found that in the absence of exception relief, the crude oil would not be recovered by any other firm and concluded that the application of the lower tier ceiling price rule resulted in a gross inequity to Brown. On the basis of the operating data which the firm submitted, the DOE had issued a proposed decision and order in which it set forth the basis for its tentative determination to grant exception relief which would permit Brown to sell at upper tier ceiling prices all of the crude oil produced and sold from the Midwest Federal lease for the benefit of the working interest owners during the period from January 17 to June 30, 1978.

In a statement of objections which it filed to the proposed decision and order Brown maintained that exception relief should be granted from the date of filing of its exception request, on the grounds that undue administrative delay had occurred in processing its application. In rejecting the firm's position, the DOE found that any delay in processing the request resulted directly from the firm's failure to promptly submit requested information necessary to analyze the application. The DOE therefore issued the proposed order in final form, establishing the date of the proposed decision, January 17, 1978, as the effective date for the exception relief.

Maurice L. Brown, Co., Kansas City, Mo., FEE-4402, crude oil

The Maurice L. Brown Co. filed an application for exception from the provisions of 10 CFR, part 212, subpart D which, if granted, would permit Brown to sell at upper tier ceiling prices all of the crude oil which its produces from the No. 2 well on the option 694 lease in Roosevelt County, N. Mex. On October 21, 1977, the DOE issued a proposed decision and order to Brown in which it set forth its tentative determinations that substantial capital investment was necessary in order to maintain production from the No. 2 well and that the investment would be uneconomical if the crude oil subsequently produced were sold at lower tier ceiling prices. Accordingly, the DOE proposed to permit Brown to sell 33.5 percent of the crude oil produced for the benefit of the working interest of the No. 2 well at upper tier ceiling prices. The level of relief was designed to permit Brown to recover its investment and in addition to realize a 15

percent pretax internal rate of return on that investment. In a statement of objections to the proposed decision and order, Brown contended that a 15 percent rate of return was insufficient to induce the firm to make the necessary capital investment. In considering this contention, the DOE noted that Brown had failed to present substantial evidence to support its position. The DOE also rejected Brown's contention that the agency erred in excluding certain costs incurred by the firm at the No. 2 well in arriving at the appropriate level of exception relief. In this regard, the DOE noted that exception relief granted to crude oil producers is not designed to permit the full recovery of all costs incurred, but is instead designed to provide an incentive for continued crude oil production activities. Therefore, the DOE affirmed the findings reached in the proposed decision and order and directed that issuance of that determination in final form.

Monsanto Co., Houston, Tex., DXE-0481; DXE-0482, crude oil

Montanto Co. filed an application for exception from the provisions of 10 CFR, part 212, subpart D which, if granted, would permit the firm to continue to sell a portion of the crude oil produced from the Milo No. 1 well in Williams County, N.D. and the State 16 well in Sheridan County, Mont., at upper tier ceiling prices. In considering the exception request, the DOE found that Monsanto continued to incur increased operating expenses at the two wells and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue to produce crude oil from the property. The DOE also found that the crude oil would not be recovered by any other firm and concluded that the application of the lower tier ceiling price rule resulted in a gross inequity to Monsanto. On the basis of the operating data which Monsanto submitted for the most recently completed fiscal period, the DOE granted exception relief which permitted Monsanto to sell at upper tier ceiling prices for the benefit of the working interest owners 100 percent of the crude oil produced from the Milo No. 1 well and 57.10 percent of the crude oil produced from the State 16 well.

Moran Pipe & Supply Co., Inc., Seminole, Okla., DXE-1028, crude oil

Moran Pipe & Supply Co. Inc., filed an application for exception from the provisions of 10 CFR, Part 212, subpart D which, if granted, would permit Moran to continue to sell a portion of the crude oil produced from the Cozar lease in Seminole County, Okla., at upper tier ceiling prices. In considering the exception application, the DOE found that Moran had continued to incur increased operating costs in connection with the Cozar lease and that, in the absence of continued exception relief, Moran would lack an economic incentive to produce crude oil from the property. The DOE also found that the crude oil would not be recovered by any other firm and concluded that the application of the lower tier ceiling price rule resulted in a gross inequity to Monsanto. On the basis of the financial data which Moran had provided for the most recent six month period, the DOE granted exception relief which permitted Moran to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Cozar lease for the benefit of the working interest owners.

Pennzoil Producing Co., Houston, Tex., FXE-4776, crude oil

Pennzoil Producing Co., filed an application for exception from the provisions of 10 CFR, part 212, subpart D which, if granted, would permit the firm to continue to sell a portion of the crude oil produced from the Perry Sand Waterflood Unit, North Segment, (the Perry Unit) in Yazoo County, Miss., at upper tier ceiling prices. In considering the exception request, the DOE found that certain capital expenditures initiated during the February through July 1977 measurement period should be considered as operating expenses under the precedent established in M. J. Mitchell, 1 DOE Par. 80, 130 (November 25, 1977). The DOE also found that the levels of operating expenses incurred during the February through July 1977 period continued to exceed the lower tier ceiling price and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil from the property. The DOE determined that the crude oil would not be recovered by any other firm and concluded that the application of the lower tier ceiling price rule resulted in a gross inequity to Pennzoil. On the basis of the operating data which Pennzoil submitted, the DOE granted exception relief which permitted the firm to sell at upper tier ceiling prices 52.15 percent of the crude oil produced from the Perry Unit for the benefit of the working interest owners.

Tenneco Oil Co., Houston, Tex., DXE-0979, crude oil

Tenneco Oil Co., filed an application for exception from the provisions of 10 CFR, Part 212, subpart D which, if granted, would permit the firm to continue to sell a portion of the crude oil produced from the Veeder-Hunt lease in St. Mary Parish, La., at upper tier ceiling prices. In considering the exception application, the DOE found that Tenneco had continued to incur increased operating costs in connection with the operation of the Veeder-Hunt lease and that, in the absence of continued exception relief, the firm would lack an economic incentive to produce crude oil from the property. The DOE also found that if Tenneco abandoned its operations at the Veeder-Hunt lease, a substantial quantity of domestic crude oil would not be recovered and concluded that the application of the lower tier ceiling price rule resulted in a gross inequity to Tenneco. On the basis of the operating data which Tenneco provided for the most recently completed 6-month period, the DOE granted exception relief which permitted the firm to sell at upper tier ceiling prices 46.6 percent of the crude oil produced from the lease for the benefit of the working interest owners.

Texaco, Inc., New Orleans, La., DEE-0200, crude oil

Texaco, Inc., filed an application for exception from the provisions of 10 CFR, part 212, subpart D, which, if granted, would permit the firm to sell a portion of the crude oil produced from the BF Reno RA Sand Unit in the Bayour Fordoche Field, Point Coupee Parish, La., at upper tier ceiling prices. In considering the exception request, the DOE found that Texaco's operating costs had increased to the point where the firm no longer had an economic incentive to continue the production of crude oil from the Reno Unit if the crude oil remained subject to the lower tier ceiling price rule. The DOE also determined that if Texaco abandoned its operations at the Reno Unit, a substantial quantity of domestic crude oil would not be recovered and concluded that the application of the lower tier ceiling price rule resulted in a gross inequity to Texaco. On the basis of the financial data which Texaco provided, the DOE granted exception relief that permitted Texaco to sell at upper tier ceiling prices 55.47 percent of the crude oil produced from the Reno Unit for the benefit of the working interest owners.

REQUESTS FOR STAY

O. B. Mobley, Jr., Shreveport, La., DES-0170, crude oil

Mr. O. B. Mobley, Jr., filed an application for stay from the provisions of 10 CFR 212.72 pending the final determination on an appeal which Mobley had filed from interpretation 1978-6. In the interpretation, the general counsel determined that Mobley was not eligible to certify a base production control level (BPCL) for the Lewisville Smackover Lime Unit in Lafayette County, Ark., under the provisions of 10 CFR 212.75, but was instead required to certify a higher BPCL under the provisions of section 212.72. In his present application, Mobley requested a stay of his obligation to refund the monies which he had received during the September 1, 1976 to March 16, 1978 period as the result of certifying a BPCL under section 212.75. Those funds, which Mobley had places into escrow, represented the difference between the prices that Mobley actually charged pursuant to section 212.75 and the lower prices that the general counsel held Mobley should have charged pursuant to section 212.72. In considering the stay request, the DOE determined that an interpretation is not an "order" that can be stayed under DOE regulations. However, the DOE noted that Mobley had also filed an application for exception from section 212.72. The DOE therefore considered the present application as a request for stay in connection with Mobley's exception application and found that: (i) In maintaining an escrow account throughout the protracted administrative proceeding which led to the issuance of interpretation 1978-6, Mobley had demonstrated good faith; (ii) Mobley had diligently pursued all available administrative remedies; and (iii) the interests of all the parties would be adequately protected by requiring Mobley to retain the disputed funds in escrow until the appeal of the interpretation and the exception request were decided. The DOE therefore concluded that a stay should be granted. However, as a condition of the stay relief, the DOE required Mobley to modify the existing escrow account to conform to the conditions generally required in previous cases in which similar stays had been granted.

Wesreco, Inc., Woods Cross, Utah, DES-0166, crude oil

Wesreco, Inc., requested that the application to it of 10 CFR 211.65 (the mandatory crude oil buy/sell program) be stayed pending a final determination of the firm's appeal of the current buy/sell list. If its appeal were approved, Wesreco would be permitted to purchase a substantially greater quantity of crude oil under the buy/sell program during the current allocation

period from April 1 through September 30, 1978. In its present application for stay, Wesreco contended that, if its purchases during the current allocation period were limited to the volume of crude oil specified in the March 3, 1978 buy/sell list, Wesreco would be forced to severely curtail refining operations at its Woods Cross facility. Wesreco claimed that a stay of the provisions of section 211.65 was desirable for reasons of public policy to preserve the status quo ante. Wesreco also maintained that stay relief was warranted because there is substantial likelihood that the firm will succeed on the merits of its appeal. In considering the application, the DOE noted that Wesreco had, in effect, requested an interim exception from the provisions of 10 CFR 211.65(a). Since relief of this type in the context of a stay request would be granted before the comments of affected parties could be considered and would take effect prior to a full review on the merits of its appeal, the DOE found that Wesreco must make a very strong showing that it satisfied the criteria for stay relief. However, the DOE determined that Wesreco had failed to demonstrate that an irreparable injury would result in the event that the stay were denied. The DOE also determined that Wesreco had failed to substantiate its claim that it was likely to succeed on the merits of its appeal. The application for stay was accordingly denied.

MOTION FOR DISCOVERY

Estate of H. L. Hunt, Dallas, Tex., DRD-0076, crude oil

The Estate of H. L. Hunt filed a motion for discovery in connection with an appeal from a remedial order which it had previously filed. In its motion Hunt requested that it be permitted to submit five interrogatories to the Office of Enforcement of the DOE Economic Regulatory Administration. In those interrogatories, Hunt sought to obtain information concerning the inclusion of provisions regarding the payment of interest in remedial orders and consent orders which the agency had issued. In considering the motion, the DOE observed that its recently amended procedural regulations permit discovery in this type of case if a party demonstrates that discovery is necessary to obtain relevant and material evidence and futher demonstrates that discovery will not unduly delay the proceeding. Applying those criteria to the present case, the DOE found that the evidence which Hunt sought could well be relevant and material to the contentions raised in its pending appeal. The DOE also found that agency personnel may be in a better position than Hunt to develop the information which the firm seeks and that those personnel could readily respond to the questions which Hunt had posed. On the basis of those findings, the DOE concluded that Hunt's motion generally appeared to satisfy the criteria governing the granting of a discovery request. However, in three of its interrogatories, Hunt sought to discover the number of consent orders and remedial orders which the agency has issued and the number of those orders which contained provisions requiring the payment of interest. The DOE concluded that the Office of Enforcement should not be required to answer those particular interrogatories if the information were available only through an extensive search of material which had already been made available to the public. The Hunt motion was therefore conditionally granted.

SUPPLEMENTAL ORDERS

Edwin L. Cox, Lafayette, La., DEX-0037, crude oil

Edwin L. Cox filed an application for exception from the provisions of 10 CFR, part 212, subpart D which, if granted, would increase the amount of exception relief previously granted to Cox by permitting the firm to sell additional quantities of the crude oil produced from the Seward Lejeune lease in the Woodlawn Field in Jefferson Davis Parish, La., at prices in excess of the lower tier ceiling price. In considering the application, the DOE observed that the data submitted by Cox indicated that the actual investment and operating costs at the Seward lease exceeded the level of costs originally projected by the firm. As a result, the DOE found that the exception relief initially granted to Cox was insufficient to enable the firm to realize the rate of return on its investment originally contemplated. Accordingly, the DOE recalculated the amount of exception relief on the basis of actual financial data which Cox had submitted and adjusted the percentages of crude oil which the firm could sell at prices in excess of the lower tier ceiling prices.

Lunday-Thagard Oil Co.; South Gate, Calif., DEX-0065

Kern County Refinery, Inc., Bakersfield, Calif., DEX-0066

Yound Refining Corp. Douglasville, Ga., DEX-0067, crude oil

On December 20, 1977, the DOE issued proposed decisions and orders to Lunday-Thagard Oil Co., Kern County Refinery, Inc., and Young Refining Corp. Each of the proposed decisions set forth the agency's preliminary determination to grant in part the applications for exception which the three firms had submitted from the provisions of 10 CFR 211.67 (the entitlements program). On the same date, the DOE also issued a decision and order which stayed the monthly obligation of each firm to purchase entitlements in the amount specified in the December 20 proposed decisions. Under the express terms of the December 20 stay order, each firm continued to receive stay relief despite the fact that the 6-month period contemplated in the proposed decision had expired. Accordingly, the DOE found that it was appropriate to amend the December 20 stay order by specifying that the stay relief would apply only to the 6-month period from December 1977 through May 1978.

TEMPORARY STAY

The following application for temporary stay was granted on the grounds that the applicant had made a compelling showing that temporary stay relief was necessary to prevent an irreparable injury:

Guam Oil & Refining Co., Inc., Washington, D.C., DRT-0008

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Hearings and Appeals of the Department of Energy has issued decisions and orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exception relief permits the firms involved to increase the prices of the production of the gas plants listed below to reflect certain nonproduct cost increases:

Company	Case No.	Plant	Location	Amount of price increase (per gallon)
Standard Oil Co. (Indiana)	DEE-0253	Elmwood	Beaver County, Okla	$0.0102
	DEE-0259	Hitchcock	Blaine County, Okla	.0065

DISMISSAL

The following submission was dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Dale Cannon, Englewood, Calif., DRA-0128

The following submission was dismissed for failure to correct deficiencies in the firm's filing as required by the DOE procedural regulations:

Smith's Petroleum Marketing Co., Inc., West Plain, Mo., DEE-0956

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published looseleaf reporter system.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

JULY 10, 1978.

[FR Doc. 78-19687 Filed 7-17-78; 8:45 am]

[3128-01]

PROPOSED NATIONAL PROGRAM PLAN FOR THERMAL ENVELOPES OF BUILDINGS AND FOR INSULATION MATERIALS

Public Meeting and Request for Comment

AGENCY: Department of Energy.

ACTION: Notice of public meeting and request for comment.

SUMMARY: The Department of Energy and the National Bureau of Standards have prepared a proposed plan for conducting needed research over the next five years into the thermal properties of building shells (envelopes) and insulation materials. The Department of Energy is hereby providing notice of a public meeting to describe the proposed plan and requesting comments on the plan.

DATES: Comments must be received by 4:30 p.m., e.d.t., August 31, 1978. Public meeting to be held on July 27, 1978, at 9 a.m., e.d.t.

ADDRESSES: Requests for copies of the proposed plan should be sent to: Dr. Theodore S. Lundy, Program Manager, Building Thermal Envelope Systems and Insulation Materials, Oak Ridge National Laboratory, Oak Ridge, Tenn. 37830. Comments should be sent to: Public Hearings Management, Box UQ, Room 2313, 2000 M Street NW., Washington, D.C. 20461. The public meeting will be held in the Department of Commerce Auditorium, 14th Street and Constitution Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Ervin L. Bales, Department of Energy, Office of Conservation and Solar Applications, Room 1210, 20 Massachusetts Avenue, Washington, D.C. 20461, 202-376-1886.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) and the National Bureau of Standards (NBS) have developed a proposed program to conduct needed research into the thermal properties of types of building envelopes and insulation materials. The results of this research would aid in developing criteria for buildings that would be both safe and energy efficient. Additionally, the research would investigate the properties of insulation materials that might help satisfy these criteria. The proposed program is intended to coordinate the efforts of DOE and NBS during the next five years, to schedule the necessary research in an appropriate sequence, and to project the appropriate funding for the research to be performed.

The public meeting to be held on July 27, 1978 is intended to provide an opportunity for a presentation and discussion of the proposed program plan and to receive comments from any interested party. Further, by this notice, DOE is soliciting written comment on all aspects of the proposed program plan, including the completeness of the plan in achieving its stated goals, and the relationship of the proposed sequence of actions to the accomplishment of these goals.

Issued in Washington, D.C., July 13, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-19768 Filed 7-17-78; 8:45 am]

[3128-01]

PROPOSED SUBSEQUENT ARRANGEMENT

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the agreement for cooperation between the United States and Switzerland for Atomic Energy: Cooperation for Civil Uses.

The subsequent arrangement to be carried out under the above mentioned agreement involves a loan contract negotiated by the government of the United States and Switzerland whereby the United States agrees to furnish 290 metric tons of depleted uranium. This material will be used at the European Organization for Nuclear Research (CERN), in Switzerland in hadronic energy caloriemeter experiments. In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

(An export license request for the actual transfer of this material to Switzerland is pending in the Nuclear Regulatory Commission.)

This subsequent arrangement will take effect no sooner than August 2, 1978.

Dated: July 13, 1978.

HAROLD D. BENGELSDORF,
Director for Nuclear Affairs, International Programs.

[FR Doc. 78-19775 Filed 7-17-78; 8:45 am]

[3128-01]

Office of Hearings and Appeals

NOTICE OF ISSUANCE OF DECISIONS AND ORDERS

Week of May 1 through May 5, 1978

Notice is hereby given that during the week of May 1 through May 5, 1978, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

APPEALS

Rex D. Archer, Robert A. Braden, J. R. Dougherty, John B. Dougherty, estate of Charles F. Curry, Jack Fena, Herndon Drilling Co., George R. Jones, Milton McGreevy, National Cooperative Refinery Association, Rhude & Fryberger, Inc., Guy E. Stanley, Jr., Stelbar Oil Corp., James Tesheff, Wico Oil Co., R. B. Wilcox, III, Martin Wunderlich, Phillips Petroleum Co., Kansas, DRA-0043-DRA-0060, crude oil

The parties listed above filed appeals from remedial orders which the acting director of enforcement of region VII issued to them on November 10, 1977. In the remedial orders, DOE region VII found that during the period November 1973 through December 1975, the working interest owners of the Zenith Waterflood unit (the unit) sold crude oil at prices which exceeded the ceiling levels permitted under 6 CFR 150.354 and 10 CFR 212.73. The remedial orders required each working interest owner to refund a portion of the total overcharges, based on its percentage ownership of the working interest. In considering the Appeals, the DOE rejected the argument that the unit was properly classified as stripper well property and that no overcharges had therefore occurred. The DOE held that ruling 1974-29, which states that injection wells are not wells which produce crude oil and therefore cannot be considered in calculating the average daily production of a property, was issued in conformance with the Administrative Procedure Act and was consistent with congressional intent and DOE regulations. The DOE also held that the working interest owners of the unit could be held legally responsible for overcharges which accrued to the benefit of the royalty interest owners. In response to the Appellants' argument that the FEA adopted 10 CFR 205.195(a) in violation of the Federal Energy Administration Act of 1974, the DOE noted that the agency had the authority to assess interest payments on overcharges even before that regulation was adopted. The DOE rejected the additional argument that the liability of two of the Appellants was barred by Missouri and California nonclaim statutes. The DOE found that those statutes were inconsistent with Federal laws regulating the price of crude oil and that the Federal laws therefore controlled. In response to an argument raised by appellant Phillips Petroleum Co., the DOE held that the interest payment provisions of the Phillips Remedial Order were proper. the appeals were accordingly denied. However, the DOE noted that as a result of a recent court action, it would not enforce the remedial orders against the appellants until such time that the Temporary Emergency Court of Appeals issues a decision concerning the validity of ruling 1974-29.

Butler, Binion, Rice, Cook & Knapp, Washington, D.C., DFA-0171, freedom of information

Butler, Binion, Rice, Cook & Knapp (Butler Binion) appealed from an Order issued to it by the DOE information access

officer which granted a request for information the firm had submitted under the Freedom of Information Act (the Act). In its request, Butler Binion sought the disclosure of documents relating to the DOE definition of "posted price," presently codified in 10 CFR 212.31. The information access officer identified two documents which were within the scope of the firm's request and released the two documents to the firm in their entirety. However, Butler Binion filed an appeal on the grounds that the information access officer's identification of only two documents was inadequate and unresponsive and thereby constituted a denial of the firm's request. While the appeal was pending, the office of hearings and appeals was informed that additional documents exist which may be relevant to Butler Binion's request. Consequently, Butler Binion's Reguest for Information was remanded to the information access officer so that other documents relevant to the firm's request could be identified.

C. H. Sprague & Son, Co., Boston, Mass., DFA-0165, freedom of information

C. H. Sprague & Son, Co. (Sprague) appealed from a partial denial by the DOE information access officer of a request for information which the firm submitted under the Freedom of Information Act (the Act). In its initial request, Sprague had sought copies of documents pertaining to the interpretation or application of the reseller price rule contained in 10 CFR 212.93 of the mandatory petroleum price regulations. In his final response to this request, the information access officer released portions of a memorandum drafted by a member of the Federal Energy Administration's Office of General Counsel but withheld the remainder of the document on the ground that it was exempt from disclosure as an intra-agency memorandum under the provisions of 5 U.S.C. (b)(5) of the Act (exemption 5). In considering Sprague's appeal, the DOE concluded that it was unnecessary to determine whether the deleted portions of the document were properly withheld under Exemption 5 inasmuch as the public interest would be served by the release of the document in its entirety. Accordingly, Sprague's appeal was granted.

REQUESTS FOR EXCEPTION

Estates of Inez and Loyce Phillips, Austin, Tex., DXE-0545, natural gas liquids

On March 21, 1978 the DOE issued a proposed decision and order to the estates of Inez and Loyce Phillips (Phillips) which extended the exception relief previously granted by permitting Phillips to increase its first sale prices for natural gas liquids and natural gas liquid products at its Nan-Su-Gail plant above the maximum levels determined under 10 CFR 212.165. On April 5, 1978 Phillips filed a statement of objections to the proposed decision in which it requested that the DOE include certain statements in the final decision and order issued to Phillips which would clarify the proper method by which it should apply the exception relief granted to it. The DOE granted Phillips' request and incorporated these statements in the final decision and order.

William C. Kirkwood, Denver, Colo., FEE-4358, through FEE-4361, crude oil

William C. Kirkwood filed four applications for exception from the provisions of 10 CFR, part 212, subpart D, which, if granted, would permit Kirkwood to sell the crude oil he produces from four separate properties at exempt prices. Kirkwood also requested that the exception relief apply retroactively and thereby relieve him of any obligation to refund revenues which he received as a result of charging unlawful prices. At the outset, the DOE found that it was not necessary to consider Kirkwood's request for prospective relief for the properties since the production data which Kirkwood submitted indicated that these properties presently qualified as stripper well properties and Kirkwood could therefore charge exempt prices for the crude oil produced from them. In his application for exception, Kirkwood argued that he would incur a serious hardship at the present time if he were required to refund the revenues which he received as a result of charging prices in excess of those permissible under 10 CFR 212.73. In addition, Kirkwood claimed that he would have suffered a substantial financial loss in the operation of the four properties during the period of violation if he had determined his prices in accordance with the appropriate regulations. Kirkwood also contended that considerable confusion existed as to the proper application of the crude oil pricing regulations at the time they were implemented and therefore he should not be penalized for his determination that the properties in question were stripper well properties.

In considering Kirkwood's Application, the DOE noted that Kirkwood had an affirmative obligation to be cognizant of the correct application of the FEA regulations to his business operations. Furthermore, the DOE found that Kirkwood's noncompliance with the price regulations continued after the period in which he claimed that confusion existed and that Kirkwood failed to seek any definitive guidance as to the proper application of the regulations. The DOE also found that Kirkwood refused to submit financial information which the DOE requested and which was necessary to establish that he would incur a severe and irreparable injury in the absence of retroactive exception relief. In addition, the DOE determined that the financial material which Kirkwood did submit was not supportive of his claim of irreparable injury. In this regard, the DOE determined that Kirkwood's business activities would not have suffered a serious hardship during the period of violation if he had properly sold the crude oil from the properties in accordance with the regulations. Accordingly, Kirkwood's applications for exception were denied.

S & W Engine Supply Co., Oklahoma City, Okla., DXE-0909, crude oil

The S & W Engine Supply Co. (S&W) filed an application for exception from the provisions of 10 CFR, part 212, subpart D. The request, if granted, would result in the extension of exception relief previously granted to S&W and would permit the firm to sell at upper tier ceiling prices certain quantities of crude oil produced from the Baker Townsend Lease located in Oklahoma County, Okla. *S & W Engine Supply Co.*, 1 DOE Par. 81,016 (November 7, 1977). In considering the S&W request, the DOE found that the firm had continued to experience operating losses at the Baker Townsend Lease despite the exception previously granted. The DOE also found that the S&W would have no economic incentive to continue its operations at the Baker Townsend property unless the type of exception relief previously granted were extended for an additional 6-month period. In view of this situation and on the basis of the operating data which S&W submitted for the most recently completed 6-month period, S&W was permitted to sell at upper tier ceiling prices 57.67 percent of the crude oil produced from the Baker Townsend lease for the benefit of the working interest owners through September 30, 1978.

PETITION FOR SPECIAL REDRESS

Consumer Federation of America, Washington, D.C., DSG-0014, No. 2 heating oil

The Consumer Federation of America (CFA) filed a petition for special redress in which it requested that additional financial assistance be provided to it in connection with its participation in proceedings conducted during the period October 1977 through February 1978 regarding the pricing of middle distillates. In a prior determination CFA had received reimbursement for various expenses which it incurred in that proceeding. In considering the CFA petition, the DOE noted that in accordance with the precedent established in another decision, CFA should be reimbursed for two-thirds of the salary expenses for the time spent by the Director of CFA's Energy Policy Task Force. *Consumer Federation of America*, 1 DOE Par. —— (May 5, 1978). In addition, the DOE concluded that CFA should be reimbursed for the full amount of the counsel fees which it requested since the attorney's time charges appeared to be reasonable for the services rendered. Moreover, the DOE noted that CFA's request related to prior proceedings with respect to which the DOE explicitly stated that it would provide reimbursement, and its participation in the supplemental proceedings was expressly requested by DOE officials. *Consumer Federation of America*, 5 FEA Par. 87,051 (June 10, 1977). The CFA Petition was accordingly granted.

REQUEST FOR MODIFICATION AND RESCISSION

Consumer Federation of America, Washington, D.C., DMR-0019, No. 2 heating oil

The Consumer Federation of America (CFA) filed an application for modification of a decision and order which the DOE issued to it on April 27, 1978. *Consumer Federation of America*, 1 DOE Par. —— (April 27, 1978). In the April 27 determination the DOE directed that financial assistance be provided to CFA in order to enable it to participate in an evidentiary hearing to be held in August 1978 concerning the market situation with respect to No. 2 (home) heating oil. In its application for modification, CFA requests that the April 27 decision and order be amended so as not to require that CFA bear any portion of the salary expenses of its employees which are attributable to this proceeding and to increase the maximum hourly rates which the DOE established for legal services. In considering the CFA request, the DOE noted that it continued to adhere to the view that CFA should contribute a share of the expenses involved in participating in the hearing. However, the DOE also noted that it had not intended in the August 27 decision to re-

strict CFA's ability to hire new employees for the intervention effort. Consequently, the April 27 decision and order was modified to make clear that the DOE will provide full reimbursement up to a specified maximum amount for expenses of retaining new employees for the intervention. In addition, the DOE increased the maximum hourly rates which could be paid for reimbursement for legal services provided by CFA's counsel.

REQUEST FOR STAY

PPG Industries, Inc.; Puerto Rican Olefins Co., Pittsburgh, Pa. Peneulas, Puerto Rico, DES-0057, naphtha

PPG Industries, Inc. (PPG) and the Puerto Rican Olefins Co. (PRO) filed an application for stay in which the firms requested that PRO be permitted to import naphtha into Puerto Rico on a fee-exempt basis during the current allocation period pending a final determination on an application for exception which the two firms filed on March 27, 1978. In considering the stay request, the DOE observed that, although PRO has historically obtained imported naphtha through the Commonwealth Oil Refining Co., Inc., it may shortly be required to import naphtha directly. The DOE also found that the material submitted by PPG and PRO indicated that PRO is currently experiencing serious financial difficulties and that the imposition of license fees could result in an irreparable injury. Accordingly, the PPG and PRO stay request was granted.

SUPPLEMENTAL ORDER

Tenneco Oil Co., Houston, Tex., DEX-0072, crude oil

On April 4, 1978, the DOE issued a decision and order to the Tenneco Oil Co. which permitted the firm to sell at upper tier ceiling prices a portion of the crude oil produced from the Veeder-Hunt Lease located in St. Mary Parish, La. for the benefit of the working interest owners. *Tenneco Oil Co.*, 1 DOE Par. —— (April 24, 1978). Subsequent to the issuance of that Order, Tenneco informed the DOE that the amount of relief granted to the working interest owners had been based on erroneous data. Accordingly, the DOE issued a supplemental order in which it reduced the exception relief extended to Tenneco based on a corrected calculation.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Hearings and Appeals of the Department of Energy has issued decisions and orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exception relief permits the firms involved to increase the prices of the production of the gas plants listed below to reflect certain nonproduct cost increases:

Company	Case No.	Plant	Location	Amount of price increase (per gallon)
Creston H. Alexander	DEE-0440	East Texas	Panola County, Tex	$0.0243
Glenn E. Alexander	DEE-0441	....do	....do	.0243
Allied Chemical Corp	DEE-0323	Chaney Dell	Major County, Okla	.0261
	DEE-0324	Toca	Plaquemines Parish, La	.0143
Atlantic Richfield Co	DEE-0322	Stevens-Calidon	Kern County, Calif	.0087
Bodcaw Co	DEE-0488	Cotton Valley	Webster Parish, La	.0361
Creslenor Ranch Co	DEE-0442	East Texas	Panola County, Tex	.0251
Gas Systems, Inc	DEE-0164	McGregor	Archer County, Tex	.29175
Getty Oil Co	DEX-0069	Bastian Bay	Plaquemines Parish, La	.0429
		Eunice	Lea, N. Mex	.0108
		Fuller	Scurry, Tex	.0055
		Hollywood	Terrebone Parish, La	.0175
		Houma	....do	.0056
		Schafer	Grey-Carson, Tex	.0241
		Spearman	Ochiltree, Tex	.0051
		Velma	Stephens, Okla	.0127
		Venice	Plaquemines Parish, La	.0138
		Vermillion	Vermillion Parish, La	.1317
Do	DEE-0445	Bayou Sale	St. Mary Parish, La	.0469
Do	DEE-0295	Calumet	....do	.0062
	DEE-0296	Camrick	Beaver County, Okla	.0160
	DEE-0297	Coalinga Nose	Fresno County, Calif	.0066
	DEE-0298	Cocodrie	Evangeline Parish, La	.0153
	DEE-0299	Elmwood	Beaver County, Okla	.0067
	DEE-0300	Fashing	Atascosa Tex	.0297
	DEE-0301	Grand Chenier	Cameron Parish, La	(1)
	DEE-0302	Headlee	Midland County, Tex	.0262
	DEE-0303	Hitchcock	Blaine County, Tex	(1)
	DEE-0304	Hulldale	Schleicher County, Tex	.0307
	DEE-0305	Katy	Harris County, Tex	(1)
	DEE-0306	Levelland	Hockley County, Tex	.0161
	DEE-0307	Medicine Lodge	Barber County, Tex	.0078
	DEE-0308	North Cowden	Ector County, Tex	(1)
	DEE-0309	Red Fish Bay	San Patricia County, Tex	(1)
	DEE-0310	South Coles Levee	Kern County, Calif	(1)
	DEE-0310	Yscloskey	St. Bernard Parish, La	(1)

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS—Continued

Company	Case No.	Plant	Location	Amount of price increase (per gallon)
Michigan Hydrocarbons, Inc	DEE-0384	Gaylord	Otsego County, Mich	.0500
Phillips Petroleum Co	DEE-0485	Sanford	Hutchinson County, Tex	.0201
	DEE-0486	Snead	Moore County, Tex	.0077
	DEE-0487	Hansford Sherman	Hansford County, Tex	.0069
Standard Oil Co of California	DEE-0463	IC	Kern County, Calif	(1)
	DEE-0471	Person	Karnes County, Tex	.0088
	DEE-0474	S. E. Marietta	Love County, Okla	.0268
	DEE-0476	Torrance	Los Angles County, Calif	.0076
The Superior Oil Co	DEE-0397	Big Wells	Dinnip, Tex	(1)
	DEE-0398	Lowry	Cameron Parish, La	.0070
	DEE-0409	Coalinga Nose	Fresno, Calif	.0069
	DEE-0414	Thomas	Dewey, Tex	.0127
Texaco, Inc.	DEE-0062	Henry	Vermillion Parish, La	.0062
	DEE-0102	Fairway	Henderson County, Tex	.0099
	DEE-0103	Fordoche	Pointe Coupee Parish, La	.0346
	DEE-0426	Crossett	Upton, County, Tex	.0377
	DEE-0427	Floodway	St. Mary Parish, La	.0059
	DEE-0428	Kittie	Live Oak County, Tex	.0173
	DEE-0429	Levelland	Hockley County, Tex	.0106
	DEE-0430	Mabee	Andrews County, Tex	.0246
	DEE-0431	Maurice	Vermillion Parish, La	.0488
	DEE-0432	Montebello	Los Angles County, Calif	.0870
	DEE-0433	Putnam-Oswego	Dewey County, Okla	.0280
Trend Exploration, Ltd	DEE-0394	Moffat County	Moffat County, Colo	.0420
Union Oil Co. of California	DEE-0238	Coyanosa	Peco County, Tex	.0164
	DEE-0239	Indian Basin	Eddy County, N. Mex	.0125
	DEE-0240	Laverne	Harper County, Okla	.0062
	DEE-0241	O'Keene	Woodward County, Okla	.0316
	DEE-0395	Santa Clara Valley	Ventura County, Calif	.0097
United Energy Resources, Inc	DEE-0345	Galveston Bay	Chambers County, Tex	.01188
W. R. Grace & Co	DEE-0262	Spring Valley	Garfield County, Okla	.01440

DISMISSAL

The following submission was dismissed on the grounds that other more appropriate administrative procedures exist under which the firm may obtain the relief sought.

Wyoming refining Co., Denver, Colo., DED-0001

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated; July 10, 1978.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

[FR Doc. 78-19686 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. ER78-466]

ARKANSAS POWER & LIGHT CO.

Filing of Rate Schedule

JULY 6, 1978.

Take notice that on June 30, Arkansas Power & Light Co. (Company) tendered for filing a new Power Service Agreement with the Light Plant Commission of the city of Paragould (City), Ark.

The Company states that the new agreement provides for supplying City power and energy during the off-peak period beginning at 9 p.m. during all months of the year except the calendar months of December, January, and February, when such service will be available for the period beginning at 9 p.m. and ending at 6 a.m. The Company states that the service is subject to curtailment and interruption at the discretion of the Company. During the initial year of service under the contract proposed to be effective July 31, 1978, the Company is to supply nonfirm capacity in the amount of 10,000 kW with accompanying energy as scheduled by City and expects to receive approximately $577,956 in revenues.

A copy of the filing has been mailed to City, according to the company.

Any person desiring to be heard or to protest this 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 July 14, 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. 78-19745 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. RM75-14]

ASHLAND OIL, INC.

Order Denying Petition for Declaratory Order

JULY 7, 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 and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that order shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On January 13, 1977, Ashland Oil, Inc. (Ashland) filed a petition pursuant to section 1.7(c) of the Commission's Rules of Practice and Procedure requesting that the Commission issue a declaratory order confirming its right to receive without carrying charge credit the rates prescribed by Opinion No. 770, as amended, for volumes of gas committed by it to Trunkline Gas Co. (Trunkline) in South Marsh Island Blocks 268, 269, and 281, Offshore Louisiana, as a result of a supplemental advance payment which it earned, but did not receive, prior to the issuance of Opinion No. 770-A.

In its petition Ashland states that in May, 1974, it entered into an advance payment agreement with Trunkline which provided that it would be advanced a sum of $20,390,000. Ashland further states that this sum was based on its working interest and represented its best estimate of its gas exploration and development expenses to be incurred on or before November 1, 1976. Ashland alleges that its share of the advance payment was subsequently reduced to $13,886,344 pursuant to a supplemental agreement executed by it with Trunkline.

Ashland claims that its advance payment agreement with Trunkline gave it the right to call upon Trunkline for further supplemental advance payments, and accordingly it invoiced Trunkline on November 2, 1976, for a supplemental advance of $4,870,433. Ashland states that the agreement required Trunkline to pay within 30 days any invoice submitted by it.[1]

Ashland contends that it was lawfully and contractually entitled to an advance payment from Trunkline in the amount of $4,870,433 on November 1, 1976, notwithstanding that physical payment of the money was not contractually due for a period of 30 days following its November 2, 1976 invoice. In support of this contention Ashland states that while it is unable to identify a precise date, it would have qualified under its agreement with Trunkline for an advance during the 3 months preceding November 1, 1976, based upon ascertainable development costs. Accordingly, Ashland argues, since the supplemental advance payment was earned and due prior to November 5, 1976 (date of issuance of Opinion No. 770-A), it should be permitted to receive without carrying charge credit the rates prescribed by Opinion No. 770, as amended, for the subject gas.

Notice of Ashland's petition was issued on January 12, 1978, and appeared in the FEDERAL REGISTER at 43 FR 3306 on January 24, 1978. A timely intervention was filed by Trunkline on February 2, 1978.

In Opinion No. 770-A, mimeo at 149-53, the Federal Power Commission determined that the rate structure prescribed therein was sufficient to meet the capital formation objective of the advance payments program,[2] and accordingly they indicated their preference to terminate the program altogether. They recognized, however, that such action would be inequitable and very costly to pipelines with legally enforceable contract obligations to continue to make such advances. They therefore devised a carrying charge credit requirement which was intended to recompense consumers for the cost of a pipeline's inclusion of advance payments in its rate base, and also to encourage producers to terminate or renegotiate executory advance payment agreements so as to eliminate the legal obligations of pipelines to make such payments. This carrying charge credit was to apply to all gas committed pursuant to advance payments received by producers on or after 1 p.m., e.s.t., November 5, 1976.

The Federal Power Commission specifically established the November 5 cut-off date to coincide with the time of issuance of Opinion No. 770-A so as to prevent a flood of last-minute payments. Moreover, they chose to focus on the date of payment rather than some other date since prior to the actual receipt of payment, the producer has the option of seeking alternative methods of financing.

Our discussion above makes it apparent that Ashland's petition must be denied. While Ashland's supplemental advance payment may have been earned and due prior to November 5, 1976, such advance payment was not received by Ashland prior to that date.[3] Accordingly, if Ashland chooses to accept the supplemental advance payment, it must comply with the carrying charge credit requirement.

The Commission orders: Ashland's petition for a declaratory order, filed January 13, 1977, is hereby denied.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.78-19744 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. CP78-373]

CITIES SERVICE GAS CO.

Application

JULY 6, 1978.

Take notice that on June 16, 1978, Cities Service Gas Co. (Applicant), P.O. Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. CP78-373 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline, tap, measuring, regulating and appurtenant facili-

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[1] Prior to payment by Trunkline, Asland withdrew its request for the supplemental advance by letter dated Nov. 30, 1976.

[2] By orders issued December 31, 1975, and February 27, 1976, in Docket Nos. R-411 and RM74-4, respectively, we terminated the advance payments program. Executory portions of advance payment contracts existing at that time, however, may still be exercised.

[3] See "The Stone Oil Corp.," Docket No. RI77-52, order issued June 30, 1977, wherein it was held that the carrying charge credit requirement was applicable where advance payments had become payable but had not been received prior to Nov. 5, 1976.

ties to enable Applicant to render natural gas service to authorized local natural gas distribution companies for resale to 15 rural domestic customers pursuant to right-of-way easements and agreements and gas storage leases heretofore entered into between Applicant and said customers, or to serve same directlry if no local authorized natural gas distribution company is willing or able to make such service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that these right-of-way grantors and leasors have requested rural domestic service for which Applicant proposes to construct and operate the following facilities:

Item 1: Tap on Applicant's Welda-Ottawa 26-inch transmission pipeline in Franklin County, Kans., and construct measuring, regulating and appurtenant facilities for delivery of natural gas to B. G. Ballinger.

Item 2: Tap on Applicant's Maysville 20-inch transmission pipeline in Cleveland County, Okla., and construct measuring, regulating and appurtenant facilities for delivery of natural gas to David Burke.

Item 3: Tap on Applicant's Alden Storage 16-inch pipeline in Rice County, Kans., and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Wendell K. Carter.

Item 4: Tap on Applicant's Wichita 16-inch loop transmission pipeline in Sedgwick County, Kans., and construct measuring, regulating and appurtenant facilities for delivery of natural gas to H. E. Chapman.

Item 5: Tap on Applicant's Maysville 20-inch transmission pipeline in McClain County, Okla., and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Bob Huddleston.

Item 6: Tap on Applicant's St. Joe 16-inch loop transmission pipeline in Platte County, Mo., and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Owen R. Hull.

Item 7: Tap on Applicant's Maysville-Oklahoma City 30-inch transmission pipeline in Oklahoma County, Okla., and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Fred H. Jones.

Item 8: Tap on Applicant's Fort Scott 16-inch loop transmission pipeline in Bourbon County, Kans., and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Herb Lawson.

Item 9: Tap on Applicant's Nowata 6-inch transmission pipeline in Washington County, Okla., and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Kenneth McGonigal.

Item 10: Tap on Applicant's Dexter 3-inch transmission pipeline in Cowley County, Kans., and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Lyle Miller.

Item 11: Tap on Applicant's Mulvana 4-inch transmission pipeline in Sedgwick County, Kans., and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Lyman Ray.

Item 12: Tap on Applicant's Haysville 20-inch transmission pipeline in Sedgwick County, Kans., and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Raymond W. Rink.

Item 13: Tap on Applicant's Grabham-Welda 30-inch transmission pipeline in Anderson County, Kans., and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Robert Staadt.

Item 14: Tap on Applicant's Ottawa-Tonganoxie 26-inch transmission pipeline in Leavenworth County, Kans., and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Elmer F. Tanking.

Item 15: Tap on Applicant's Ottawa-Tonganoxie 26-inch transmission pipeline in Dounglas County, Kans., and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Lester Terrill.

It is anticipated that the sale to the customers in items 3 and 13 would be made by Applicant on a direct sale basis, and the sale to the other 13 customers would be made to The Gas Service Co. for resale to these customers.

Applicant estimates that the total cost of the facilities proposed would be $9,752, which costs Applicant would finance from treasury funds on hand.

Applicant estimates that the natural gas required annually by each consumer would be approximately 250 Mcf. It is asserted that these proposed sales would have no effect upon the operation of the pertinent portions of Applicant's pipeline system.

The application further states that all of the proposed customers have relied upon the provisions for said natural gas service as contained in their respective right-of-way easements and agreements and gas storage leases, as said provisions constituted a major portion of the consideration given to said individuals by Applicant in exchange for the voluntary grant of said easements.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 26, 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. 78-19722 Filed 7-17-78; 8:45 am]

[Docket No. CI76-334]

CITIES SERVICE OIL CO.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

JULY 10, 1978.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before July 17,

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. 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 all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price Per 1,000 ft³	Pressure base
CI76-334, C, July 5, 1977.....	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	Panhandle Eastern Pipe Line Co., H. A. Creek and Thunder Creek Fields, Campbell and Weston Counties, Wyo..	[1] 194.6646	14.65

[1] Applicant is filing under gas purchase and sales agreement dated January 5, 1976, amended by amendment dated June 13, 1077.

Filing code: A—Initial service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Succession. F—Partial succession.

[FR Doc. 78-19766 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. RP78-20]

COLUMBIA GAS TRANSMISSION CORP.

Proposed Changes in FERC Gas Tariff

JULY 7, 1978.

Take notice that Columbia Gas Transmission Corporation (Columbia) on June 30, 1978, tendered for filing the following substitute revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1, to become effective June 1, 1978:

Substitute Forty-fourth Revised Sheet No. 16
Substitute First Revised Sheet No. 16A

Columbia states that this is a conditional filing made in compliance with Ordering Paragraph (C) of the Commission's order of May 31, 1978, in this proceeding. On June 8, 1978, Columbia filed an Application for Rehearing and Motion for Stay Pending Rehearing of said May 31 order. On June 26, 1978, the Commission granted said Application for purposes of further consideration. Columbia proposes to make the substitute tariff sheets effective only in the event the Commission denies Columbia's aforesaid application and motion. Should the Commission deny Columbia's Application for Rehearing and Motion for Stay, Columbia plans to petition for review of such denial and further plans to move that the reviewing court issue a stay thereof, so that the rates contained in its tariff filing of May 1, 1978, can go into effect. By the submission of these substitute tariff sheets, Columbia does not waive its right to collect the rates contained in its May 1, 1978, tariff filing in the event that the reviewing court issues such a stay.

Copies of this filing were served upon the Company's jurisdictional customers, interested State commissions and to each of the parties set forth on the official list in this proceeding.

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 July 18, 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. 78-19736 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. RP78-73]

COLUMBIA GULF TRANSMISSION CO.

Filing Revised Tariff Sheets

JULY 7, 1978.

Take notice that on June 26, 1978, Columbia Gulf Transmission Co. (Columbia Gulf) filed in Docket No. RP78-73 the following revised tariff sheets to original Volume No. 2 of its FERC Gas Tariff:

First Revised Sheet Nos. 378, 531, 532, 567 and 596.

Columbia Gulf indicates that the revisions would affect its rate schedules X-34, X-44, X-46, and X-49. Columbia Gulf states that the revised sheets are being filed to update and bring about rate consistency with the cost of service components reflected in Docket No. RP78-19, Columbia Gulf's recently filed general rate increase application. Columbia Gulf proposes and stipulates that the rates finally determined in Docket No. RP-78-19 will also be utilized in the final determination of rates for the above-listed tariff sheets.

Columbia Gulf requests waiver of the notice requirements of 18 CFR 154.22 so that the listed tariff sheets may become effective on June 1, 1978, to coincide with the effective date of rates in Docket No. RP78-19.

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 July 18, 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. 78-19746 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. CP78-394]

CONSOLIDATED GAS SUPPLY CORP.

Application

JULY 10, 1978.

Take notice that on June 23, 1978, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP78-394 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the relocation and operation of approximately 7,355 feet of its existing 16-inch Line No. H-163 in Cabin Creek District, Kanawha County, W. Va., all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant indicates that the relocation of such pipeline facilities is necessary due to the impending commencement (in September 1978) of surface mining activity in the area now traversed by a portion of Line No. H-163. Applicant first learned of such commencement on May 25, 1978, when it received a written notice thereof from Carbon Fuel Co. (Carbon), the lessee of record with respect to the 5-Block Seam of coal underlying the affected parcel of land, it is said. Applicant indicates that the notice is contemplated by the terms of certain pipeline easements dated May 8 and May 15, 1925, which easements expressly provided for and require the relocation of the pipeline facilities, upon written request, in order to avoid interference with, among other things, the mining of coal by the coal lessee.

The application indicates that Line No. H-163 was originally constructed in 1925 and was designed to transport large volumes of locally produced and purchased gas at high pressures. Applicant states that in recent years production in the area has gradually declined to the extent that to install new 16-inch pipe in connection with the subject proposal would be unnecessary and uneconomically. Consequently, Applicant has determined that installation of 8-inch pipe in the portion of Line No. H-163 to be relocated would provide adequate capacity in light of modern operating and gas supply conditions, it is stated. It is estimated that the use of 8-inch pipe rather than 16-inch pipe in the proposed relocation would result in a savings to Applicant and its customers of approximately $100,000.

Applicant indicates that the total estimated capital cost of the facilities proposed to be relocated is $120,000, which facilities would be financed with funds on hand or to be obtained from Applicant's parent corporation, Consolidated Natural Gas Co.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 1, 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. 78-19723 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. RP72-134]

EASTERN SHORE NATURAL GAS CO.

Purchased Gas Cost Adjustment to Rates and Charges

JULY 11, 1978).

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on June 28, 1978, tendered for filing the following revised tariff sheets:

Second Substitute First Revised Sheet No. 5 and No. 6 Superseding First Revised Sheet No. 5 and No. 6 and Second Substitute First Revised Sheet No. 10, No. 11 and No. 12.

Second Substitute Second Revised Sheet No. 5 and No. 6 Superseding Second Substitute First Revised Sheet No. 5 and No. 6 and Second Substitute Second Revised Sheet No. 10, No. 11 and No. 12.

Third Revised Sheet No. 5 and No. 6 Superseding Substitute Second Revised Sheet No. 5 and No. 6 and Third Revised Sheet No. 10, No. 11 and No. 12.

The revised tariff sheets to be effective April 1, 1978, June 1, 1978 and July 1, 1978 track similar filings by Eastern Shore's sole supplier, Transco for change in the GSS Rate Schedule.

Eastern Shore states that copies of the filing have been mailed to all of its jurisdictional 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. All such petitions or protests should be filed on or before July 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. 78-19724 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. RP78-18]

EL PASO NATURAL GAS CO.

Certification of Stipulation and Agreement in Settlement of Rate Proceeding

JULY 7, 1978.

Take notice that on June 26, 1978, Presiding Administrative Law Judge Samuel Kanell certified to the Commission, for its consideration and disposition, a Stipulation and Agreement in settlement of the above entitled proceeding, together with a motion for approval thereof and the entire record relating thereto. The settlement, if approved, would resolve all issues in the proceeding, with the exception of one issue which involves the proper method of reflecting timing differences in computing the allowance for Federal and State income taxes to be included in El Paso's cost of service. The Stipulation and Agreement pro-

poses that such issue be severed from the proceeding at Docket No. RP78-18, and heard and decided in a separate proceeding to be established by the Commission.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before July 19, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.78-19737 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. ER78-468]

GULF STATES UTILITIES CO.

Filing

JULY 6, 1978.

Take notice that Gulf States Utilities Co., on June 30, 1978, tendered for filing an agreement between Gulf States and Cajun Electric Power Cooperative providing for a new metering point. Gulf States proposes an effective date of June 1, 1978, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Commission, 825 North Capitol 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 July 14, 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. 78-19747 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. ER78-467]

IOWA POWER & LIGHT CO.

Filing

JULY 6, 1978.

Take notice that Iowa Power & Light Co. (Iowa) on June 30, 1978, tendered for filing revisions to its Rate Schedule No. 811 proposing to increase rates for service to the cities of Carlisle and Neola, Iowa.

Iowa indicates that the proposed rates would increase revenues by $102,701 based on the 12-month period ending December 31, 1979. Iowa proposes an effective date of July 31, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power 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 July 14, 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.78-19748 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. RP73-97]

KENTUCKY WEST VIRGINIA GAS CO.

Notice of Extension of Time

JUNE 30, 1978.

On June 30, 1978, Kentucky West Virginia Gas Co. (Kentucky West) filed a Motion for Stay Pending Reconsideration and a Petition for Reconsideration of the refund requirement of Ordering Paragraph (B) of Opinion No. 7, issued February 16, 1978, as modified by Ordering Paragraph (B) of the Order Denying Rehearing, issued June 21, 1978, in the captioned proceeding. Ordering Paragraph (B) of the June 21 Order requires refunds to be made within 15 days of the date of the order, or by July 6, 1978.

Upon consideration, notice is hereby given that an extension of time is granted to and including August 4, 1978, for Kentucky West to make refunds in compliance with Opinion No. 7 and the Commission's Order Denying Rehearing. This should allow sufficient time for the Commission to act upon the Motion for Stay and Petition for Reconsideration filed by Kentucky West.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19738 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. RP73-23 (PGA78-5)]

LAWRENCEBURG GAS TRANSMISSION CORP.

Filing of Revised Gas Tariff Sheets

JULY 10, 1978.

Take notice that on June 23, 1978 Lawrenceburg Gas Transmission Corp. (Lawrenceburg) tendered for filing two (2) revised gas tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, both of which are dated as issued on June 19, 1978, proposed to become effective August 1, 1978, and identified as follows:

Fifteenth Revised Sheet No. 4, and Fourteenth Revised Sheet No. 18.

Lawrenceburg states that these revised gas tariff sheets are being filed under its purchased gas adjustment provision in order to track an increase in its cost of gas purchased from Texas Gas Transmission Corp. proposed to become effective August 1, 1978.

Lawrenceburg states that on or about June 13, 1978, Texas Gas tendered for filing a revised gas tariff sheet to reflect changes in its cost of gas purchased pursuant to its Purchased Gas Adjustment Provision, and to recover demand charge adjustments pursuant to section 10.5 of the General Terms and Conditions of its FPC Gas Tariff. It is this proposed rate increase by Texas Gas that Lawrenceburg proposes to track.

The proposed changes contained in this filing would increase revenues from jurisdictional sales by $290,327 based on the 12 months ending May 31, 1978.

Lawrenceburg requests an effective date of August 1, 1978 on its proposed tariff sheets and states that copies of this filing have been mailed to its two wholesale customers and to the 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 July 18, 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-19740 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. RI77-69]

McGALLIARD AND SPARKS, INC.

Order Granting Petition for Special Relief

JULY 3, 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 provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On April 27, 1977, McGalliard and Sparks, Inc. (McGalliard) filed a petition [1] for special relief in Docket No. RI77-69 pursuant to section 2.76 (18 CFR 2.76) of the Commission's General Policy and Interpretations. McGalliard seeks authorization to charge a total rate of $1.5642 per Mcf at 14.65 psia for the sale of gas from the W. C. Leveridge Gas Unit No. 2, East Bernard Field, Wharton County, Tex. to Natural Gas Pipeline Co. of America (Natural). In its initial petition for special relief, filed April 27, 1977, McGalliard sought authorization to sell the subject gas for $1.75 per Mcf at 14.65 psia. Subsequently, on December 13, 1977, McGalliard amended its petition requesting authorization to charge $1.5642 per Mcf for sale of the above referenced gas.

McGalliard sells gas to Natural at the contract rate of 74 cents per Mcf with Btu adjustments monthly pursuant to a small producer certificate and a gas purchase contract. The small producer certificate was issued in Docket No. CS73-627 on June 25, 1973. The gas purchase contract is dated February 1, 1974.

According to McGalliard, it is no longer economically feasible to continue operating the subject well if gas produced therefrom can only be sold, at anticipated production levels, at the rate of 74 cents per Mcf. Further, McGalliard avers that it previously operated two wells utilizing a two stage compression system and shared the operating and maintenance cost, between the two wells and that since it plugged its other well, the Leveridge No. 2 Gas Unit has had to bear all the expense. McGalliard proposed no additional investments or work but asserted that special relief is warranted to preclude premature abandonment of the well, leaving behind an estimated 86,460 Mcf of gas recoverable over a 5-year period.

Staff has reviewed McGalliard's past operating expenses for a two year period ending May 31, 1977 and has reviewed McGalliard's estimate of future operating expenses. Upon analysis of the above data, Staff has determined that McGallaird's estimated future annual expenses were reasonable. Utilizing McGalliard's estimate of future annual operating expenses for the first year and applying a 5 percent per year inflation factor for the remaining 4 years, Staff has calculated McGalliard's total production expense to be $118,251.

Using the above production expense along with the estimated 72,050 Mcf of gas attributable to McGalliard's 83.3334 percent net working interest in remaining production in a cost study, Staff concludes that a total rate of $1.5642 per Mcf would allow McGalliard to recoup all out-of-pocket costs [2] associated with the project.[3]

Notice of McGalliard's original petition was issued on May 12, 1977. Natural filed a timely petition to intervene in support of McGalliard's application. On May 22, 1978, notice of McGalliard amended petition was issued. No protests or petitions to intervene were filed in response to the notice of amended petition.

We conclude, after considering the data submitted and Staff's analysis thereof, that it is in the public interest to grant special relief to McGalliard.

The Commission orders: (A) McGalliard's petition for special relief, as amended, is hereby granted.

(B) McGalliard is authorized to collect a total rate of $1.5642 per Mcf at 14.65 psia for all gas produced from the W. C. Leveridge Gas Unit No. 2, East Bernard Field, Wharton County, Tex. and sold to Natural, effective upon the date of the Commission order herein, subject to the conditions set forth in paragraph (C) below.

(C) McGalliard must file an executed contract amendment providing for the payment of the approved rate and a Notice of Independment Producer Rate Change within 30 days of the date of the order herein.

By the Commission.

KENNETH F. PLUMB,
Secretary.

Appendix A.—Schedule 1

McGALLIARD AND SPARKS, INC.

[Docket No. RI77-69]

W. C. LEVERIDGE, ET AL., GAS UNIT NO. 2-T, EAST BERNARD FIELD, WHARTON COUNTY, TEX. (TEXAS GULF COAST AREA)

Out-of-Pocket Unit Cost of Gas

Line No.	Item (a)	Amount (b)
1.	Net working interest volumes:.	
2.	Gas—Mcf at 14.65 psia[1]	72,050
3.	Liquid—Bbls.[2]	2,002
4.	Cost of production:.	
5.	Production expense[3]	$118,251
6.	Allocated to gas[4]	104,179
7.	Regulatory expense[5]	72
8.	Total cost of production	104,251
9.	Unit cost of gas (Cents per/Mcf):.	
10.	Cost of production[6]	144.69
11.	Production tax at 7.5 percent	11.73
12.	Total unit cost	156.42

[1] 86,460 Mcf × 83.3334 percent N.W.I.
[2] 2,402 Bbls. × 83.3334 percent N.W.I.
[3] Based on estimate of $21,400 for first year by applicant escalated 5 percent/year for the remaining 4 years.
[4] Line 5 × Line 5 of Schedule 2.
[5] Line 2 × 0.1 cents per/Mcf per Opinion No. 749.
[6] Line 8 ÷ Line 2.

[1] This petition is filed on behalf of all of the working interest owners and covers 100 percent of the working interest.

[2] Inasmuch as McGalliard is not proposing any additional work, Staff, consistent with Commission policy, utilized only out-of-pocket costs in its cost study. While the petition was filed under section 2.76, since no additional investment is involved, we will treat the petition as though filed under section 2.56a(g).

[3] See Appendix A, attached hereto.

Appendix A.—Schedule 2

McGALLIARD AND SPARKS, INC.

[Docket No. RI77-69]

W. C. LEVERIDGE, ET AL., gas unit no. 2-t, east bernard field, wharton county, tex. (texas gulf coast area)

Allocation of Costs[1]

Line No.	Item (a)	Amount (b)
1.	Gas—MMBtu[2]	74,716
2.	Condensate—MMBtu[3]	3,620
3.	Plant Liquids—MMBtu[4]	6,476
4.	Total—MMBtu	84,812
5.	Percentage allocated to gas[5]	88.10

[1] Modified Btu method per Opinion No. 749.
[2] 72,050 Mcf × 1.037 MMBtu/Mcf.
[3] 443 Bbls. × 5.448 MMBtu/Bbl. × 1.5 modifier.
[4] 1,559 Bbls. × 4.154 MMBtu/Bbl.
[5] Line 1 ÷ Line 4.

[FR Doc. 78-19765 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. CP75-125]

MICHIGAN WISCONSIN PIPE LINE CO.

Petition for Modification of Order

JULY 10, 1978.

Take notice that on June 20, 1978, Michigan Wisconsin Pipe Line Co. (Petitioner), One Woodward Avenue, Detroit, Mich. 48226, filed in Docket No. CP75-125, a Petition pursuant to § 1.7 of the Commission's rules of practice and procedure, to modify the certificate of public convenience and necessity issued on January 13, 1977, to authorize an interim rate for a transportation service to be provided for Texas Gas Transmission Corp. (Texas Gas), all as more fully set forth in the Petition on file with the Commission and open for public inspection.

By the certificate, Petitioner states that it was authorized to provide a transportation service for Texas Gas in accordance with the terms and conditions set forth in a Transportation Agreement dated February 15, 1976. The Petition indicates that the Agreement provides for a monthly demand rate of $1.38 per Mcf for a contract demand of 196,640 Mcf, the letter being based on Texas Gas' twenty percent (20 percent) entitlement of the certificated capacity of the pipeline system of High Island Offshore System (HIOS). The Petition further indicates that the Agreement provides that the effective date of the rate would be at the time of initial deliveries from HIOS to Michigan Wisconsin for the account of Texas Gas.

Petitioner states that it has recently been advised by Texas Gas that it will not utilize its full contract demand under the Agreement until on or about January 1, 1979, due to the gradual build up of gas production in the High Island Area of offshore Texas. Initial deliveries of the gas reserves dedicated to Texas Gas from High Island Area Block A-334 however commenced on May 29, 1978, which Petitioner indicates, upon delivery by HIOS to Petitioner and, except for an interim arrangement, would have triggered the demand rate under the Transportation Agreement. Under the interim arrangement and until December 31, 1978, Petitioner states that it has agreed to charge Texas Gas a commodity rate of 6.0 cents per Mcf which is equal to the aforementioned demand rate of $1.38 at a 75 percent load factor. The Petition indicates that the Transportation Agreement has been amended to incorporate the interim arrangement and tariff sheets reflecting the interim transportation rate have been filed with the Commission for inclusion in Petitioner's Gas Tariff, First revised Volume No. 2, Rate Schedule X-63.

Any person desiring to be heard or to make any protest with reference to said application, on or before July 31, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-19739 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. RP78-23]

MIDWESTERN GAS TRANSMISSION CO.

Informal Conference

JULY 6, 1978.

Take notice that an informal conference in the above-captioned proceeding will be held on July 20, 1978, at 10 a.m. e.d.t., at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. The conference is being convened pursuant to the prior agreement of the parties as a continuation of their efforts to resolve matters in this docket by settlement.

Customers and other interested persons will be permitted to attend, but if such persons have not been permitted to intervene by order of the Commission attendance will not be deemed to authorize intervention as a party in this proceeding.

All parties will be expected to come fully prepared to discuss all issues arising out of Midwestern's filing in the instant docket, to make and accept offers of settlement with respect to such issues, and to make commitments concerning procedural matters antecedent to full evidentiary hearing should such hearing be required.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19741 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. ER78-451]

MONTANA LIGHT & POWER CO.

Filing

JULY 6, 1978.

Take notice that Montana Light & Power Co. (M.L. & P.) on June 14, 1978, tendered for filing a proposed supplement to M.L. & P. Rate Schedule No. 2 for sale of nonfirm thermal power to Pacific Power & Light Co. (P.P. & L.). M.L. & P. requests that the Commission specify the date on which that supplement will become effective as a rate schedule pursuant to § 35.2(e) of the Commission rules and regulations.

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 §§ 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 July 14, 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 one file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19749 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. CP78-374]

MOUNTAIN FUEL SUPPLY CO.

Application

JULY 6, 1978.

Take notice that on June 16, 1978, Mountain Fuel Supply Co. (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket

No. CP78-374 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing with July 1, 1978, and operation of facilities to enable Applicant to take into its certified main pipeline system natural gas which would be available from wells in which Applicant has an ownership interest, all as more fully set forth in the application which is on file with the Commission and is open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas which may become available from areas in which Applicant has a working or other similar proprietary interest and which are generally co-extensive 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.

Applicant states that the total cost of the proposed facilities would not exceed $6,000,000, with no single project to exceed a cost of $1,500,000. These costs would be financed by Applicant from internally generated funds, it is asserted.

Applicant further states that it is currently prohibited from using other budget-type authorizations issued pursuant to § 2.58 of the Commission's General Policy and Interpretations (18 CFR 2.58) and/or § 157.7(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.7(b)) for this purpose, and that such prohibitions result in competitive and economic disadvantages to Applicant. Applicant states its willingness to accept conditions which are not inconsistent with the purpose of this application, and which would enable the Commission to exercise control over expenditures and facilities construction by Applicant.

The granting of the requested certificate would have a beneficial time and cost impact on the activities of both the Commission and the Applicant, Applicant asserts.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 26, 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. 78-19742 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. RP78-71]

NATURAL GAS PIPELINE CO. OF AMERICA

Filing of Revised Tariff Sheets

JULY 11, 1978.

Take notice that on June 30, 1978, Natural Gas Pipeline Co. of America (Natural) filed the following revised tariff sheets in Docket No. RP78-71:

Third Revised Volume No. 2, Thirty-fifth Revised Sheet No. 5
Second Revised Volume No. 2, Second Revised Sheet No. 816; First Revised Sheet No. 1067

Natural claims that these revised sheets reflect the deletion from the cost of service of the Louisiana first use tax as would be required pursuant to the Commission's deliberations at its open meeting of June 29, 1978.

Natural states that rate case schedules which reflect the elimination of the Louisiana first use tax and support the revised tariff sheets will be filed with the Commission on or before July 14, 1978.

Any person desiring to be heard or to protest said filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before July 21, 1978. 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 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. 78-19725 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. RP78-78]

NATURAL GAS PIPELINE CO. OF AMERICA

Proposed Changes in Rates and Charges

JULY 11, 1978.

Take notice that on June 30, 1978, Natural Gas Pipeline Co. of America (Natural) filed the following revised tariff sheets to its FERC Gas Tariff (sheets to be effective August 1, 1978):

Third Revised Volume No. 1

Thirty-fifth Revised Sheet No. 5
Tenth Revised Sheet No. 5A
First Revised Sheet No. 5B
Fifth Revised Sheet No. 116
Second Revised Sheet No. 117
Third Revised Sheet No. 118
Ninth Revised Sheet No. 119
Third Revised Sheet No. 120
Seventh Revised Sheet No. 120-A
Second Revised Sheet No. 120-B
Third Revised Sheet No. 121
First Revised Sheet No. 121-A
Original Sheet No. 121-B

Second Revised Volume No. 2

Eleventh Revised Sheet No. 220
Sixth Revised Sheet No. 270
Third Revised Sheet No. 407
Third Revised Sheet No. 433
Second Revised Sheet No. 744
Second Revised Sheet No. 816
Second Revised Sheet No. 1000
First Revised Sheet No. 1067
First Revised Sheet No. 1097

Also submitted herein are tariff sheets with effective dates of January 1, 1979:

Second Revised Volume No. 2

Second Revised Sheet No. 653
Second Revised Sheet No.668
Second Revised Sheet No. 695

Alternate sheets in the event the Commission does not accept Sheet Nos. 116 through 121-B above for filing:

Third Revised Volume No. 1

Ninth Revised Sheet No. 119
Seventh Revised Sheet No. 120-A.

The proposed tariff sheets would produce increased jurisdictional revenues of approximately $53 million above the revenues collected under rates presently in effect subject to refund at Docket No. RP77-98. The subject-to-refund rates used in the cal-

culation of the indicated revenue increase were adjusted to reflect the cumulative PGA unit adjustment (excluding the surcharge for recovery of the Deferred Purchased Gas Cost Balance) effective March 1, 1978.

Natural states that the jurisdictional rates as filed were designed to enable Natural to recover its increased jurisdictional cost of service for the test period which is based on the 12 months ended February 28, 1978, adjusted to include the annualized effect of changes which are known and measurable with reasonable accuracy and which will become effective by November 30, 1978. Natural states that the principal increased costs result from a proposed increase in overall rate of return to 10.80 percent, which would permit a rate of return to equity of 15.50 percent, a change in depreciation rate to 5.25 percent for production, gathering, storage, and onshore transmission property, and 11.4 percent for all offshore property except for Natural's Stingray line which will remain at 5 percent, significant additional charges and increased costs for the transportation of gas by others from offshore and onshore gas supply sources, and the additional Federal and State income taxes on fully depreciated tax property still being depreciated for book purposes. Natural has also included tariff revisions necessary to incorporate a Net Transportation Cost Adjustment in its existing Purchased Gas Cost Adjustment provision.

Copies of this filing have been served on the customers of Natural, and interested public bodies.

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 NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19726 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. CP77-568]

NATURAL GAS PIPELINE CO. OF AMERICA

Tariff Filing

JULY 6, 1978.

Take notice that on June 22, 1978, Natural Gas Pipline Co. of America (Natural) tendered for filing proposed tariff sheets to amend its FERC Gas Tariff Second Revised Volume No. 2, consisting of the following:

First Revised Sheet Nos. 1049, 1052-1054, 1056 and 1057

The purpose of this filing is to reflect an April 4, 1978, amendment to Rate Schedule X-89, and agreement between Natural and Texas Eastern Transmission Corp. for the transportation and exchange of gas, to increase the quantity from 15,000 Mcf to 25,000 Mcf per day, and for the inclusion of an additional point of receipt. The April 4 amendment is the subject of a joint petition to amend filed April 21, 1978, Docket No. CP77-568, by Texas Eastern and Natural.

Any person desiring to be heard or to make any protest with reference to said application, on or before July 19, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19750 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. ER78-460]

POTOMAC EDISON CO.

Proposed Tariff Change

JULY 6, 1978.

Take notice that The Potomac Edison Co., on June 26, 1978, tendered for filing FERC Electric Tariff Original Volume No. 3. The changes proposed would produce an estimated overall increase in revenues from jurisdictional sales and service of approximately $999,846, based on the 12-month period ending December 31, 1977. The proposed effective date for the increased rates is July 25, 1978.

The changes proposed are for the purpose of recovering increased costs incurred by the company.

Copies of the filing were served upon the jurisdictional customers, the Maryland Public Service Commission, the Virginia State Corporation Commission and the West Virginia Public Service Commission.

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 July 14, 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. 78-19751 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. EL78-1]

PUBLIC SERVICE CO. OF INDIANA

Order Granting in Part Petition, Complaint, and Motion for an Investigation

JULY 7, 1978.

On December 5, 1977, the city of Logansport, Indiana (city) filed a petition, complaint, and motion for an investigation, seeking an order requiring an investigation and hearing, pursuant to sections 202, 205 and 206 of the Federal Power Act, regarding the sale of wholesale power to Logansport by the Public Service Co. of Indiana (PSI). On January 4, 1978, PSI filed an answer to Logansport's petition, and on February 2, 1978, the city filed a response to the affirmative allegations in the company's answer. By letter of March 17, 1978, the Public Service Commission of Indiana, pursuant to section 209(b) of the Federal Power Act, requested that the FERC confer and, in the case of a hearing or investigation, to hold a joint hearing with the Indiana Commission. On March 29, 1978, an informal conference was held for the purpose of discovering and stipulating as to certain facts relevant to the dispute between the parties. On May 25, 1978, the city filed a motion for expedited action, and PSI filed a reply on May 31, 1978.

The city of Logansport owns and operates its own facilities for the genera-

tion and distribution of electric power. In addition, Logansport buys firm power from PSI pursuant to the terms of an interconnection agreeement dated March 1, 1971;[1] the Commission has held the agreement is a fixed-rate contract which determines the price of firm power sold to the city.[2] PSI can transmit power to Logansport over two 69 kV transmission lines—one line extending from PSI's Rochester substation and the other from its Walton substation to PSI's Logansport switching station, which in turn is connected to the city's substation by a 69 kV line built by the company (See discussion infra). PSI serves Logansport primarily from its Walton substation and the related transmission facilities. The company states that it also serves other customers from its Walton substation. All parties agree that PSI's ability to provide power to Logansport is contingent on the company's transmission capability. With the Walton substation in service, PSI can furnish 30 to 35 mW to the city, whereas if the Walton connection is interrupted, PSI can provide only 15.5 mW over its existing transmission lines.

At the informal conference, the company defined "firm power" as the amount of power it can furnish on a one-contingency basis, that is, with one interruption in its power supply. PSI stated that the interruption of the Walton line is the contingency which determines the amount of firm power it can sell to Logansport, so that PSI can furnish the city up to 15.5 mW of firm power. To further clarify the meaning of "firm power", the company stated in a May 26, 1978 letter that PSI regards firm power as power having the same degree of reliability as that supplied to retail customers on a full requirements basis. The city did not submit a response to the company's letter.

Logansport's projected peak load for the summer of 1978 is 57.5 mW. With its own facilities, Logansport will be able to generate 35 to 40 mW during the summer months. Logansport states that it will be unable to meet its projected peak demand for the summer of 1978 with sufficient reliability, or meet future growth in the level of system load, with its own generating capacity together with the amount of its existing firm power purchased from PSI. Logansport wants to obtain additional firm power from PSI under the terms of the interconnection agreement, and specifically, at the contract price. The city contends the agreement requires PSI to furnish all of the city's firm power requirements in excess of the city's own generating capacity. Moreover, Logansport suggests that PSI is required under the agreement to construct additional transmission facilities, if necessary, to supply the city's need for additional power. The city states it has been negotiating with PSI—the city describes certain meetings and written correspondence—for the sale of an additional 15,000 kW of firm power. The city alleges that the company has not negotiated in good faith and has arbitrarily refused to sell this power under reasonable terms.[3]

Logansport contends that PSI has the generating capacity and transmission facilities to provide additional firm power from its Walton substation without reducing its ability to provide adequate and reliable service to other customers.[4] Logansport further alleges that PSI's refusal to sell additional power under reasonable terms is an anticompetitive practice because it decreases the city's ability to attract new customers and retain existing customers, and furthermore, may necessitate Logansport's closing its generation facilities or selling them to PSI.

The city requests that the Commission order an investigation pursuant to section 206 of the act to determine, among other things, the extent of PSI's ability and obligation under the agreement to sell additional power to Logansport. The city seeks an order under section 202(b) requiring PSI to furnish the additional power necessary to meet the city's present and future requirements.[5] The city further alleges that PSI's refusal to sell power to the city is part of a pattern of discriminatory and preferential sales practices prohibited by section 205(d). The city also implies that PSI's sales practices are unjust and unreasonable under section 205(a) of the act.

In response, PSI argues that the interconnection agreement requires the company to sell firm power only to the extent of the capacity of the 69 kV transmission facilities extending from PSI's Walton substation to the city.[6] PSI insists it has met its supply obligations under the agreement. The company states that it can sell Logansport additional nonfirm power, but that its transmission facilities are inadequate to furnish more firm power without the company impairing its ability to provide reliable service to other customers. The company adds that it could not reasonably provide new transmission facilities to serve Logansport except under a separate agreement which would give the company a just and reasonable return on its additional facilities.[7] PSI contends that because any power sold to the city greater than 15.5 mW is nonfirm power these sales would be outside the agreement for firm power and would be made at the applicable price for emergency power. Finally, the company states that it has not subjected Logansport to any undue discrimination or competitive disadvantage inasmuch as it essentially treats all interconnected municipalities as a single class of customers,[8] and it insists it does not seek to take customers away from the city or to purchase the city's facilities.

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[1] FPC rate schedule No. 223. The term of the agreement is 10 years and is binding, through March 1, 1981. After the expiration date, the agreeement continues on a year-to-year basis. Logansport also buys a limited amount of power (up to 5,000 kW) from PSI under a separate tariff currently in effect subject to refund. This power is sold pursuant to FPC Tariff Original Volume No. 1 (3rd Revision) at rates subject to review in *Public Serivce Co. of Indiana, Inc.* v. *F.E.R.C.*, Nos. 77-1238, 77-1586, United States Court of Appeals for the Seventh Circuit; Commission docket Nos. E-8586 and E-8587.

[2] Opinion No. 783, docket Nos. E-8586 and E-8587, issued November 10, 1976.

[3] The city states that PSI, among other things, is demanding that any additional power be sold at the "MUN tariff" which is substantially higher than rates under the interconnection agreement.

[4] The city points out that PSI is scheduled to place in service a new substation, the Deedsville substation, early in 1978. The city contends the company will be able to serve from Deedsville many customers, other than Logansport, presently supplied from the Walton substation, so that with proper planning the company could without difficulty increase its power sales from Walton to the city.

[5] In its complaint, Logansport requests an order from this Commission under section 202(c) of the Federal Power Act. The Department of Energy Organizational Act (42 USC 7101) and the Department of Energy Delegation Order No. 020404, effective October 17, 1977, transfer authority under section 202(c) of the act to the Administrator of the Energy Regulatory Administration (ERA) On March 2, 1978, the city of Logansport filed a petition with the ERA for emergency relief under section 202(c) (docket No. EC78-4).

[6] In support of its position, PSI submits a letter of June 15, 1976, written by Mr. W. M. Cook, company vice president, to Mr. John Curtin, of Logansport Electric Utilities. The purpose of the letter was, "to reduce to writing an understanding of a meeting which occurred on June 11, 1976" between representatives of the city and the company. The letter was signed by Mr. Cook and Mr. Curtin. The letter includes the following:

"(C) The matter of allowable demands on the interconnection. . . were discussed:

"(1) It was agreed that the interconnection maximum demand is 15,500 kW. An additional 3,000 kW could possibly be available for emergency use subject to the physical capabilities of Public Service of Indiana's facilities* * *"

[7] The company states that its estimated earned return for the 12 months ended June 30, 1976, from sales to Logansport was only 3.3 percent. The company also states that any such new agreement would include language that would take it out of the fixed-rate category pursuant to section 35.1(d)(2) of the Commission's rules and regulations.

[8] PSI has recently established a distinctive agreement with one municipality, the city of Washington, Ind.

We find there is no dispute among the parties regarding the essential facts in this proceeding and that an evidentiary hearing is not required. It is clear that Logansport needs greater amounts of purchased power and that PSI is willing and able to sell more power. The dispute between the parties, and the issue remaining for our consideration, is what price PSI may charge, under the law and under the terms of the agreement, for the additional power sought by Logansport. The answer depends on whether Logansport is entitled under the interconnection agreement to purchase any amount of needed power from PSI at the contract price, or is entitled only to buy firm power up to the capacity of PSI's 69 kV transmission line at the contract price.

The agreement specifically requires the company to install a 69 kV transmission line from its electric system to Logansport's substation. The contract provides:

> Section 1.2. The company shall provide, own, and install or cause to be installed at its own expense, the following described facilities.
>
> Section 1.21. A 69,000 volt single transmission line from the company's Logansport 69 kV switching station to said Logansport substation.

Section 1.21 refers to a 69 kV line between PSI's Logansport switching station and the city's substation.[9] Regarding PSI's obligation to sell electricity to the city, the agreement states in section 2.11 of service schedule A that,

> The company shall stand ready at any time, *subject to the provisions of the agreement*, to deliver to city, firm power, and firm energy in any amount desired by city up to a maximum rate of delivery equal to the city's maximum system kilowatt demand (as defined by section 5.7 of article 5 of the agreement)[10] during the immediately preceding 12 months * * * [Emphasis added.]

One issue in interpreting the above contract provisions is whether the phrase "subject to the provisions of the agreement" in service schedule A above ties into section 1.21 to the extent that PSI's obligation to sell power is limited by the capacity of the company's presently installed 69 kV transmission facilities. Alternatively, PSI would be obligated to construct whatever additional transmission facilities are required to deliver more firm power to Logansport.

Reading section 2.11, it is evident that the agreement was executed upon the assumption that PSI's installation of a 69 kV line between the city and PSI's Logansport switching station would enable PSI to furnish Logansport with its full allotment of firm power, and therefore, the agreement does not govern firm power sales which exceed the capacity of the existing transmission line.

The next question is how much "firm power" PSI can provide given its existing transmission facilities, and accordingly, the quantity of power PSI is obligated to sell at the agreement's price for firm power. This, in turn, depends on the meaning of firm power, and on whether PSI's ability to furnish firm power can properly be defined in terms of the reliability of its Walton transmission line.

The company's position at the informal conference among the parties was that firm power was defined as the power that it could continue to supply after the failure of one transmission line. However, this definition was not repeated when the company was asked to define firm power in writing. Rather, the company defined firm power in its letter of May 26 as "power having the same degree of reliability as that supplied to retail customers on total requirements service". It is unlikely indeed that PSI has 100 percent redundant transmission and distribution capacity to serve all its retail total requirements customers—yet this would be required if the one-outage contingency standard were being applied to firm retail sales. Moreover, examination of certain company documents[11] shows that the company has firm supply arrangements with certain other municipal systems where the one transmission outage standard obviously cannot apply since the customers are served from radial lines several miles in length. We find, therefore, that PSI's ability to provide firm power over existing transmission facilities is not limited to the 15.5 mW which can be furnished without service of the Walton line, and that PSI is able and required by the agreement to sell more than 15.5 mW of firm power to the city.

In light of the absence of factual issues and the exigency of PSI's need for purchased power no further investigation by this Commission is warranted. We will order PSI to sell to Logansport at the existing contact price whatever power the city requires over and above its self-generating capacity to meet its projected peak load of 57.5 mW during 1978 as well as the city's future need for purchased power up to the limits of the combined existing 69 kV facilities.

The Commission finds: (1) Good cause has not been shown for the Commission to enter into an investigation under section 202(b), 206 or 306 of the Federal Power Act concerning the sale of firm power by PSI to the city of Logansport.

(2) PSI is required to sell the city of Logansport additional power at the existing contract price as described above.

The Commission orders: (A) The city of Logansport's petition, complaint, and motion for an investigation, as described above, is hereby granted to the extent set forth below.

(B) We hereby order PSI to provide power to the city of Logansport in an amount limited only by the capacity of the combined existing 69 kV facilities.

(C) The Secretary shall cause prompt publication of this order to be published in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19752 Filed 7-17-78; 8:45 am]

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[9]The company's May 26, 1978 letter states:

"1. The Logansport switching station, owned by PSI, is located at the juncture of the Logansport radial line and the looped section of the grid from which the Logansport radial taps. The Logansport substation, owned by the city, is at the end of the radial line. Thus, the line referred to in section 1.21 consists of a quarter mile of 69 kV line extending from the Logansport switching station was installed strictly to serve the Logansport load and would not have been installed except for that load."

[10]Section 5.17 is as follows: "Maximum System Kilowatt Demand" means the single highest system kilowatt demand experienced during any 12-month period.

[11]See FPC docket No. 76-149, period II, working papers, vol. VII section 1, schematic diagrams relating to Middletown, Rising Sun and Crawfordsville; and vol. VIII, Section 3, Schematic Diagrams Relating to Pike and Lake Holiday.

[6740-02]

[Docket No. CP78-387]

SEA ROBIN PIPELINE CO.

Pipeline Application

JULY 10, 1978.

Take notice that on June 27, 1978, Sea Robin Pipeline Co. (Sea Robin) filed an abbreviated application for a budge-type certificate of public convenience and necessity authorizing the construction and operation of gas purchased and other facilities necessary to connect new supplies and to implement the exchange and transportation of natural gas. Applicant requests a total authorization of $7,500,000 with single projects limited to $2,500,000, all as more fully set forth in the application which is on file with the Federal Energy Regulation Commission (Commission) and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application, on or before July 31, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure

(18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-19727 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. CP77-302]

SEA ROBIN PIPELINE CO.

Filing of Revised Tariff Sheets

JULY 10, 1978.

Take notice that on May 19, 1978, Sea Robin Pipeline Co. (Sea Robin) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, Third Revised Sheet Nos. 127-D and 135-C to become effective on July 1, 1978. These revised tariff sheets reflect Sea Robin's cost of gas delivered at Pecan Island, La., as of July 1, 1978 and are being filed 30 days prior to the effective date pursuant to article IV of rate schedules X-7 and X-8.

Copies of the revised tariff sheets and supporting data are being mailed to Sea Robin's jurisdictional customers and interested state commission.

Any person desiring to be heard or to make any protest with reference to said application, on or before July 31, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervne 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-19728 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. CP78-371]

SEA ROBIN PIPELINE CO.

Pipeline Application

JULY 10, 1978.

Take notice that on June 14, 1978, Sea Robin Pipeline Co. (Sea Robin), P.O. Box 1478, Houston, Tex. 77001, filed in Docket No. CP78-371, an application for a temporary and permanent certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act, as amended, requesting authorization to construct and operate facilities all as more fully set forth in the application which is on file with the Federal Energy Regulation Commission (Commission).

Sea Robin states that pursuant to the authority sought herein, it proposes to construct and operate 6.5 miles of 8⅝-inch pipeline, extending from the producers' platform in block 235, South Marsh Island, offshore Louisiana to connect to Sea Robin's 36-inch pipeline at block 233 in south Marsh Island area, offshore Louisiana at an estimated cost of $2,428,400.

Any person desiring to be heard or to make any protest with reference to said application, on or before July 31, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervne 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-19729 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. EL78-21]

SEMINOLE ELECTRIC COOPERATIVE, INC. AND FLORIDA POWER CORP.

Futher Extension of Time

JULY 7, 1978.

On June 23, 1978, Seminole Electric Cooperative, Inc. (Seminole), and Flordia Power Corp. (Flordia Power) filed a motion to hold in abeyance the complaint filed by Seminole on May 8, 1978. The motion states that Seminole and Florida Power expect to be able to settle the action before the Commission instituted by Seminole's filing of the complaint. Further, Seminole and Florida Power request that the Commission now hold Seminole's complaint in abeyance until such time as the parties file a settlement agreement disposing of all the issues in this proceeding, or Seminole files a request that the Commission proceed with the

investigation requested. By notice issued June 23, 1978, an extension of time for Florida Power to answer the complaint was granted to and including July 10, 1978.

Upon consideration of the June 23, 1978 motion to hold complaint in abeyance, notice is hereby given that a further extension of time is granted to and including September 11, 1978, within which Florida Power shall answer the May 8, 1978, complaint filed by Seminole in the capitioned proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19753 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. RP78-36]

SOUTHERN NATURAL GAS CO.

Proposed Changes in FPC Gas Tariff

JULY 7, 1978.

Take notice that Southern Natural Gas Co. (Southern), on June 30, 1978, tendered for filing proposed changes in its FPC gas tariff, sixth revised volume No. 1 and original volume No. 2. The effect of the revised tariff sheets is to reduce the proposed jurisdictional rate increase, as filed in Docket No. RP78-36, by $2,849,202 for elimination of facilities and by $164,148 for the modifications due to the Docket No. RP77-31 Stipulation and Agreement. Also, Southern has reflected the substitution of the current level of purchased gas costs as represented in Southern's purchased gas adjustment (PGA) filing of May 16, 1978, in Docket No. RP73-64, proposed to become effective on July 1, 1978. The PGA adjustment results in a $30,903,619 increase in the cost of jurisdictional gas supply.

Southern states that, on January 30, 1978, Southern filed a general rate increase in Docket No. RP78-36 to become effective on March 1, 1978. By its order issued February 27, 1978, the Commission accepted the revised tariff sheets for filing and suspended their use until August 1, 1978, subject to the condition that: "On or before August 1, 1978, Southern shall file substitute tariff sheets and supplemental cost and revenue data in accordance with the Commission's rules and regulations, reflecting the elimination of all costs associated with facilities which will not be placed in service by August 1, 1978, or with the purchase of LNG if the LNG is not on stream by August 1, 1978."

Southern requests that the proposed tariff sheets be allowed to be substituted for the tariff sheets previously suspended by the Commission's order of February 27, 1978. Since the proposed tariff sheets contain the same costs included in Southern's rate filing, modified in accordance with the Commission's February 27, 1978, order, Southern respectfully requests that the Commission grant any such waivers as are necessary so as to allow the proposed tariff sheets to become effective as contemplated by the Commission in Ordering Paragraph (D).

Copies of this filing have been served upon Southern's jurisdictional customers, interested state public service commissions and all parties of record.

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 July 18, 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. 78-19743 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. CP78-375]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Pipeline Application

JULY 10, 1978.

Take notice that on June 19, 1978, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee) filed an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation by Tennessee of 21.4 miles of 30-inch, 2.3 miles of 12¾ inch, and a 12-inch crossover pipeline and related facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

The proposed 30-inch pipeline is to originate at Mesa Petroleum Co.'s (Mesa) West Delta block (WD) 61-A platform, offshore Louisiana, and will extend to Gulf Oil Co.'s (Gulf) Venice plat in Plaquemines Parish, La. Two 12¾-inch lines will connect Mesa's platforms "B" and "C" to the proposed 30-inch lines; the 12-inch crossover line will connect the proposed pipeline to Tennessee's 26-inch Port Sulphur-East Bay line. Metering facilities will be located on the three offshore platforms and at Gulf's Venice plant.

The proposed facilities, Applicant states, will permit the receipt of volumes of gas to be purchased from Mesa pursuant to a contract dated April 4, 1978. Mesa filed an application to sell gas to Tennessee at Docket No. CP78-640. Tennessee estimates that approximately 216 Bcf of proven and potential recoverable gas reserves will be available to Tennessee from WD 61 and 62.

Tennessee states that the direct cost of such facilities will be $24,824,000.

Any person desiring to be heard or to make any protest with reference to said application, on or before July 31, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary

[FR Doc. 78-19730 Filed 7-17-78; 8:45 am]

[6740-02]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

[Docket No. CP77-108]

Tariff Filing

JULY 6, 1978

Take notice that on June 19, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), tendered for filing proposed tariff sheets to its FERC Gas Tariff, Sixth Revised Volume No. 2, consisting of the following: Original sheet Nos. 284 through 284R. A sheet reserving original sheet Nos. 285 through 299 for future use.

Tennessee states that these tariff sheets constitute its Rate Schedule T-63 in accord with the Commission's order in Docket No. CP77-108

Any person desiring to be heard or to make any protest with reference to said application, on or before July 18, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19754 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. RP71-11 (PGA78-5)]

TENNESSEE NATURAL GAS LINES, INC.

PGA Rate Change

JULY 11, 1978.

Take notice that, on June 22, 1978, Tennessee Natural Gas Lines, Inc. ("TNGL") tendered for filing a rate change pursuant to the purchased gas cost adjustment ("PGA") provisions of its tariff, consisting of the following tariff sheets:

Twenty-Seventh Revised Sheet No. PGA-1.
Twenty-Second Revised Sheet No. PGA-2.

TNGL states that the sole purpose of said PGA filing is to reflect in its rates the changed rates of its sole supplier, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc. ("TGP"), which will become effective on July 1, 1978. TNGL requests the same effective date, July 1, 1978, for the tariff sheets filed by it.

TNGL states that copies of the filing were served upon its jurisdictional customer and the interested State regulatory 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, 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 July 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. 78-19731 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. RP72-98 (PGA78-6)]

TEXAS EASTERN TRANSMISSION CORP.

Proposed Changes in FERC Gas Tariff

JULY 6, 1978

Take notice that Texas Eastern Transmission Corp. on June 16, 1978 tendered for filing as a part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheets:

Forty-second Revised Sheet No. 14.
Forty-second Revised Sheet No. 14A.
Forty-second Revised Sheet No. 14B.
Forty-second Revised Sheet No. 14C.
Forty-second Revised Sheet No. 14D.

These sheets are issued pursuant to the purchased gas cost adjustment provision contained in section 23 of the general terms and conditions of Texas Eastern's FERC Gas Tariff, Fourth Revised Volume No. 1. The change in Texas Eastern's rates proposed by this filing reflects rate changes in the cost of gas purchased from two of Texas Eastern's pipeline suppliers, Texas Gas Transmission Corp. and Southern Natural Gas Co. The proposed effective date is August 1, 1978.

Copies of the filing were served on 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 July 11, 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. 78-19755 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. CP74-33]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Petition To Amend

JULY 11, 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 functions which are the subject of this proceeding were specifically transferred to the FERC by Section 402 (a)(1) of the DOE Act.

Take notice that on June 16, 1978, Transcontinental Gas Pipe Line Corp. (Petitioner), P.O. Box 1396, Houston, Tex. 77001, filed a petition to amend further the order issued February 26, 1975, in Docket No. CP74-33 (53 FPC 628), as amended by orders issued August 31, 1976 (56 FPC —), May 27, 1977 (57 FPC —), and November 23, 1977, issuing a certificate of public convenience and necessity which authorized the acquisition and development of the Washington Storage Field, St. Landry Parish, La., so as to authorize an increase in the top storage capacity of the field from 60 million dekatherms equivalent of natural gas (dt) to 66 million dt, and to render additional storage service to its customers, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that no additional facilities would be required to increase the storage capacity. The base gas requirement needed to support the 66,000,000 dt of top storage capacity is 45,000,000 dt which is 5,000,000 dt less than the

designated base gas quantity under the existing authorization, it is said.

Petitioner asserts that additional storage service would be rendered to the following customers in the stated quantities pursuant to service agreements between petitioner and the respective customers:

For the 1978-79 season:	*Dekatherms*
Atlantic Gas Light	3,000,000
The Brooklyn Union Gas Co	1,068,460
CNG Transmission Co	700,000
Fort Hill Natural Gas Authority	80,000
City of Greenwood, S.C	20,000
City of Monroe, Ga	30,000
Philadelphia Electric Co	1,418,794
Philadelphia Gas Works	1,800,000
Southwestern Virginia Gas Co	26,000
Union Cities Gas Co-N.C. & S.C. Division	100,000
Total additional service for 1978-79	8,243,254
For the 1979-80 season:	
City of Shelby, N.C	5,000
City of Union, S.C	10,000
Total additional service for 1979-80	15,000
For the 1980-81 season:	
Public Service Electric & Gas Co	2,000,000
City of Shelby, N.C	5,000
South Jersey Gas Co	1,000,000
City of Union, S.C	10,000
Union Gas Co	200,000
Total additional service for 1980-81	3,215,000

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 31, 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19735 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. CP78-379]

TRUNKLINE GAS CO.

Pipeline Application

JULY 10, 1978.

Take notice that on June 19, 1978, Trunkline Gas Co. (applicant), P.O. Box 1642, Houston, Tex. 77001, filed in docket No. CP78-379, an application pursuant to section 7 of the Natural Gas Act and the regulations thereunder for a certificate of public convenience and necessity authorizing the exchange of natural gas with Columbia Gulf Transmission Co. (Columbia Gulf) and Columbia Gas Transmission Corp. (Columbia Gas) all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to an exchange agreement between applicant, Columbia Gulf and Columbia Gas dated March 28, 1978 (exchange agreement) the parties have agreed to exchange up to 35,000 Mcfd of gas. Columbia Gas will deliver gas to Stringray Pipeline Co. (Stingray) for the account of Trunkline at an existing side tap on Stringray's 30" pipeline in West Cameron block 565. Trunkline will redeliver to Columbia Gulf thermally equivalent quantities of gas at: (1) A point on Exxon Co., U.S.A.'s (Exxon) existing "A" platform in Eugene Island block 314, (2) and existing side tap on a 20" pipeline in the Eugene Island area which is part of a system jointly owned by Columbia Gulf, Tennessee Gas Pipeline Co. (Tennessee) and Natural Gas Pipe Line Co. of America (Natural), (3) a point on Texaco, Inc., et al.'s existing "A" platform in Eugene Island block 313 and (4) a point on Shell Oil Co.'s (Shell) existint "A" platform located in Eugene Island block 331. Balancing shall be achieved at a point on Exxon's existing platform located in West Cameron block 616.

Any person desiring to be heard or to make any protest with reference to said application, on or before July 28, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, 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 Commissioner 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-19735 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. CP78-384]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Pipeline Application

JULY 11, 1978.

Take notice that on June 19, 1978, Transcontinental Gas Pipe Line Corp. (applicant), P.O. Box 1396, Houston, Tex. 77001, filed in docket No. CP78-384, an application pursuant to section 7 of the Natural Gas Act, as amended, and the rules and regulations of the Federal Energy Regulatory Commission (Commission) for a certificate of public convenience and necessity authorizing applicant to provide a transportation service for Columbia Gas Transmission Corp. (Columbia Gas) for up to 22,000 Mcf (14.73 psia) of natural gas per day from block 313, Vermilion area, south addition, offshore Louisiana, to three (3) existing points of exchange between applicant's system and the system of Columbia Gulf Transmission Co. (Columbia Gulf), onshore in Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Columbia Gas has contract rights to purchase 36.875 percent of an estimated 147.8 Bcf of natural gas reserves in block 313, Vermilion. Applicant further states that it was granted authority in docket No. CP77-453 on September 28, 1977, to construct and operate an extension of its Southeast Louisiana Gathering System from block 66, South Marsh Island area (SMI) to blocks 130 and 132, SMI, and to block 331, Vermilion; that the design of the facilities authorized in docket No. CP77-453, which are now under construction, included capacity for the transportation which applicant proposes to render for Columbia Gas from block 313, Vermilion, as well as for other transportation services; that applicant requested authorization in its application in docket No. CP77-453 to render the proposed transportation service for Columbia Gas pursuant to a precedent agreement but the Commission dismissed

the request as premature until a definitive transportation agreement had been executed; and that applicant and Columbia Gas have now executed such an agreement, dated May 23, 1978, covering the proposed transportation service for a primary term of ten (10) years.

Applicant proposes to transport up to 22,000 Mcf of natural gas per day on a firm basis through its Southeast Louisiana Gathering System for Columbia Gas from a point of receipt in block 313, Vermilion to a point in block 66, SMI, and to transport up to the same daily quantity on a best efforts basis downstream from block 66, SMI through the Southeast Louisiana Gathering System and applicant's other facilities to the following existing points of exchange with Columbia Gulf, onshore in Louisiana, where applicant will deliver quantities equivalent to those received in block 313 (less fuel use and line loss make-up) to Columbia Gulf for the account of Columbia Gas:

(a) At the terminus of the Blue Water Project of Columbia Gulf and Tennessee Gas Pipeline Co. in Egan, Acadia Parish, La;
(b) At the Acadia plant of Continental Oil Co., Acadia Parish, La; and,
(c) At the interconnection between applicant's and Columbia Gulf's pipeline in section 15, T-5-S, R-2-E, Evangeline Parish, La.

Applicant states that the estimated initial demand charge for the proposed firm transportation service for Columbia Gas will be $153,780 monthly, and is based on preliminary estimates of the cost of completing the facilities and a daily contract demand of 22,000 Mcf for Columbia Gas. Applicant further states that the first year's demand charge will be adjusted prior to initial service to reflect actual costs of the facilities authorized in docket No. CP77-453 and that at the beginning of of the second and third years of service, the demand charge will be redetermined to reflect the estimated aggregate volumes of gas to be handled through the facilities in those years, and the adjusted demand charge established at the beginning of the third year of service shall remain in effect thereafter, subject to applicant's right to file changes in its rates and charges, from time to time, for the service rendered.

Applicant further states that its initial rate for the best efforts transportation service from block 66, SMI to the onshore exchange points with Columbia Gulf is 15.25 cents per Mcf received at block 313, Vermilion, less retained volumes. In the event that additional facilities are required on applicants's Southeast Louisiana Gathering Systems to transport applicant's gas and others' gas (including Columbia Gas') downstream from block 66, SMI, Columbia Gas has the following options: Columbia Gas can terminate the best efforts transportation service to the onshore exchange points, or reduce the volumes tendered at block 313, Vermilion, so as to eliminate the need for the additional facilities downstream of block 66, SMI, or convert the transportation service from block 66, SMI to the onshore exchange points to a firm basis. According to applicant, if Columbia Gas exercises the latter option, then applicant, either separately or jointly with Columbia Gas, will construct the required facilites and the rate for the transportation service from block 66, SMI to the onshore exchage points will be adjusted to reflect the costs incurred solely by applicant to expand its facilities or the costs incured jointly for the incremental facilities, whichever is the case.

Applicant states that Columbia Gas Development Corp., an affiliate of Columbia Gas, has pending an application in docket No. CI77-692 for a certificate to sell to Columbia Gas the natural gas production in block 313, Vermilion which applicant proposes to transport for Columbia Gas. Applicant further states that the connecting facilites between the production platforms in block 313 and applicant's facilites authorized in docket No. CP77-453 will be constructed and operated under the authority of budget-type certificates by Columbia Gulf and Consolidated Gas Supply Corp. (Consolidated), which also will purchase production from block 313, Vermilion. applicant proposes to transport Consolidate's gas pursuant to an application pending in docket No. CP78-358.

Any person desiring to be heard of to make any protest with reference to said application, on or before July 31, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules and practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-19733 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. RP76-136 and RP77-26]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Tariff Filing

JULY 11, 1978.

Take notice that Transcontinental Gas Pipe Line Corp. (Transco) on June 30, 1978, tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1, proposed to become effective on August 1, 1978. Transco states that the purpose of this filing is to revise Transco's FERC gas tariff in order to (1) include new rate schedule T, covering interruptible transportation services undertaken in Transco's sales rate zones, and (2) to provide for the payment of collection of carrying charges at a rate of 9 percent per annum on the balance (positive or negative) accumulated in the deferred purchase gas cost account. Transco states that these tariff revisions were provided for by article VII and article XI, respectively, of the settlement agreement approved by the Commission's June 27, 1978, order in docket Nos. RP76-136 and RP77-26.

Transco states that copies of the instant filing have been mailed to each of its 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 July 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. 78-19732 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. RP73-35 (PGA78-2)]

TRUNKLINE GAS CO.

Change in Rates

JULY 7, 1978.

Take notice that on June 15, 1978, Trunkline Gas Co. (Trunkline) tendered for filing 23d revised sheet No. 3-A to its FERC Gas Tariff, Orignial Volume No. 1.

Trunkline submits that this revised tariff sheet reflects a PGA rate adjustment in accordance with section 18 of the general terms and conditions which reflects increases in the current cost of gas and recovery of amounts in the deferred purchased gas cost account. An effective date of August 1, 1978, is proposed.

Trunkline states that copies of its filing have been served on all jurisdictional customers and applicable State regulatory agencies.

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 filed on or before July 14, 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. 78-19756 Filed 7-17-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 929-2]

NATIONAL DRINKING WATER ADVISORY COUNCIL

Open Meeting

Under section 10(a)(2) of Pub. L. 92-423, "The Federal Advisory Committee Act," notice is hereby given that a meeting of the National Drinking Water Advisory Council established under Pub. L. 93-523, the "Safe Drinking Water Act," will be held at 9 a.m. on August 22, 1978, and at 8:30 a.m., August 23, 1978, in Room 3906, Waterside Mall, Environmental Protection Agency, 401 M Street SW., Washington, D.C.

The purpose of the meeting will be to discuss EPA's proposed regulations to control organic chemical contaminants in drinking water.

Both days of the meeting will be open to the public. The Council encourages the hearing of selected outside statements and will allocate a portion of the meeting time for public participation. Since a large number of parties have indicated an interest in presenting an oral statement, the Council will only be able to hear a few selected statements dealing with the agenda topic. Oral statements will be limited to 15 minutes followed by a 15-minute discussion period with only one presentor for each statement. Any outside parties interested in presenting an oral statement should petition the Council in writing. The petition should include the proposed statement, the petitioner's telephone number and should be received by the Council before August 4, 1978.

Any person who wishes to file a written statement can do so before or after a Council meeting. Accepted written statements will be recognized at the Council meeting.

Any member of the public wishing to attend the Council meeting, present an oral statement, or submit a written statement should contact Patrick Tobin, Executive Secretary for the National Drinking Water Advisory Council, Office of Drinking Water (WH-550), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. The telephone number is: area code 202-426-8877.

Dated: July 6, 1978.

SWEP T. DAVIS,
Acting Assistant Administrator for Water and Hazardous Materials.

[FR Doc. 78-19679 Filed 7-17-78; 8:45 am]

[6560-01]

[FRL 929-3]

POLYCHLORINATED BIPHENYLS

Approved PCB Disposal Facilities

On February 17, 1978, the U.S. Environmental Protection Agency published in the FEDERAL REGISTER the final rule for the "Disposal and Marking of Polychlorinated Biphenyls (PCBs)" (43 FR 7150). (This rule is required by section 6(e)(1) of the Toxic Substances Control Act (Pub. L. 94-469, 15 U.S.C. 2605(e))).

Under this rule, disposal of many PCBs, as defined in the regulation, is prohibited subsequent to April 18, 1978, except at EPA approved facilities. All facility approvals will be granted in writing by the appropriate Regional Administrator in which the respective facility is located.

To date, the following facilities have been approved by EPA under the authority of §§ 761.40(d) and 761.41(c) of the PCB Disposal and Marking Regulation to dispose of PCBs:

EPA REGION IV (345 COURTLAND STREET NE., ATLANTA, GA. 30308)

1. Facility: Waste Management of Alabama, Inc. Facility Address: P.O. Box 1200, Livingston, Ala. 35470. Facility Telephone No.: 205-652-9529. Type of Facility Approved: Chemical Waste Landfill. Type of PCB Waste Handled: Capacitors (small and large). Properly drained transformers. Contaminated soil, dirt, rags, and other debris. Dredge spoils. Municipal sludges. Properly drained containers (drums). Expiration Date of Approval: Open-ended.* EPA Regional Office Contact: Mr. James Scarbrough. EPA Telephone No.: 404-881-3116.

NOTE.—After January 1, 1980, PCB capacitors and contaminated soil, rags, and other debris cannot be disposed of in chemical waste landfills. A special provision does permit without time limits, the disposal in chemical waste landfills of comtaminated soil and debris resulting from spills or from old disposal sites that predate the PCB regulations.

EPA REGION X (1200 SIXTH AVENUE, SEATTLE, WASH., 98101)

1. Facility: Chem-Nuclear Systems, Inc. Facility Address: P.O. Box 1269, Portland, Oreg. 97205. Main office (site located in Arlington, Oreg.). Facility Telephone No.: 503-223-1912. Type of Facility Approved: Chemical Waste Landfill. Type of PCB Waste Handled: Capacitors (small and large). Properly drained transformers. Contaminated soil, dirt, rags, asphalt, and other debris. Properly drained containers (drums). Expiration Date of Approval: January 1, 1980. EPA Regional Office Contact: Mr. Roger Fuentes. EPA Telephone No.: 206-442-1260.

2. Facility: Wes-Con, Inc. Facility Address: P.O. Box 564, Twin Falls, Idaho 83301. Main office (site located in Grand View, Idaho). Facility Telephone No.: 208-734-7711. Type of Facility Approved: Disposal in Missile Silos. Type of PCB Waste Handled: Capacitors (small and large). Properly drained transformers. Contaminated soil, dirt, rags,

asphalt, and other debris. Properly drained containers (drums). Expiration Date of Approval: January 1, 1980. EPA Regional Office Contact: Mr. Roger Fuentes. EPA Telephone No.: 206-442-1260.

Future notices, updating this list of approved facilities will be published in the FEDERAL REGISTER approximately every month. For further information on the EPA approval of these disposal facilities, please get in touch with the appropriate EPA Regional Office contact.

Dated: June 23, 1978.

G.M. DIETRICH,
Acting Deputy Assistant Administrator for Solid Waste.

[FR Doc. 78-19677 Filed 7-17-78; 8:45 am]

[6570-06]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

[Apprenticeship Information Report EEO-2]

RECORDS AND REPORTS

Extension of Deadline for Filing Report

Notice is hereby given that the deadline for filing the 1977 Apprenticeship Information Report EEO-2 required by 29 CFR 1602.15 is extended from November 30, 1977 to September 30, 1978. The payroll period for the EEO-2 report remains unchanged.

Signed at Washington, D.C., this 11th day of July 1978.

ELEANOR HOLMES NORTON,
Chair, Equal Employment Opportunity Commission.

[FR Doc. 78-19675 Filed 7-17-78; 8:45 am]

[6570-06]

[Local Union Report EEO-3]

RECORDS AND REPORTS

Extension of Deadline for Filing Report

Notice is hereby given that the deadline for filing the 1977 Local Union Report EEO-3 required by 29 CFR 1602.22 is extended from December 31, 1977 to September 30, 1978. The payroll period for the EEO-3 report remains unchanged.

Signed at Washington, D.C., this 11th day of July 1978.

ELEANOR HOLMES NORTON,
Chair, Equal Employment Opportunity Commission.

[FR Doc. 78-19676 Filed 7-17-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATION COMMISSION

FM BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING PURSUANT TO SECTION 1.573(d) OF THE COMMISSION'S RULES.

By the Chief, Broadcast Facilities Division.

Adopted: July 10, 1978.

Released: July 11, 1978.

Cut-off Date: September 1, 1978.

Notice is hereby given that the FM broadcast application of Hopkins County Broadcasting Co. (File No. BPH-10746) for a new FM station in Sulphur Springs, Tex., will be considered as ready and available for processing on September 5, 1978. Since this application was timely filed and mutually exclusive with the earlier-filed and cut-off application of Gilbert Group, Inc. (File No. BPH-10518), no other applications which involve 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.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-19705 Filed 7-17-78; 8:45 am]

[6712-01]

[Report No. 1131]

PETITIONS FOR RECONSIDERATION OF ACTIONS IN RULEMAKING PROCEEDINGS FILED

JULY 10, 1978.

Docket or RM No.	Rule No.	Subject	Date received
20282	Pt. 97	Amendment of pt. 97 of the Commission's rules concerning operator classes, privileges, and requirements in the amateur radio service. Filed by Michael G. Ash, Secretary for Meriden Amateur Radio Club, Inc.	May 8, 1978.

NOTE.—Oppositions to petitions for reconsideration must be filed on or before August 2, 1978. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-19704 Filed 7-17-78; 8:45 am]

[6712-01]

FM BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: July 3, 1978.

Released: July 7, 1978.

Cutoff Date: August 31, 1978.

Notice is hereby given, pursuant to § 1.573(d) of the Commission's rules, that on September 1, 1978, the FM broadcast applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to §§ 1.227(b)(1) and 1.591(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on August 31, 1978, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on August 31, 1978. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing in the attached Appendix by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to § 1.573(d) of the Commission's rules.

The attention of any party in interest desiring to file pleadings concerning any pending FM broadcast applications, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPENDIX

BPH-9,681 (new), Beaverton, Oreg., Gaviota Wireless Communications Co. REQ: 103.3 MHz; Channel No. 277C. ERP: 100 kW; HAAT: 901 ft. (Allocated to Portland, Oreg.)

BPH-10,143 (KQIP), Odessa, Tex., Texas Broadcast Industries, Inc. HAS: 96.9 MHz; Channel No. 245C. ERP: 1.7 kW; HAAT: 195 ft. (LIC). REQ: 96.9 MHz; Channel No. 245C. ERP: 100 kW; HAAT: 420 ft.

BPH-10,634 (new), Perryton, Tex., Perryton Radio, Inc. REQ: 95.9 MHz; Channel No. 240A. ERP: 3 kW; HAAT: 300 ft.

BPH-10,697 (WCER-FM), Charlotte, Mich., Eaton County Broadcasting Co. HAS: 92.7 MHz; Channel No. 224A. ERP: 3 kW; HAAT: 160 ft. (LIC). REQ: 92.7 MHz; Channel No. 224A. ERP: 3 kW; HAAT: 300 ft.

BPH-10,734 (WMFQ), Ocala, Fla., Greater Ocala Broadcasting Corp. HAS: 92.7 MHz; Channel No. 224A. ERP: 1.6 kW; HAAT: 290 ft. (LIC). REQ: 92.7 MHz; Channel No. 224A. ERP: 3 kW; HAAT: 290 ft.

BPH-10,740 (new), Federalsburg, Md., Caroline Broadcasting Co, Inc. REQ: 107,1 MHz; Channel No. 296A. ERP: 2.29 kW; HAAT: 344 ft.

BPH-10,755 (new), Rupert, Idaho, Inland Broadcasting Co. REQ: 92.1 MHz; Channel No. 221A. ERP: 3 kW; HAAT: 200 ft.

BPH-10,758 (new), Makawao, Hawaii, Harry M. Engel. Req: 94.3 MHz; Channel No. 232A. ERP: 2.66 kW; HAAT: −37 ft.

BPH-10,772 (new), San Angelo, Tex., San Angelo Broadcasters, Inc. Req: 92.9 MHz; Channel No. 225C. ERP: 100 kW; HAAT: 600.4 ft.

BPH-10,773 (new), McRae, Ga., John Davidson. Req: 95.3 MHz; Channel No. 237A. ERP: 3 kW; HAAT: 288 ft.

BPH-10,805 (KHYS), Port Arthur, Tex., Clear Channel Communications, Inc. HAS: 98.5 MHz; Channel No. 253C. ERP: 3.8 kW; HAAT: 380 ft. (LIC). Req: 98.5 MHz; Channel No. 253C. ERP: 62 kW; HAAT: 380 ft.

BPH-10,858 (KLGA-FM), Algona, Iowa, KLGA, Inc. HAS: 92.7 MHz; Channel No. 224A. ERP: 2.8 kW; HAAT: 195 ft. (LIC). Req: 92.7 MHz; Channel No. 224A. ERP: 1.17 kW; HAAT: 449 ft.

BPH-10,870 (new), Pound, Va., Walter Lane Harber. Req: 102.3 MHz; Channel No. 272A. ERP: .190 kW; HAAT: 1,150 ft. (allocated to Clintwood, Va.)

BPH-10,873 (new), Levelland, Tex., Delbert L. Kirby. Req: 105.5 MHz; Channel No. 288A. ERP: 3 kW; HAAT: 300 ft.

BPH-10,874 (WBTG), Sheffield, Ala., Slatton & Associates B/casters, Inc. HAS: 106.3 MHz; Channel No. 292A. ERP: 3 kW; HAAT: 86 ft. (LIC). Req: 106.3 MHz; Channel No. 292A. ERP: 1.76 kW; HAAT: 378 ft.

BPH-10,877 (new), Grants Pass, Oreg., Grants Pass Broadcasting Co. Req: 96.9 MHz; Channel No. 245C. ERP: 27.1 kW; HAAT: −450 ft.

BPH-10,883 (WOKV), Hamilton, Ohio, YCH Associates, a limited partnership. HAS: 103.5 MHz; Channel No. 278B. ERP: 13.5 kW; HAAT: 235 ft. (LIC). Req: 103.5 MHz; Channel No. 278B. ERP: 50 kW; HAAT: 500 ft.

BPH-10,884 (WELE-FM), Deland, Fla., WELE Radio, Inc. HAS: 105.9 MHz; Channel No. 290C. ERP: 76 kW; HAAT: 245 ft. (LIC). Req: 105.9 MHz; Channel No. 290C. ERP: 100 kW: HAAT: 587 ft.

BPH-10,886 (new), Grafton, W. Va., Conti Broadcasting, Inc. Req: 100.9 MHz; Channel No. 265A, ERP: 3 kW; HAAT: 300 ft.

BPH-10,887 (new), Williston, N. Dak., Charles L. Scofield. Req: 96.1 MHz; Channel No. 241C. ERP: 100 kW; HAAT: 873 ft.

BPH-10,890 (new), Wellington, Kans., Sumner Broadcasting Co. Req: 93.5 MHz; Channel No. 228A ERP: 3 kW; HAAT: 165 ft.

BPH-10,891 (WFMI), Montgomery, Ala., Deep South Broadcasting Co. HAS: 98.9 MHz; Channel No. 255C. ERP: 17.5 kW; HAAT: 135 ft. (LIC). Req: 98.9 MHz; Channel No. 255C. ERP: 100 kW; HAAT: 492 ft.

BPH-10,898 (new), Bonifay, Fla., Townsend Broadcasting Corp. Req: 97.7 MHz; Channel No. 249A. ERP: 3 kW; HAAT: 300 ft. (Allocated to Chipley, Fla.)

BPH-10,899 (WKNO), Hodgenville, Ky., Mid-Kentucky Radio Corp. Has: 106.3 MHz; Channel No. 292A. ERP: 3 kW; HAAT: 235 FT. (LIC). Req: 106.3 MHz; Channel No. 292A. ERP: 3 kW; HAAT: 300 ft.

BPH-10,901 (new), Mason City, Iowa, TLC Broadcasting Corp. REQ: 98.3 MHZ; Channel No. 252A. ERP: 3 kW; HAAT: 300 ft.

BPH-10,902 (new), Lihue, Hawaii, Kuai, Inc. Req: 92.7 MHz; Channel No. 224A. ERP: .100 kW; HAAT: 1,223 ft.

BPH-10,903 (new), Lemoore, Calif., Cross Country Communications, Inc., Req: 104.9 MHz; Channel No. 285A. ERP: 3 kW; HAAT: 185 ft.

BPH-10,904 (KOFO-FM), Ottawa, Kans., Mar-Wa-Ka Broadcasting Co., Inc. Has: 95.7 MHz; Channel No. 239C. ERP: 6.7 kW; HAAT: 340 ft. (Lic) Req: 95.7 MHz; Channel No. 239C. ERP: 100 kW; HAAT: 330 ft.

BPH-10,905 (new), Snyder, Tex., Snyder Broadcasting Co. Req: 101.7 MHz; Channel No. 269A. ERP: 3 kW; HAAT: 293.7 ft.

BPH-10,906 (KREM-FM), Spokane, Wash., King Broadcasting Co. Has: 92.9 MHz; Channel No. 225C. ERP: 14.5 kW; HAAT: 720 ft. (LIC). Req: 92.9 MHz; Channel No. 225C. ERP: 85 kW; HAAT: 2080 ft.

BPH-10,909 (new), Benson, Ariz., Stereo 97, Inc. Req: 97.7 MHz; Channel No. 249A. ERP: 3 kW; HAAT: 271 ft.

BPH-10,910 (new), Alamogordo, N. Mex., Richard Sweetland. Req: 94.3 MHz; Channel No. 232A. ERP: 3 kW; HAAT: −492 ft.

BPH-10,911 (new), Durango, Colo., Broadcast Management, Inc. Req: 101.3 MHz; Channel No. 267C. ERP: 100 kW; HAAT: 290 ft.

BPH-10,912 (new), Arkansas City, Kans., Ark Valley Broadcasting, Inc. Req: 106.5 MHz; Channel No. 293C. ERP: 100 kW; HAAT: 377.7 ft.

BPH-10,919 (new), Norfolk, Neb., Central Radio, Inc. Req: 94.7 MHz; Channel No. 234C. ERP: 100 kW; HAAT: 650 ft.

BPH-10,922 (new), Caulksville, Ark., Broadcasting Enterprises, Inc. Req: 95.3 MHz; Channel No. 237A. ERP: .680 kW; HAAT: 568.5 ft. (allocated to Paris, Ark.).

BPH-10,929 (new), Donaldsonville, Ga., Don Butler Evangelistic Assoc., Inc. Req: 106.3 MHz; Channel No. 292A. ERP: 3 kW; HAAT: 300 ft.

BPH-10,930 (new), Fargo, N. Dak., Communications Properties, Inc. Req: 101.9 MHz; Channel No. 270C, ERP: 100 kw; HAAT: 629 ft.

BPH-10,931 (new), Batesville, Ark., Biard Communications, Inc. Req: 93.1 MHz; Channel No. 226C, ERP: 100 kw; HAAT: 560 ft.

BPH-10,933 (new), Gordonville, Mo., Rainbow Broadcasting Co., Inc. Req: 99.3 MHz; Channel No. 257A, ERP: 3 kw; HAAT: 300 ft.

BPH-10,990 (WKMX), Enterprise, Ala., Jones Wallace Miller. Has: 106.7 MHz; Channel No. 294C, ERP: 100 kw; HAAT: 430 ft. (lic). Req: 106.7 MHz; Channel No. 270C, ERP: 100 kw; HAAT: 832 ft.

BPH-10,991 (new), Palm Springs, Calif., RTC Broadcasting Corp. Req: 106.1 MHz; Channel No. 291B, ERP: 50 kw;. HAAT: 326 ft.

BPH-10,992 (new), Adel, Ga., Timberland Communications, Inc. Req: 92.1 MHz; Channel No. 221A, ERP: 3 kw; HAAT: 300 ft.

BPH-10,993 (new), Seminole, Tex., Triple R Broadcasting, Inc. Req: 106.3 MHz; Channel No. 292A, ERP: 3 kw; HAAT: 173 ft.

BPH-10,994 (new), Gold Hill, Oreg., Hill Radio, Inc. Req: 100.3 MHz; Channel No. 262C, ERP: 30.3 kw; HAAT: 985 ft. (allocated to Grants Pass, Oreg.)

BPH-10,996 (WEYA), Bayamon, Puerto Rico Radio Aeropuerto, Inc. Has: 94.7 MHz; Channel No. 234B, ERP: 31 kw; HAAT: 110 ft. (lic). Req: 94.7 MHz; Channel No. 234B, ERP: 7 kw; HAAT: 1743 ft.

BPH-10,998 (WCHK-FM) Canton, Ga., Cherokee Broadcasting Co., Inc. Has: 105.5 MHz; Channel No. 288A, ERP: 3 kw; HAAT: 81 ft. (lic). Req: 105.5 MHz; Channel No. 288A, ERP: 1.78 kw; HAAT: 382 ft.

BPH-10,999 (new), Manti, Utah, Sanpete County Broadcasting Co. Req: 105.1 MHz; Channel No. 286C, ERP: 30 kw; HAAT: 130 ft.

BPH-11,000 (WCAC), Anderson, S.C., Frank L. Outlaw, II. Has: 101.1 MHz; Channel No. 266C, ERP: 6.4 kw; HAAT: 330 ft. (lic). Req: 101.1 MHz; Channel No. 266C, ERP: 100 kw; HAAT: 308 ft.

BPH-11,005 (new), Mechanicsville, Va., Christian Communications, Inc. Req: 92.7 MHz; Channel No. 224A, ERP: 3 kw; HAAT: 300 ft.

BPH-11,015 (WANS-FM), Anderson, S.C., Radio Anderson, Inc. Has: 107.3 MHz; Channel No. 297C ERP: 100 kw; HAAT: 260 ft. (lic). Req: 107.3 MHz; Channel No. 297C, ERP: 100 kw: HAAT: 1008 ft.

BPH-11,016 (new), Salisbury, Md., Radio Salisbury, Inc. Req: 105.5 MHz; Channel No. 288A. ERP: 3 kW; HAAT: 330 ft.

BPH-11,017 (new), Green Bay, Wis., Communications Properties, Inc. Req: 95.9 MHz; Channel No. 240A. ERP: 3 kW; HAAT: 300 ft.

BPH-11,022 (WSEZ), Winston-Salem, N.C., Triad Broadcasting Co., Inc., Has: 93.1 MHz; Channel No. 226C. ERP: 34 kW; HAAT: 250 ft. (LIC). Req: 93.1 MHz; Channel No. 226C. ERP: 100 kW; HAAT: 546 ft.

BPH-11,026 (new), Lebanon, Ky., Lebanon-Springfield Broadcasting Co. Req: 100.9 MHz; Channel No. 265A. ERP: 3kW; HAAT: 284 ft.

BPH-11,027 (new), Malta, Mont., Malta Broadcasting Co. Req: 100.1 MHz; Channel No. 261A. ERP: 3 kW; HAAT: 25 ft.

BPH-11,029 (new), French Lick, Ind., Hoosier Hills Broadcasting Corp. Req: 100.1

MHz; Channel No. 261A. ERP: 3 kW; HAAT: 300 ft.

BPH-11,030 (new), Pampa, Tex., Pampa Broadcasters, Inc. Req: 100.3 MHz; Channel No. 262C. ERP: 47.3 kW; HAAT: 202 ft.

BPH-11,032 (KYYA), Billings, Mont., Meyer Broadcasting Co. Has: 93.3 MHz; Channel No. 227C. ERP: 26.5 kW; HAAT: −68 ft. (LIC). Req: 93.3 MHz; Channel No. 227C. ERP: 100 kW; HAAT: 700 ft.

BPH-11,034 (WDRK), Greenville, Ohio, Lewel Broadcasting, Inc. Has: 106.5 MHz; Channel No. 293B. ERP: 12 kW; HAAT: 170 ft. (LIC). Req: 106.5 MHz; Channel No. 293B. ERP: 50 kW; HAAT: 170 ft.

BPH-11,035 (new), Warsaw, Mo., Valkyrie Broadcasting, Inc. Req: 97.7 MHz; Channel No. 249A. ERP: 3 kW; HAAT: 238 ft.

BPH-11,036 (new), North Platte, Nebr., North Platte Broadcasting, Inc. Req: 94.9 MHz; Channel No. 235C. ERP: 63 kW; HAAT: 205 ft.

BPH-11,037 (new), Alexandria, Ind., Triplett B/cting Co. of Indiana, Inc. Req: 96.7 MHz; Channel No. 244A. ERP: 3 kW; HAAT: 294 ft.

BPH-11,040 (WHLT-FM) Huntington, Ind., Williams County B/cting System, Inc. Has: 103.1 MHz; Channel No. 276A. ERP: 3 kW; HAAT: 91 ft. (LIC). Req: 103.1 MHz; Channel No. 276A. ERP: 3 kW; HAAT: 300 ft.

BPH-11,041 (new), Placerville, Calif., Hangtown Broadcasters. Req: 92.1 MHz; Channel No. 221A. ERP: .71 kW; HAAT: 561 ft.

BPH-11,043 (KISS), San Antonio, Tex., The Walmac Co. Has: 99.5 MHz; Channel No. 258C. ERP: 12.9 kW; HAAT: 570 ft. (LIC). Req: 99.5 MHz; Channel No. 258C. ERP: 100 kW; HAAT: 522.4 ft.

BPH-11,085 (new), Burlington, Colo., KNAB, Inc. Req: 104.1 MHz; Channel No. 281C. ERP: 27.9 kW; HAAT: 358 ft.

BPH-11,086 (new), Ruidoso, N. Mex., Triple R Broadcasting, Inc. Req: 93.5 MHz; Channel No. 228A, ERP: 3 kW; HAAT: 580 ft.

BPH-11,087 (new), Berlin, Md., Musicradio of Maryland, Inc. Req: 103.9 MHz; Channel No. 280A ERP: 2 kW; HAAT: 372 ft.

BPH-11,088 (new), Augusta, Ark., Service Communications, Inc. Req: 97.7 MHz; Channel No. 249A ERP: 3 kW; HAAT: 300 ft.

BPH-11,090 (WMCD), Statesboro, Ga., Radio Statesboro, Inc. Has: 100.1 MHz; Channel No. 261A ERP: 3 kW; HAAT: 150 ft. (lic) Req: 100.1 MHz; Channel No. 261A ERP: 3 kW; HAAT: 300 ft.

BPH-11,091 (new), Fort Myers Beach, Fla., Lee Broadcasting, Inc. Req: 99.3 MHz; Channel No. 257A ERP: 3 kW; HAAT: 300 ft.

BPH-11,092 (new), Lake Placid, N.Y., WIRD, Inc. Req: 95.3 MHz; Channel No. 237A ERP: 3 kW; HAAT: 233 ft. (Allocated to Saranac Lake, NY.)

BPH-11,093 (new), Walla Walla, Wash., Capricorn Communications Corp. Req: 95.7 MHz; Channel No. 239C ERP: 100 kW; HAAT: 1400 ft.

BPH-11,096 (KLUC), Las Vegas, Nev., KLUC Broadcasting Co. Has: 98.5 MHz; Channel No. 253C ERP: 5.78 kW; HAAT: 93 ft. (lic). Req: 98.5 MHz; Channel No. 253C ERP: 25 kW; HAAT: 180 ft.

BPH-11,098 (new), Bonham, Tex., Bonham Broadcasting. Req: 98.3 MHz; Channel No. 252A ERP: 3 kW; HAAT: 298 ft.

BPH-11,099 (new), Hoopeston, Ill., Walter J. Tatar, Jr. Req: 100.9 MHz; Channel No. 265A ERP: 3 kW; HAAT: 300 ft.

BPH-11,100 (new), Haleyville, Ala., Haleyville Broadcasting Co., Inc. Req: 92.7 MHz; Channel No. 224A ERP: 3 kW; HAAT: 238 ft.

BPH-11,101 (new), Blair, Nebr., BCB, Inc. Req: 106.3 MHz; Channel No. 292A ERP: 3 kW; HAAT: 300 ft.

BPH-11,103 (KDLY), Lander, Wyo., Fremont Broadcasting, Inc. Has: 97.5 MHz; Channel No. 248C ERP: 25 kW; HAAT: 420 ft. (lic). Req: 97.5 MHz; Channel No. 248C ERP: 61.6 kW; HAAT: 277 ft.

BPH-11,106 (new), Wilmington, Ill., Viking Broadcasting Corporation. Req: 105.5 MHz; Channel No. 288A ERP: 3 kW; HAAT: 274 ft.

BPH-11,109 (new), Kearney, Nebr., Central Nebraska B/cting Co., Inc. Req: 105.9 MHz; Channel No. 290C ERP: 100 kW; HAAT: 1010 ft.

BPH-11,113 (WQSB), Albertville, Ala., Sand Mountain B/cting Service Inc. Has: 105.1 MHz; Channel No. 286C ERP: 20 kW; HAAT: 320 ft. (lic). Req: 105.1 MHz; Channel No. 286C ERP: 100 kW; HAAT: 313 ft.

BPH-11116 (new), Cherokee Village, Ark., Cherokee Village Broadcasting Co. Req: 100.9 MHz; Channel No. 265A. ERP: 3 kW; HAAT: 300 ft.

BPH-11117 (new) Orofino, Idaho, 4-K Radio, Inc. Req: 95.3 MHz; Channel No. 237A. ERP: .680 kW; HAAT: −750 ft.

BPH-11118 (new), Grangeville, Idaho, 4-K Radio, Inc. Req: 92.7 MHz; Channel No. 224A. ERP: .79 kW; HAAT: 67 ft.

BPH-11119 (new), Wrens, Ga., Jefferson County Broadcasting Corp. Req: 96.7 MHz; Channel No. 244A. ERP: 1.07 kW; HAAT: 500 ft.

BPH-11120 (new), Aledo. Ill. Coleman Broadcasting Co. Req: 102.3 MHz; Channel No. 272A. ERP: 3 kW; HAAT: 300 ft.

BPH-11122 (new), Ponca City, Okla., Montez Radio Co. Req: 100.9 MHz; Channel No. 265A. ERP: 3 kW; HAAT: 300 ft.

BPH-11123 (new), Eunice, La., Tri-Parish Broadcasting Co., Inc. Req: 100.5 MHz; Channel No. 288A. ERP: 3 kW; HAAT: 136 ft.

BPH-11140 WJAG-FM Norfolk, Nebr., WJAG, Inc. Has: 106.7 MHz; Channel No. 294C. ERP: 43 kW; HAAT: 520 ft. (lic) Req: 106.7 MHz; Channel No. 294C. ERP: 100 kW; HAAT: 521.5 ft.

BPH-11141 (new), Payette, Idaho, Blue Mountain Broadcasting Co., Req: 100.1 MHz; Channel No. 261A. ERP: 3 kW; HAAT: 300 ft.

BPH-11142 (new), Fort Bragg, Calif., Mendocino Coast Wireless Co. Req: 95.3 MHz; Channel No. 237A. ERP: .800 kW; HAAT: 603 ft.

BPH-11143 (new), Kalispell, Mont., Glacier Country Broadcasters. Req: 98.5 MHz; Channel No. 253C. ERP: 100 kW; HAAT: 415 ft.

BPH-11147 (new), Brewer, Maine, Stone Communications, Inc. Req: 100.9 MHz; Channel No. 265A. ERP: 1.0 kW; HAAT: 484 ft.

BMLH-624 (WESR-FM), Onley-Onancock, Va. Accomack-Northampton Broadcasting Co., Inc. HAS: 103.3 MHz; Channel No. 277B. ERP: 50 kw; HAAT: 320 ft. (lic) (Tasley, Va.). Req: 103.3 MHz; Channel No. 277B. ERP: 50 kW; HAAT: 320 ft. (Onley-Onancock, Va.)

BMPH-15378 (KRMQ), Provo, Utah, Equivox, Inc. HAS: 94.9 MHz; Channel No. 235C. ERP: 29 kW; HAAT: −630 ft. (CP). Req: 94.9 MHz; Channel No. 235C. ERP: 50 kW; HAAT: 2728 ft.

BMPH-15397 (WVIC-FM), East Lansing, Mich., WGSB Broadcasting Co. HAS: 94.9 MHz; Channel No. 235B. ERP: 13.5 kW; HAAT: 500 ft. (LIC). Req: 94.9 MHz; Channel No. 235B. ERP: 48.7 kW; HAAT: 500 ft.

BMPH-15437 (KFMG), Albuquerque, N. Mex., Alvin L. Korngold. Has: 107.9 MHz; Channel No. 300C. EPR: 77 kW; HAAT: −41 ft. (CP). Req: 107.9 MHz; Channel No. 300C. EPR: 43.4 kW; HAAT: −163 ft.

BMPH-15455 (KFAM), Oroville, Calif., Oroville Radio, Inc. Has: 97.7 MHz; Channel No. 249A. ERP: 3 kW; HAAT: −47 ft. (CP). Req: 97.7 MHz; Channel No. 249A. EPR: 3 kW; HAAT: 169 ft.

BMPH-15470 (KAKI), Benton, Ark., Bridges Broadcasting Service. Has: 107.1 MHz; Channel No. 296A. ERP: 3 kW; HAAT: 145 ft. (CP). Req: 107.1 MHz; Channel No. 296A. ERP: 2.5 kW; HAAT: 328 ft.

BMPH-15534 (KKDJ), Fresno, Calif., Pacific Quadracasting. Has: 105.9 MHz; Channel No. 290B. ERP: 50 kW; HAAT: 344 ft. (CP). Req: 105.9 MHz; Channel No. 290B. ERP: 2.4 kW; HAAT: 1,932 ft.

BPED-2421 (KNLU), Monroe. La., Northwest La. University. Has: 88.7 MHz; Channel No. 204D. TPO: .01 kW; (LIC). Req: 88.7 MHz; Channel No. 204A. EPR: .750 kW; HAAT: 75 ft.

BPED-2499 (new), Hazlet, N.J. W.V.R.M., Inc. Req: 89.3 MHz; Channel No. 207D. TPO: .01 kW.

BPED-2501 (KCBI), Dallas, Tex., Criswell Bible Institute. Has: 89.3 MHz; Channel No. 207A. ERP: 1.5 kW; HAAT: 660 ft. (LIC). Req: 89.3 MHz; Channel No. 207C. ERP: 9.67 kW; HAAT: 655 ft.

BPED-2531 (new), Provincetown, Mass., Lower Cape Communications, Inc. Req: 91.9 MHz; Channel No. 220A. ERP: 1 kW; HAAT: 155 ft.

BPED-2534 (WUOG), Athens, Ga., University of Georgia. Has: 90.5 MHz; Channel No. 213C. ERP: 3.2 kW; HAAT: 145 ft. (LIC). Req: 90.5 MHz; Channel No. 213C. ERP: 9.5 kW; HAAT: 179 ft.

BPED-2579 (WXCI), Danbury, Conn., Western Ct. State College. Has: 91.7 MHz; Channel No. 219a. EPR: 1.2 kW; HAAT: −77 ft. (LIC). Req: 91.7 MHz; Channel No. 219A. EPR: .763 kW; HAAT: 205 ft.

BPED-2582 (WJJW), North Adams, Mass., North Adams State College. Has: 91.1 MHz; Channel No. 216D. TPO: .01 kW; (LIC). Req: 91.1 MHz; Channel No. 216A. ERP: .423 kW; HAAT: −834 ft.

BPED-2589 (KBSB), Bemidji, Minn., Bemidji State University. Has: 91.9 MHz; Channel No. 220D. TPO: .01 kW; (LIC). Req: 89.7 MHz; Channel No. 209A. ERP: .117 kW; HAAT: 126.4 ft.

BPED—2597 (new), Williamsport, Pa., Williamsport Area Community College. Req: 88.1 MHz; Channel No. 201D. ERP: .009 kW; HAAT: −333 ft.

BPED-2603 (new), Pullman, Wash., Washington State University. Req: 90.7 MHz; Channel No. 214D. ERP: .018 kW; HAAT: 106 ft.

BPED-2610 (new), Hoopa, Calif. Hoopa Valley Tribal Council. Req: 90.9 MHz; Channel No. 215D. TPO: .01 kW.

BPED-2613 (new), Little Rock, Ark., BD of Trustees, Univ. of Arkansas. Req: 88.3 MHz; Channel No. 202C. ERP: 100 kW; HAAT: 822.2 ft.

BPED-2615 (new), Lynchburg, Va., Liberty Baptists College, Inc. Req: 88.3 MHz; Channel No. 202C. ERP: 100 kW; HAAT: 1011 ft.
BPED-2621 (KRBD), Ketchikan, Alaska, Rainbird Community Broadcasting Corp. Has: 105.9 MHz; Channel No. 290C. ERP: .01 kW; HAAT: ft. (LIC). Req: 105.9 MHz; Channel No. 290C. ERP: 7 kW; HAAT: −420 ft.
BPED-2622 (new), Des Moines, Iowa, Ctr for Stdy & App of Black Theology. Req: 89.3 MHz; Channel No. 207D. ERP: .018 kW; HAAT: 94 ft.
BPED-2623 (KWHS), West Sacramento, Calif., Washington Unified School District. Has: 91.7 MHz; Channel No. 219D. TPO: .01 kW. (LIC). Req: 91.7 MHz; Channel No. 219D. ERP: .03 kW; HAAT: 100 ft.
BPED-2631 (new), Guayama, P.R., Min. Radial Cristo Viene Pronto, Inc. Req: 88.1 MHz; Channel No. 201B. ERP: 50 kW; HAAT: −219 ft.
BPED-2646 (KOHS), Orem, Utah, Alpine School District Orem High School. Has: 91.5 MHz; Channel No. 218D. TPO: .01 kW (LIC). Req: 91.7 MHz; Channel No. 219 A. ERP: 1.74 kW; HAAT: −823 ft.
BPED-2651 (new), Grand Rapids, Mich., Grand Rapids School of Bible & Music. Req: 88.9 MHz; Channel No. 205D. ERP: .009 kW; HAAT: 171 ft.
BPED-2652 (new), Signal Mountain, Tenn., Chattanooga State Tech Community Col. Req: 91.5 MHz; Channel No. 218 A. ERP: 0.2 kW; HAAT: 946 ft.
BPED-2656 (WFGH), Fort Gay, W.Va., Wayne County Bd. of Education. Has: 90.7 MHz; Channel No. 214 B. ERP: 7.8 kW; HAAT: 205 ft. (LIC). Req: 89.3 MHz; Channel No. 207B. ERP: 7.8 kW; HAAT: 205 ft.
BPED-2670 (new), Oklahoma City, Okla., Oklahoma Christian College. Req: 88.9 MHz; Channel No. 205D. ERP: 3 kW; HAAT: 300 ft.
BPED-2680 (KUCV), Lincoln, Nebr., Union College. Has: 91.3 MHz; Channel No. 217D. TPO: .01 kW. (LIC). Req: 90.9 MHz; Channel No. 215D. ERP: 18.2 kW; HAAT: 178 ft.

[FR Doc. 78-19699 Filed 7-17-78; 8:45 am]

[6712-01]

[BC Docket Nos. 78-189, 78-190; File Nos. BPH-9978, BPH-10,419]

Goldrush Broadcasting, Inc. and Oakdale Broadcasting Corp.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: June 30, 1978.

Released: July 10, 1978.

In re applications of Goldrush Broadcasting, Inc., Oakdale, Calif., BC docket No. 78-189, File No. BPH-9978, requests: 95.1 MHz, No. 236; 50 kW; 478 feet; Oakdale Broadcasting Corp., Oakdale, Calif., BC Docket No. 78-190, File No. BPH-10,419, requests: 95.1 MHz, No. 236; 50 kW; 459 feet; for construction permits.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned applications of Goldrush Broadcasting, Inc. (Goldrush), and Oakdale Broadcasting Corp. (Oakdale), which are mutually exclusive in that they seek the same FM broadcast channel in Oakdale, Calif.

2. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

3. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

4. *It is ordered,* That, to avail themselves of the opportunity to be heard, the applicant pursuant to § 1.221(c) of the Commission's rules, in person or by attorney shall, within twenty (20) days of the mailing of this order, file with the Commission, in triplicate, a written appearance indicating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

5. *It is further ordered,* That the applicants herein shall, pursuant to § 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and manner prescribed in such rule, and shall advise the Commission of publication of such notice as required by § 1.594(g) of the rules.

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

[FR Doc. 78-19711 Filed 7-17-78; 8:45 am]

[6712-01]

[GEN Docket No. 78-193; FCC 78-448]

LAFAYETTE ELECTRONICS INTERNATIONAL INC.

Order to Show Cause Why Type Approval for Model No. 99-46674 Wireless Microphone, Should Not Be Withdrawn

Adopted: June 28, 1978.

Released: July 14, 1978.

By the Commission: Commissioner Quello absent.

In the matter of Lafayette Electronics International Inc., 111 Jericho Turnpike, Syosset, N.Y. 11791, GEN docket No. 78-193, order to show cause why the type approval for model No. 99-46674 wireless microphone should not be withdrawn.

1. Lafayette Electronics International Inc. submitted an application dated February 20, 1975, for type aproval of their model No. 99-46674 wireless microphone transmitter under part 15 of the Commission's rules. Lafayette based its application upon a previously approved unit: model No. FTM-13EA manufactured by Hosiden Electronics Co., Ltd. of 4-33 Kitakyuhoji, 1-Chome, Yao-Shi, Osaka, 581, Japan.

2. Hosiden Electronics filed an application for type approval of its model No. FTM-13EA on July 14, 1972. The application consisted of the necessary paperwork, and a sample for FCC testing. Based upon a review of the material submitted and the results of FCC tests on the sample, type approval was issued on August 4, 1972. In filing their subsequent application, Lafayette indicated their model 99-46674 wireless microphone to be identical, with the exception of identification, to Hosiden's model No. FTM-13EA. The application included a signed statement from Hosiden confirming this. Both equipments are manufactured by Hosiden. On the basis of these statements, and other representations made in their filing. Lafayette's model 99-46674 wireless microphone was issued type approval on May 7, 1975, and was assigned FCC type approval No. WM-153.

3. Under the authority in §§ 2.936 and 2.945 of the FCC rules, the Commission routinely tests samples of equipment which has already been FCC authorized. Such tests are performed, as stated in § 2.945, "* * * to determine the extent to which subsequent production of such equipment continues to comply with the data filed by the applicant (or measured by the Commission in the case of type approved equipment)." As part of our sampling program, nine grantees of type approved wireless microphones were requested to submit a designated sample. Lafayette Electronics, one of the nine grantees, was requested to submit a current production sample of the model 99-46674 to the Commission's Laboratory for testing, so that a determination could be made concerning the capability of the device to comply with the applicable technical standards; and also, to verify that the information originally filed with the Commission still applies.[1]

4. Lafayette Electronics submitted a sample of this model to the Commis-

[1]Letter request dated June 8, 1977, file reference 6810/EQU 4-6-1.

sion. Our measurements show that the sample of Lafayette's model 99-46674 as currently produced, does not comply with our technical standards.[2] We note further that the technical characteristics of this sample do not compare closely to those of the sample upon which type approval was originally based (Hosiden's model No. FTM-13EA).

5. The measurement techniques used by the Commission for testing wireless microphones are detailed in our Bulletin OCE 19.[3] In this proceeding we are interested in four of the pertinent technical standards: tuning range, emission bandwidth, level of the fundamental emission, and the levels of the spurious emissions. By limiting these characteristics, and it is the intent of the Commission to minimize the possibility of the device causing interference to other communication services—even though it operates in the FM broadcast band. Of particular concern is the level of the emissions at the fundamental frequency (the desired communication signal) and its spurious emissions (undesired and capable of causing interference to other authorized radio services). The level of these emissions, the field strength, is measured in terms of microvolts per meter (μV/m). The table below compares the FCC's technical standards, the technical characteristics of the sample upon which type approval was originally based, and the technical characteristics of the current production sample.

	Tuning range (MHz)	Emission bandwidth (kHz)	Fundamental emission (μV/m at 15 meters)	Spurious emission (μV/m at 3 meters)
FCC limit	88 to 108	200	50	40.
Hosiden Model FTM-13EA (type approval sample).	89.82 to 103.45	30(+15;−15)	12.5	4.8 at 180 MHz.
Lafayette Model 99-46674 (post-grant sample).	88.3 to 106.9	190(+40;−150)	299	89 at 180 MHz; 268 at 270 MHz; and 189 at 430 MHz tuned to high end.

6. A review of the above data indicates that the sample of Lafayette's model 99-46674 submitted for evaluation does not comply with the Commission's rules. The device exhibits excessive tuning range, emission bandwidth, and fundamental and spurious emissions.

7. On the basis of the above measurement data, the Commission must conclude that the equipment currently marketed, and possibly those units marketed since type approval was issued, do not conform to the FCC rules.

8. *Accordingly, it is ordered,* Pursuant to section 312 (b) and (c) of the Communications Act of 1934, as amended, that the grantee show cause why the type approval for model No. 99-46674 wireless microphone should not be withdrawn, and appear and give evidence in respect thereto at a hearing to be held at a time and place to be specified by a subsequent order; and

9. *It is further ordered,* That a copy of this order with attachment shall be sent by certified mail, return receipt requested, to the grantee at his last known address, Lafayette Electronics International Inc., 111 Jericho Turnpike, Syosset, N.Y. 11791.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

SECRETARY,
Federal Communications Commission, Washington, D.C.

In the matter of Lafayette Electronics International Inc., 111 Jericho Turnpike, Syosset, N.Y. 11791, order to show cause why the type approval for model No. 99-46674 wireless microphone should not be withdrawn.

RESPONDENT'S REPLY TO ORDER SHOW CAUSE

In response to the above-mentioned order to show cause, respondent hereby informs the Commission by the placing of a check mark in one of the brackets opposite one of the three items listed below, which course of action he will take in the above-entitled matter;

(See Attached)

[ ] 1. Respondent will appear and present evidence at the hearing.

[ ] 2. Respondent waives his right to a hearing in the above-entitled matter and does not submit a written statement.

[ ] 3. Respondent waives his right to a hearing in the above entitled matter and submits the attached written statement.[4]

Respectfully submitted,

Date: , 197-.

Respondent

Section 1.91 of the Commission's Rules provides that a licensee, in order to avail himself of the opportunity to be heard in a hearing presided over by an Administrative Law Judge, shall file with the Commission, within 30 days after service of the order to show cause, a written statement that he will appear at the hearing and present evidence on the matter specified in the order. If Respondent is unable to appear at a hearing held in Washington, D.C., he may request that the hearing be held at a location near his residence. Any such request should contain whatever facts Respondent feels necessary in support of this request.

The right to a hearing is waived if the licensee (1) fails to file a timely written appearance, or (2) files with the Commission, within the time specified for a written appearance, a written statement expressly waiving the right to a hearing. When hearing is waived, the licensee, within the time specified for written appearance, may submit to the Commission a written statement denying or seeking to mitigate or justify the circumstances or conduct complained of in the order to show cause. When a hearing is waived, the Chief Administrative Law Judge will issue an order certifying the case to the Commission.

[FR Doc. 78-19700 Filed 7-17-78; 8:45 am]

[6712-01]

[GEN Docket No. 78-191; FCC 78-446]

OLSON ELECTRONICS

Order to Show Cause Why Type Approval for Model No. MK-094 Wireless Microphone Should Not Be Withdrawn

Adopted: June 28, 1978.

Released: July 14, 1978.

By the Commission: Commissioner Quello absent.

In the matter of Olson Electronics, 260 South Forge Street, Akron, Ohio 44327, GEN docket No. 78-191, order to show cause why the type approval for model No. MK-095 wireless microphone should not be withdrawn.

[2] 47 CFR 15.162.

[3] Available from the Federal Communications Commission, Office of Chief Engineer, Laboratory Division, P.O. Box 40, Laurel, Md. 20810.

[4] If this statement is intended to be in mitigation, it should include information as to (1) the corrective action, if any, that has been taken in connection with each of the related violations: (2) the reasons, if any, why you believe that your equipment authorization should not be revoked. If a violation of section 1.89 (failure to reply) of the Commission's rules is involved, state the reasons why you did not timely answer the Commission's official notice of violation and/or further correspondence and the action, if any, you have taken to assure prompt response to Commission notices and correspondence in the future.

1. Olson Electronics submitted an application dated April 21, 1975, for type approval of their model MK-095 wireless microphone transmitter under part 15 of the Commission's rules. Olson based its application upon a previously approved unit: Model No. FTM-14EA manufactured by Hosiden Electronics Co., Ltd. of 4-33 Kitakyuhoji, 1-Chome, Yao-Shi, Osaka, 581, Japan.

2. Hosiden Electronics filed an application for type approval of its model No. FTM-14EA on July 14, 1972. The application consisted of the necessary paperwork, and a sample for FCC testing. Based upon a review of the material submitted and the results of FCC tests on the sample, type approval was issued on August 4, 1972. In filing their subsequent application, Olson Electronics indicated their model No. MK-095 wireless microphone to be identical, with the exception of identification, to Hosiden's model FTM-14EA. The application included a signed statement from Hosiden confirming this. Both equipments are manufactured by Hosiden. On the basis of these statements, and other representations made in their filing, Olson's model MK-095 wireless microphone was issued type approval on May 16, 1975, and was assigned FCC type approval No. WM-154.

3. Under the authority in §§ 2.936 and 2.945 of the FCC rules, the Commission routinely tests samples of equipment which has already been FCC authorized. Such tests are performed, as stated in § 2.945, "* * * to determine the extent to which subsequent production of such equipment continues to comply with the data filed by the applicant (or measured by the Commission in the case of type approved equipment)." As part of our sampling program, nine grantees of type approved wireless microphones were requested to submit a designated sample. Olson Electronics, one of the nine grantees, was requested to submit a current production sample of their model MK-095 to the Commission's Laboratory for testing, so that a determination could be made concerning the capability of the device to comply with the applicable technical standards; and also, to verify that the information originally filed with the Commission still applies.[1]

4. Olson Electronics submitted a sample of this model to the Commission. Our measurements show that the sample of Olson's Model MK-095 as currently produced, does not comply with our technical standards.[2] We note further that the technical characteristics of the sample do not compare closely to those of the sample upon which type approval was originally based (Hosiden's model No. FTM-14EA).

5. The measurement techniques used by the Commission for testing wireless microphones are detailed in our Bulletin OCE 19.[3] In this proceeding we are interested in four of the pertinent technical standards: tuning range, emission bandwidth, level of the fundamental emission, and the levels of the spurious emissions. By limiting these characteristics, it is the intent of the Commission to minimize the possibility of the device causing interference to other communication services—even though it operates in the FM broadcast band. Of particular concern is the level of the emissions at the fundamental frequency (the desire communication signal) and its spurious emissions (undesired and capable of causing interference to other authorized radio services). The level of these emissions, the field strength, is measured in terms of microvolts per meter (uV/m). The table below compares the FCC's technical standards, the technical characteristics of the sample upon which type approval was originally based, and the technical characteristics of the current production sample.

	Tuning range (MHz)	Emission bandwidth (kHz)	Fundamental emission (μV/m at 15 meters	Spurious emission (μV/m at 3 meters)
FCC limit	88 to 108	200	50	40.
Hosiden Model FTM-14EA (type approval sample).	89.90 to 103.45	40(+20;−20)	20	35.8 at 180 MHz.
Olson Model MK-095 (post-grant sample).	87.0 to 104.1	520(+90;−430)	23	116 at 180 MHz and 135 at 270 MHz.

6. A review of the above data indicates that the sample of Olson's model No. MK-095 submitted for evaluation does not comply with the Commission's rules. The device exhibits excessive tuning range, emission bandwidth, and spurious emissions.

7. On the basis of the above measurement data, the Commission must conclude that the equipment currently marketed, and possibly those units marketed since type approval was issued, do not conform to the FCC rules.

8. *Accordingly, it is ordered,* Pursuant to section 312 (b) and (c) of the Communications Act of 1934, as amended, that the grantee show cause why the type approval for model No. MK-095 wireless microphone should not be withdrawn, and appear and give evidence in respect thereto at a hearing to be held at a time and place to be specified by a subsequent order; and

9. *It is further ordered,* That a copy of this order with attachment shall be sent by certified mail, return receipt requested, to the grantee at his last known address, Olson Electronics, 260 South Forge Street, Akron, Ohio 44327.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

SECRETARY,
Federal Communications Commission, Washington, D.C.

In the matter of Olson Electronics, 260 South Forge Street, Akron, Ohio 44327, order to show cause why the type approval for model No. MK-095 wireless microphone should not be withdrawn.

RESPONDENT'S REPLY TO ORDER SHOW CAUSE

In response to the above-mentioned order to show cause, respondent hereby informs the Commission by the placing of a check mark in one of the brackets opposite one of the three items listed below, which course of action he will take in the above-entitled matter:

(*See Attached*)

[ ] 1. Respondent will appear and present evidence at the hearing.

[ ] 2. Respondent waives his right to a hearing in the above-entitled matter and does not submit a written statement.

[ ] 3. Respondent waives his right to a hearing in the above-entitled matter and submits the attached written statement.[4]

Respectfully submitted,

Date: ————, 197-.

Respondent ————————————

Section 1.91 of the Commission's rules provides that a licensee, in order to avail

[1] Letter request dated August 9, 1977, file reference 6810/EQU 4-6-1.

[2] 47 CFR 15.162.

[3] Available from the Federal Communications Commission, Office of Chief Engineer, Laboratory Division, P.O. Box 40, Laurel, Md. 20810.

[4] If this statement is intended to be in mitigation, it should include information as to (1) the corrective action, if any, that has been taken in connection with each of the related violations: (2) the reasons, if any, why you believe that your equipment authorization should not be revoked. If a violation of § 1.89 (failure to reply) of the Commission's rules is involved, state the reasons why you did not timely answer the Commission's official notice of violation and/or further correspondence and the action, if any, you have taken to assure prompt response to Commission notices and correspondence in the future.

himself of the opportunity to be heard in a hearing presided over by an Administrative Law Judge, shall file with the Commission, within 30 days after service of the order to show cause, a written statement that he will appear at the hearing and present evidence on the matter specified in the order. If Respondent is unable to appear at a hearing held in Washington, D.C., he may request that the hearing be held at a location near his residence. Any such request should contain whatever facts Respondent feels necessary in support of this request.

The right to a hearing is waived if the licensee (1) fails to file a timely written appearance, or (2) files with the Commission, within the time specified for a written appearance, a written statement expressly waiving the right to a hearing. When hearing is waived, the licensee, within the time specified for written appearance, may submit to the Commission a written statement denying or seeking to mitigate or justify the circumstances or conduct complained of in the order to show cause. When a hearing is waived, the Chief Administrative Law Judge will issue an order certifying the case to the Commission.

[FR Doc. 78-19701 File 7-17-78; 8:45 am]

[6712-01]

[GEN Docket No. 78-194; FCC 78-449]

RADIO SHACK

Order To Show Cause Why Type Approval for Model No. 33-1048A Wireless Microphone Should Not Be Withdrawn

Adopted: June 28, 1978.

Released: July 14, 1978.

By the Commission: Commissioner Quello absent.

In the matter of Radio Shack, a Tandy Corp., 1100 Tandy Center, Fort Worth, Tex. 76102, order to show cause why the type approval for Model No. 33-1048A wireless microphone should not be withdrawn.

1. Radio Shack, a Tandy Corp., submitted an application dated August 28, 1974, for type approval of their Model No. 33-1048A wireless microphone transmitter under part 15 of the Commission's rules. Radio Shack based its application upon a previously approved unit: Model No. FTM-13EA manufactured by Hosiden Electronics Co., Ltd. of 4-33 Kitakyuhoji, 1-Chome, Yao-Shi, Osaka, 581, Japan.

2. Hosiden Electronics filed an application for type approval of its Model No. FTM-13EA on July 14, 1972. The application consisted of the necessary paperwork, and a sample for FCC testing. Based upon a review of the material submitted and the results of FCC tests on the sample, type approval was issued on August 4, 1972. In filing their subsequent application, Radio Shack indicated their Model 33-1048A wireless microphone to be identical, with the exception of identification, to Hosiden's Model No. FTM-13EA. The application included a signal statement from Hosiden confirming this. Both equipments are manufactured by Hosiden. On the basis of these statements, and other representations made in their filing, Radio Shack's Model 33-1048A wireless microphone was issued type approval on October 3, 1974, and was assigned FCC Type approval Number WM-151.

3. Under the authority in §§ 2.936 and 2.945 of the FCC rules, the Commission routinely tests samples of equipment which has already been FCC authorized. Such tests are performed, as stated in § 2.945, "* * * to determine the extent to which subsequent production of such equipment continues to comply with the data filed by the applicant (or measured by the Commission in the case of type approved equipment)." As part of our sampling program, nine grantees of type approved wireless microphones were requested to submit a designated sample. Radio Shack, one of the nine grantees, was requested to submit a current production sample of their Model 33-1048A to the Commission's laboratory for testing, so that a determination could be made concerning the capability of the device to comply with the applicable technical standards; and also, to verify that the information originally filed with the Commission still applies.[1]

4. Radio Shack submitted two samples of this model to the Commission. Our measurements show that the sample of Radio Shack's Model 33-1048A as currently produced, does not comply with our technical standards.[2] We note further that the technical characteristics of these samples do not compare closely to those of the sample upon which type approval was originally based (Hosiden's Model No. FTM-13EA).

5. The measurement techniques used by the Commission for testing wireless microphones are detailed in our Bulletin OCE 19.[3] In this proceeding we are interested in four of the pertinent technical standards: tuning range, emission bandwidth, level of the fundamental emission, and the levels of the spurious emissions. By limiting these characteristics, it is the intent of the Commission to minimize the possibility of the device causing interference to other communication services—even though it operates in the FM broadcast band. Of particular concern is the level of the emissions at the fundamental frequency (the desired communication signal) and its spurious emissions (undesired and capable of causing interference to other authorized radio services). The level of these emissions, the field strength, is measured in terms of microvolts per meter (μV/m). The table below compares the FCC's technical standards, the technical characteristics of the sample upon which type approval was originally based, and the technical characteristics of the two current production samples.

	Tuning range (MHz)	Emission bandwidth (kHz)	Fundamental emission (μV/m at 15 meters)	Spurious emission(μV/m at 3 meters)
FCC limit	88 to 108	200	50	40.
Hosiden Model FTM-13EA (type approval sample.	89.82 to 103.45	30(+15;−15)	12.5	4.8 at 180 MHz.
Radio Shack Model 33-1048A (post-grant sample No. 1).	83.9 to 104.3	1800(+1100;−700)	268	1055 at 270 MHz and 100 at 450 MHz.
Radio Shack Model 33-1048A (Post-grant sampe No. 2).	85.5 to 106.1	1300(+600;−700)	236	473 at 270 MHz.

6. A review of the above data indicates that neither of the samples of the Model 33-1048A submitted for evaluation by Radio Shack complies with the Commission's rules. Each sample exhibits excessive tuning range, emission bandwith, and fundamental and spurious emissions.

7. On the basis of the above measurement data, the Commission must conclude that the equipment currently marketed, and possibly those units marketed since type approval was issued, do not conform to the FCC rules.

8. Accordingly, *it is ordered*, Pursuant to section 312 (b) and (c) of the Communications Act of 1934, as amended, that the grantee show cause why the type approval for Model No. 33-1048A wireless microphone should not be withdrawn, and appear and give evidence in respect thereto at a hear-

[1] Letter request dated June 8, 1977, File Reference 6810/EQU 4-6-1.

[2] 47 CFR 15.162.

[3] Available from the Federal Communications Commission, Office of Chief Engineer, Laboratory Division, P.O. Box 40, Laurel, Md. 20810.

ing to be held at a time and place to be specified by a subsequent order; and

9. *It is further ordered,* That a copy of this order with attachment shall be sent by certified mail, return receipt requested, to the grantee at his last known address, Radio Shack, a Tandy Corp., 1100 Tandy Center, Fort Worth, Tex. 76102.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

SECRETARY,
Federal Communications Commission, Washington, D.C.

In the matter of Radio Shack, a Tandy Corp., 1100 Tandy Center, Fort Worth, Tex. 76102, order to show cause why the type approval for Model No. 33-1048A Wireless Microphone should not be withdrawn.

RESPONDENT'S REPLY TO ORDER SHOW CAUSE

In response to the above-mentioned order to show cause, Respondent hereby informs the Commission by the placing of a check mark in one of the brackets opposite one of the three items listed below, which course of action he will take in the above-entitled matter:

(See Attached)

☐ 1. Respondent will appear and present evidence at the hearing.

☐ 2. Respondent waives his right to a hearing in the above-entitled matter and does not submit a written statement.

☐ 3. Respondent waives his right to a hearing in the above-entitled matter and submits the attached written statement.*

Respectfully submitted,

Date: ————, 197-.

Respondent ————————————

Section 1.91 of the Commission's rules provides that a licensee, in order to avail himself of the opportunity to be heard in a hearing presided over by an Administrative Law Judge, shall file with the Commission, within 30 days after service of the order to show cause, a written statement that he will appear at the hearing and present evidence on the matter specified in the order. If Respondent is unable to appear at a hearing held in Washington, D.C., he may request that the hearing be held at a location near his residence. Any such request should contain whatever facts Respondent feels necessary in support of this request.

The right to a hearing is waived if the licensee (1) fails to file a timely written appearance, or (2) files with the Commission, within the time specified for a written appearance, a written statement expressly waiving the right to a hearing. When hearing is waived, the licensee, within the time specified for written appearance, may submit to the Commission a written statement denying or seeking to mitigate or justify the circumstances or conduct complained of in the order to show cause. When a hearing is waived, the Chief Administrative Law Judge will issue an order certifying the case to the Commission.

[FR Doc. 78-19702 Filed 7-17-78; 8:45 am]

* If this statement is intended to be in mitigation, it should include information as to (1) the corrective action, if any, that has been taken in connection with each of the related violations: (2) the reasons, if any, why you believe that your equipment authorization should not be revoked. If a violation of section 1.89 (failure to reply) of the Commission's rules is involved, state the reasons why you did not timely answer the Commission's official notice of violation and/or further correspondence and the action, if any, you have taken to assure prompt response to Commission notices and correspondence in the future.

[6712-01]

[GEN Docket No. 78-195; FCC 78-450]

TELEXPORT, INC.

Order To Show Cause Why Type Approval for Model No. 30-003 Wireless Microphone Should Not Be Withdrawn

Adopted: June 28, 1978.

Released: July 14, 1978.

By the Commission: Commissioner Quello absent.

In the matter of Telexport, Inc., P.O. Box 756, 690 West 28th Street, Hialeah, Fla. 33011, GEN Docket No. 78-195, order to show cause why the type approval for Model No. 30-003 wireless microphone should not be withdrawn.

1. Telexport, Inc., submitted an application dated July 2, 1974, for type approval of their Model No. 30-003 FM wireless microphone transmitter under part 15 of the Commission's rules. Telexport based its application upon a previously type approved unit: Model No. FTM-13EA manufactured by Hosiden Electronics Co., Ltd., of 4-33 Kitakyuhoji, 1-Chome, Yao-Shi, Osaka, 581, Japan.

2. Hosiden Electronics filed an application for type approval of its Model No. FTM-13EA on July 14, 1972. The application consisted of the necessary paperwork, and a sample for FCC testing. Based upon a review of the material submitted and the results of FCC tests on the sample, type approval was issued on August 4, 1972. In filing their subsequent application, Telexport indicated their Model. No. 30-003 wireless microphone to be identical, with the exception of identification, to Hosiden's Model No. FTM-13EA. The application included a signed statement from Hosiden confirming this. Both equipments are manufactured by Hosiden. On the basis of these statements, and other representations made in their filing, Telexport's Model No. 30-003 wireless microphone was issued type approved on September 13, 1974, and was assigned FCC Type Approval No. WM-144.

3. Under the authority in §§ 2.936 and 2.945 of the FCC rules, the Commission routinely tests samples of equipment which has already been FCC authorized. Such tests are performed, as stated in § 2.945, "* * * to determine the extent to which subsequent production of such equipment continues to comply with the data filed by the applicant (or measured by the Commission in the case of type approved equipment)." As part of our sampling program, nine grantees of type approved wireless microphones were requested to submit a designated sample. Telexport, Inc., one of the nine grantees, was requested to submit a current production sample of their Model 30-003 to the Commission's laboratory for testing, so that a determination could be made concerning the capability of the device to comply with the applicable technical standards; and also, to verify that the information originally filed with the Commission still applies.[1]

4. Telexport, Inc., submitted a sample of this model to the Commission. Our measurements show that the sample of Telexport's Model No. 30-003 as currently produced, does not comply with our technical standards.[2] We note further that the technical characteristics of this sample do not compare closely to those of the sample upon which type approval was originally based (Hosiden's Model No. FTM-13EA).

5. The measurement techniques used by the Commission for testing wireless microphones are detailed in our Bulletin OCE 19.[3] In this proceeding we are interested in four of the pertinent technical standards: tuning range, emission bandwidth, level of the fundamental emission, and the levels of the spurious emissions. By limiting these characteristics, it is the intent of the Commission to minimize the possibility of the device causing interference to other communication services—even though it operates in the FM broadcast band. Of particular concern is the level of the emissions at the fundamental frequency (the desired communication signal) and its spurious emissions (undesired and capable of causing interference to other authorized radio services). The level of these emissions, the field strength, is measured in terms of microvolts per meter (μV/m). The table below compares the FCC's technical standards, the technical characteristics of the sample upon which type approval was originally based, and the technical characteristics of the current production sample.

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[1] Letter request dated June 8, 1977, File reference 6810/EQU 4-6-1.

[2] 47 CFR 15.162.

[3] Available from the Federal Communications Commission, Office of Chief Engineer, Laboratory Division, P.O. Box 40, Laurel, Md. 20810.

	Tuning range (MHz)	Emission bandwidth (kHz)	Fundamental emission (μV/mat 15 meters)	Spurious emission (μV/m at 3 meters)
FCC limit	88 to 108	200	50	40.
Hosiden Model FTM-13EA (type approval sample).	89.82 to 103.45	30(+15;−15)	12.5	4.8 at 180 MHz.
Telexport Model 30-003 (post-grant sample).	87.4 to 109.1	290(+50;−240)	378	473 at 270 MHz.

6. A review of the above data indicates that the sample of Telexport's Model No. 30-003 submitted for evaluation does not comply with the Commission's rules. The device exhibits excessive tuning range, emission bandwidth, and fundamental and spurious emissions.

7. On the basis of the above measurement data, the Commission must conclude that the equipment currently marketed, and possibly those units marketed since type approval was issued, do not conform to the FCC rules.

8. Accordingly, *It is ordered,* Pursuant to section 312 (b) and (c) of the Communications Act of 1934, as amended, that the grantee show cause why the type approval for Model No. 30-003 wireless microphone should not be withdrawn, and appear and give evidence in respect thereto at a hearing to be held at a time and place to be specified by a subsequent order; and

9. *It is further ordered,* That a copy of this order with attachment shall be sent by certified mail, return receipt requested, to the grantee at his last known address, Telexport, Inc., P.O. Box 756, 690 West 28th Street, Hialeah, Fla. 33011.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

SECRETARY,
Federal Communications Commission, Washington, D.C.

In the matter of Telexport, Inc., P.O. Box 756, 690 West 28th Street, Hialeah, Fla. 33011, order to show cause why the type approval for Model No. 30-003 Wireless Microphone should not be withdrawn.

RESPONDENT'S REPLY TO ORDER TO SHOW CAUSE

In response to the above-mentioned order to show cause, Respondent hereby informs the Commission by the placing of a check mark in one of the brackets opposite one of the three items listed below, which course of action he will take in the above-entitled matter:

(*See Attached*)

[ ] 1. Respondent will appear and present evidence at the hearing.

[ ] 2. Respondent waives his right to a hearing in the above-entitled matter and does not submit a written statement.

[ ] 3. Respondent waives his right to a hearing in the above-entitled matter and submits the attached written statement.*

Respectfully submitted,

Date: ————, 197-.
Respondent

Section 1.91 of the Commission's rules provides that a licensee, in order to avail himself of the opportunity to be heard in a hearing presided over by an Administrative Law Judge, shall file with the Commission, within 30 days after service of the order to show cause, a written statement that he will appear at the hearing and present evidence on the matter specified in the order. If Respondent is unable to appear at a hearing held in Washington, D.C., he may request that the hearing be held at a location near his residence. Any such request should contain whatever facts Respondent feels necessary in support of this request.

The right to a hearing is waived if the licensee (1) fails to file a timely written appearance, or (2) files with the Commission, within the time specified for a written appearance, a written statement expressly waiving the right to a hearing. When hearing is waived, the licensee, within the time specified for written appearance, may submit to the Commission a written statement denying or seeking to mitigate or justify the circumstances or conduct complained of in the order to show cause. When a hearing is waived, the Chief Administrative Law Judge will issue an order certifying the case to the Commission.

[FR Doc. 78-19703 Filed 7-17-78; 8:45 am]

[6712.01]

TV BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING PURSUANT TO SECTION 1.572(c) OF THE COMMISSION'S RULES.

Adopted: July 10, 1978.

By the Chief, Broadcast Bureau.

*If this statement is intended to be in mitigation, it should include information as to (1) the corrective action, if any, that has been taken in connection with each of the related violations; (2) the reasons, if any, why you believe that your equipment authorization should not be revoked. If a violation of §1.89 (failure to reply) of the Commission's rules is involved, state the reasons why you did not timely answer the Commission's official notice of violation and/or further correspondence and the action, if any, you have taken to assure prompt response to Commission notices and correspondence in the future.

Released: July 11, 1978.

Notice is hereby given, pursuant to section 1.572(c) of the Commission's rules, that the television broadcast applications listed below will be considered to be ready and available for processing on August 15, 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-4925 (new), Columbus, Ohio, Commercial Radio Institute, Inc., Channel 28.
BPCT-4955 (new), Columbus, Ohio, Christian Voice of Central Ohio, Channel 28.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-19706 Filed 7-17-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

GRAHAM & JAMES, ET AL.

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justification offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 7, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the

public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-2289-1.

Filing Party: Mr. Harry D. Page, Esquire, Graham & James, One Maritime Plaza, San Francisco, Calif. 94111.

Summary: Agreement No. T-2289-1, between Centurion Transport, Inc., General Steamship Terminals, Ltd., and Kerr Terminals, Inc. (collectively known as "joint venturer") amends the basic agreement between the parties which provides for the formation of a joint venture for the conduct of marine terminal and related operations at the Ports of Long Beach and Los Angeles, Calif. The purpose of the modification is as follows: (1) Change the location of the principal office to a location determined by the Management Committee in Los Angeles County; (2) change the specific number of members to allow flexibility in the number of members on the Management Committee and provide for the election of officers; (3) provide for unanimous vote rather than majority vote of the entire Management Committee and provide for the proportionate contribution of an entering joint venturer; (4) establish the fiscal year of the venture and set forth the standards of accounting practices which the venture is to maintain; (5) provide for the equal distribution of net profits or losses; (6) provide for the dissolvement of the venture; (7) lengthen the notice period for one of the joint venturers to withdraw from 60 days to 90 days and set forth the basis on which a joint venturer may be required to withdraw and what the venturer is entitled to upon withdrawal; and (8) amend the paragraph relating to charges to steamship lines and also provide for the submission to the Management Committee of all private contracts for terminal services on a continuing basis for more than 90 days.

Agreement No.: T-2409-2

Filing party: H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Wash. 98111.

Summary: Agreement No. T-2409-2, between Port of Seattle and Alaska Rail Car Co., (ARC) modifies the parties basic agreement which provides for the lease to ARC of premises to be used in the loading and unloading of railroad cars to and from barges via a rail loading ramp. The purpose of this modification is to: (1) correct the ground and submerged land area to 1.974 acres; (2) increase the monthly rental from $2,276.52 to $5,008.65; and (3) increase the amount of the lease bond to $60,000.

Agreement No.: T-3591-1.

Filing party: H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Wash. 98111.

Summary: Agreement No. T-3591-1, between the Port of Seattle (Port) and Foss-Alaska Line, Inc., (Foss), modifies the parties' basic agreement providing for the Port's renewable five-year lease to Foss of certain premises consisting of 629,724 square feet of land and water areas located at Terminal 115, Seattle, Wash. to be used for barge loading and unloading, van stuffing and unstuffing, container repair and general offices. The purpose of the modification is to: (1) permit Foss to exercise its option to incorporate into the basic lease a portion of Parcel 2; (2) provide for the Port's construction of a fence on Parcel 2 with Foss amortizing its cost at a 9.5 percent return to the Port over the remaining life of the lease; (3) increase the monthly rent by the sum of $562.00.

Agreement No.: T-3664.

Filing Party: Richard L. Landes, Deputy, The City Attorney of Long Beach, City Hall, 333 West Ocean Boulevard, Long Beach, Calif. 90802.

Summary: Agreement No. T-3664, between the Board of Harbor Commissioners of the City of Long Beach, Calif., (Port) and Sea-Land Service, Inc., (Sea-Land) is an approximately two-year (with renewal options) Crane Utilization Agreement whereby the Port shall utilize Sea-Land's Paceco MACH Portainer Container Cranes Nos. 452 and 453 on Pier G, Berths 227-230 inclusive, Port of Long Beach. The cranes shall be utilized only by a preferential assignee of the Port, consented to and authorized in writing by Sea-Land. As compensation, Port shall pay to Sea-Land a minimum monthly utilization charge of $13,500 per crane, based upon a guaranteed minimum usage of 750 hours per crane per annum. Sea-Land reserves the right of secondary crane usage. Temporary utilization or assignment of said cranes shall be in accordance with the provisions of the Port of Long Beach Tariff No. 3 and Sea-Land shall retain all tariff charges accruing therefrom.

Agreement No.: T-3673.

Filing party: Ronaldo Rodriguez Ossorio, General Counsel, Puerto Rico Ports Authority, G.P.O. Box 2829, San Juan, Puerto Rico 00936.

Summary: Agreement No. T-3673, between the Puerto Rico Ports Authority (Port) and Sea-Land Service, Inc. (Sea-Land), provides for the Port's month-to-month lease to Sea-Land of certain premises consisting of 3.5455 cuerdas of land at Piers L and M in the Central Market, Puerto Nuevo, San Juan, Puerto Rico, to be used for the parking of container vans. As compensation, Sea-Land shall pay the Port $5,500.00 per month.

Agreement No.: 9988-8.

Filing party: John Sewell, Secretary, Continental/U.S. Gulf Freight Association, 3rd Floor Cunard Building, Liverpool L3, 1DS, England.

Summary: Agreement No. 9988-8, amends the basic agreement of the Continental U.S. Gulf Freight Association by (1) extending the agreement's jurisdiction to inland points in the United States and Europe, (2) authorizing agreement on matters ancillary to intermodal movements, (3) authorizing consultation and agreement with conferences and rate agreements serving the same European port ranges on the policing and enforcement of rules, practices and charges in connection with the inland movement of containers, and (4) excluding from the agreement minibridge traffic destined to U.S. ports outside the Cape Canaveral, Fla./Brownsville, Tex. range.

Agreement No.: 10344.

Filing party: F. A. Wendt, Senior Vice President Traffic and Sales, Delta Steamship Lines, Inc., P.O. Box 50250, 1700 International Trade Mart, New Orleans, La. 70150.

Summary: Agreement No. 10344 is a Husbanding agency Agreement between Delta Steamship Lines, Inc. (Delta) and United States Refrigerated Lines Co. (USRLC) in the trade between the U.S. Gulf and United Kingdom and/or European ports whereby USRLC seeks to appoint Delta its husbanding agent at all U.S. Gulf ports at which its vessels call and Delta seeks to accept this appointment.

By Order of the Federal Maritime Commission.

Dated: July 12, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-19851 Filed 7-17-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Miscellaneous Internal Drug Products Panel.....	Aug. 4, 5, and 6, 9 a.m., Conference Room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. (Aug. 4), Holiday Inn, Chevy Chase, Md. (Aug. 5 and 6).	Open public hearing Aug. 4, 9 to 10 a.m.; open committee discussion Aug. 4, 10 a.m. to 4:30 p.m., Aug. 5 and 6, 9 a.m. to 4:30 p.m.; Armond M. Welch (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those who desire to make such a presentation should notify the contact person (listed above) before August 1, 1978, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)).

The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
2. Anesthesiology Devices Section of the Respiratory and Nervous System Devices Panel.	Aug. 9, 9 a.m., Room 1409, FB-8, 200 C Street SW., Washington, D.C.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4 p.m.; James R. Veale (HFK-430), 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7226.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to the classification of anesthesia and respiratory therapy devices to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by July 26, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The Panel will discuss the proposed classification regulations for anesthesia and respiratory therapy devices. The FDA will explain the procedures for the submission to and review of premarket approval applications by the Panel. The Panel will discuss exemptions for class I (general controls) devices.

Committee name	Date, time, and place	Type of meeting and contact person
3. Fertility and Maternal Health Drugs Advisory Committee.	Aug. 10 and 11, 9 a.m., Conference Room F (Aug. 10), Conference Room G (Aug. 11), Parklawn Bldg., 5600 Fishers Lance, Rockville, Md.	Open public hearing Aug 10, 9 to 10 a.m.; open committee discussion Aug. 10, 10 a.m. to 5 p.m., Aug. 11, 9 a.m. to 5 p.m.; A. T. Gregoire (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3490.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of obstetrics and gynecology.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of the role of progestins in estrogen replacement therapy; the use of primates in the evaluation of contraceptives; labeling of injectable oxytocic drugs; oral contraceptive labeling method effectiveness rates; the effect of glucocorticoids on the fetal lung; Estradiol Pellets (NDA 18-135), Bartor Pharmacal Co.; and FDA action report.

Committee name	Date, time, and place	Type of meeting and contact person
4. Miscellaneous External Drug Products Panel.....	Aug. 11 and 12, 9 a.m., Conference Room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. (August 11), Holiday Inn, Georgia Room, Bethesda, Md. (August 12).	Open public hearing Aug. 11, 9 to 10 a.m.; open committee discussion Aug. 11, 10 a.m. to 4:30 p.m., Aug. 12, 9 a.m. to 4:30 p.m.; John T. McElroy (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-6057.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any information, or views, orally or in writing, on issues pending before the committee. Those who desire to make such a presentation should notify the contact person before August 8, 1978, and interested persons may present data, submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)).

The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
5. Endocrinologic and Metabolic Drugs Advisory Committee.	Aug. 18, 9 a.m., Conference Room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, 9 to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; A. T. Gregoire (HFD-130), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3490.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in endocrine and metabolic disorders.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of the use of sodium fluoride in treatment of osteoporosis and otosclerosis; also, etidronate disodium (NDA 17-831 (Didronel)) for use in heterotropic ossification in patients with spinal cord injury.

Committee name	Date, time, and place	Type of meeting and contact person
6. Antimicrobial Panel	August 18 and 19, 9 a.m., Conference Room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. (August 18), Holiday Inn, Bethesda, Md. (August 19).	Open public hearing, Aug. 18, 9 to 10 a.m.; open committee dicussion Aug. 18, 10 a.m. to 4:30 p.m., Aug. 19, 8:30 a.m. to 4:30 p.m.; Armond M. Welch (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those who desire to make such a presentation should notify the contact person before August 15, 1978, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addreses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)).

The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
7. Subcommittee of the Arthritis Advisory Committee.	Aug. 17, 9 a.m., Conference Room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 9 to 10 a.m.; open committee discussion 10 a.m. to 4:30 p.m.; John G. Harter (HFD-150), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4260.

General function of the committee Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in arthritic conditions.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Consideration of supporting studies for Non-Steroidal Anti-Inflammatory Drug (NSAID) approval.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1-hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: July 12, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-19696 Filed 7-17-78; 8:45 am]

[4110-03]

Food and Drug Administration

[Docket No. 78N-0183]

CHLORTETRACYCLINE-NEOMYCIN OBLONG TABLETS

Opportunity for Hearing on Proposed Withdrawal of Approval

AGENCY: Food and Drug Administration

ACTION: Notice.

SUMMARY: The Director of the Bureau of Veterinary Medicine is providing an opportunity for a hearing to the American Cyanamid Co., P.O. Box 400, Princeton, N.J. 08540, on a proposal to withdraw approval of a new animal drug application for Calf Scour Oblets, which contains chlortetracycline, neomycin, and vitamins A, D, and niacin. The reason for the proposed withdrawal is that new information evaluated together with evidence available at the time of the drug's approval shows there is a lack of substantial evidence that the drug is effective.

DATE: A written appearance requesting a hearing and comments concerning this notice must be submitted on or before August 17, 1978.

ADDRESS: Written requests to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Donald Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857; 301-443-4313.

SUPPLEMENTARY INFORMATION: Published elsewhere in this issue of the FEDERAL REGISTER is a proposal to revoke § 546.110f *Chlortetracycline hydrochloride-neomycin tablets* (21 CFR 546.110f), which provides for the certification of the drug.

I. THE DRUG

Name: Chlortetracycline hydrochloride, neomycin base (as the sulfate), nicotinic acid, vitamin A, and vitamin D.

Dosage form: Oral tablet.

Conditions of use: Treatment of bacterial scours in calves.

Recommended dosage: Provides 1.25 milligrams (mg) per pound body weight chlortetracycline and 1.25 mg per pound body weight neomycin base.

Approved application: NADA 55-055V, Calf Scour Oblets; American Cyanamid Co., P.O. Box 400, Princeton, N.J. 08540.

Under section 108(b)(2) of the Animal Drug Amendments of 1968 (Pub. L. 90-399), any approval of a new animal drug granted prior to the effective date of the amendments, whether through approval of a new drug application, master file, antibiotic regulation, or food additive regulation, continues in effect until withdrawn in accordance with the provisions of section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b). Many such approvals were issued long ago, and some may never have been used by the holder of the approval. Consequently, the current files of the Food and Drug Administration (FDA) may be incomplete and may fail to reflect the existence of some approvals. Also, many approvals have been withdrawn by other agency actions, e.g., the agency's rulemaking procedure published in the FEDERAL REGISTER of February 25, 1976 (41 FR 8282). The burden of coming forward with documentation of unrecorded approvals in such circumstances is therefore properly placed on the person claiming to hold such approvals so as to permit definitive revocation or amendment of the regulations.

The Director of the Bureau of Veterinary Medicine knows of no approval affected by this notice other than that named herein. Any person who intends to assert or rely on such an approval that is not listed in this notice shall submit proof of its existence within the period allowed by this notice for opportunity to request a hearing.

The failure of any person holding such an approval to submit proof of its existence within that period shall constitute a waiver of any right to assert or rely on it. In the event that proof of the existence of such an approval is presented, this notice shall also constitute a notice of opportunity for hearing with respect to that approval, based on the same grounds set forth in this notice.

II. BACKGROUND

American Cyanamid's Calf Scour Oblets (NADA 55-055V) were originally approved as a food additive petition (FAP 503) in the FEDERAL REGISTER of November 30, 1962 (27 FR 11800). At that time, certain antibiotics for animal use, e.g. chlortetracycline, were regulated under the antibiotic certification provision of section 507 of the act (21 U.S.C. 357) and the food additive provisions of section 409 of the act (21 U.S.C. 348). These sections provide for a public regulation or monograph system for regulating the antibiotics subject to their provisions. Under the antibiotic monograph procedure, the pioneer manufacturer generated and submitted the basic safety and effectiveness data in an FD Form 5 (now FD-1675). A regulation was subsequently published setting forth the standards of identity, strength, quality, and purity, and the packaging and labeling requirements that the product must meet. The Food and Drug Administration approval of the same product made by another manufacturer was then conditioned solely upon a demonstration that it met the requirements of the regulation, and this is normally accomplished by batch certification.

Congress enacted the Animal Drug Amendments of 1968 (Pub. L. 90-399) and consolidated the provisions of the act dealing with the premarket approval of drugs intended for use in animals (sections 409, 505, and 507) into one new section, 512 (21 U.S.C. 360b), to regulate these articles more efficiently and effectively (Senate Committee on Labor and Public Welfare, Animal Drug Amendments of 1968, S. Rep. No. 1308, 90th Cong., 2d Sess. (1968)). This legislation also brought the manufacture of antibiotics under the private license system for new drugs (id., Hearing on S. 1600 and H.R. 3639 before the Subcommittee on Health of the Senate Committee on Labor and Public Welfare, 90th Cong., 2d Sess. (1968)). To efficiently accomplish this change, the amendments contained a transition clause (section 108(b)) which provided that all prior approvals continue in effect and be subject to change in accordance with the provisions of the basic act as amended. In summary, all persons legally marketing antibiotics under the provisions of sections 409, 505, and 507 of that act on August 1, 1969, the effective date of the Animal Drug Amendments of 1968, were considered as holding the equivalent of an approved new animal drug application; however, all holders of such approvals

are also subject to all applicable requirements of the act and regulations.

III. Review of Data

In April 1972, American Cyanamid submitted two batches of Calf Scour Oblets to FDA for certification. Because FDA records indicated that the drug had not been submitted for certification for several years, FDA requested American Cyanamid to submit copies of the current labeling for the product. Because the file had been inactive for a long period, the Bureau of Veterinary Medicine (BVM) upon receipt of the labeling reviewed the entire application to determine whether it met the current criteria for effectiveness and whether the dosages were supported by adequate data.

The review indicated that although the product had not been reviewed by the National Academy of Sciences/National Research Council (NAS/NRC), the dosage of the active ingredients did not meet the NAS/NRC recommended levels. The NAS/NRC recommended that the effective oral dosage in the treatment of calf scours for chlortetracycline was 10 mg per pound body weight per day in daily divided doses, and for neomycin (base) it was 7 mg per pound body weight in daily divided doses. Since Calf Scour Oblets provided only 1.25 mg of each antibiotic component, BVM concluded from the available data that calves would not receive an adequate dose for the therapeutic claim of treatment of bacterial scours. Additionally, BVM's review of the application found that the three studies submitted to establish effectiveness did not meet the current criteria in that they lacked data meeting the requirements for fixed combination drugs as set forth in § 514.1(b)(8)(v) (21 CFR 514.1(b)(8)(v)). The three studies are as follows:

1. Dickson, Robert S., "Neomycin Sulfate in *Salmonella dublin* Infection of Calves," *Veterinary Medicine*, 49:421-422, 452, 1954.

An outbreak of *Salmonella dublin* infection in a group of 50 calves was reported. Dosage administered was 2 tablets every 12 hours (four 0.5 gram Mycifradin Sulfate, a brand of neomycin sulfate) for 3 days, then 1 tablet a day to 40 surviving calves. Of the 40 calves receiving this treatment, 30 recovered, 3 needed re-treatment, and 7 died. The subject drug combination, however, was not investigated.

2. Dickson, Robert S., "Neomycin Sulfate in Arizona Paracolon Infection in Calves," *Veterinary Medicine*, 50:143-144, 1955.

The study is inconclusive for neomycin alone as a treatment for bacterial enteritis, as there was no control group of animals included in the study. An infection occurred in a group of 20 calves, treated initially with 0.5 gram neomycin tablet followed by 1 tablet daily for 2 days. The subject drug combination was not investigated.

3. Summary of field reports on Aureomycin-Neomycin-Vitamin Oblet (1959).

Nine veterinarians reported on the treatment of 49 cases of diarrhea and 1 case each of septicemia and bacterial infection in calves varying in age from 1 day to 4 months and weighing 45 lbs. to 225 lbs. Of the cases treated, 44 recovered, 3 died, 2 relapsed, and 2 showed improvement. These reports are incomplete and contain limited clinical data. They do not constitute substantial evidence of effectiveness. There were no controlled comparisons as required by § 514.111(a)(5)(vi). There was no dose titration.

IV. Request for Data

BVM informed American Cyanamid by letter, dated February 23, 1973, of the NAS/NRC recommended effective levels for chlortetracycline and neomycin in treating calf scours, and it had been concluded that calves would not receive an adequate dosage from Calf Scour Oblets. The letter also stated that additional effectiveness data were necessary to show that each drug in the combination contributes to the total effect claimed in the labeling.

American Cyanamid has not responded to this request for data.

V. Demonstration of Effectiveness

Section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b) requires that a new animal drug have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling. For fixed combination drugs, § 514.1(b)(8)(v) (21 CFR 514.1(b)(8)(v)) requires that each ingredient designated as active in any new animal drug combination must make a contribution to the effect in the manner claimed or suggested in the labeling. Furthermore, if in the absence of express labeling claims of advantages for the combination such a product purports to be better than either component alone, the sponsor must establish that the new animal drug has that purported effectiveness. The requirement of effectiveness includes the requirement that the most effective level for each component be used. In the case of drug combinations for concurrent therapy, the requirement of effectiveness includes the requirement that the dosage of each component is such that the combination is safe and effective for a population of significant size specifically described in the labeling as requiring such concurrent therapy. Therefore, to demonstrate that the Calf Scour Oblets are effective, the sponsor must submit, in accordance with section 512(d)(3) of the act (21 U.S.C. 360b(d)(3)), substantial evidence consisting of adequate and well-controlled investigations, as defined by 21 CFR 514.111(a)(5), including field investigation, satisfying these requirements.

No data have been submitted by American Cyanamid purporting to show substantial evidence based on adequate and well-controlled studies that the combination of ingredients in the formulation of Calf Scour Oblets is effective at the dosage level recommended in the product's labeling and that each active ingredient in the formulation contributes to the effect in the manner claimed or suggested in the labeling, thereby assuring that the most effective level or levels of each ingredient drug is or are used as required by § 514.1(b)(8)(v). This combination should be superior to the NAS/NRC recommended dose for each drug used singly in the treatment of bacterial scours in calves. For a combination drug, the sponsor must submit information and data to demonstrate that the combination of drugs provides a unique benefit that cannot be obtained by the use of each of the drugs individually. Additional data will be required to show that each drug ingredient in this combination contributes to the overall effect claimed by the labeling.

VI. Conclusion

On the basis of all the data and information available to him, the Director of the Bureau of Veterinary Medicine is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 512 of the act and § 514.1(b)(8) of the regulations, demonstrating the effectiveness of this combination drug product.

Therefore, notice is given to American Cyanamid and to all other interested persons, that the Director proposes to issue an order under section 512(e) of the act and under section 108(b) of Pub. L. 90-399 withdrawing approval of NADA 55-055 because new information about the drug product, evaluated together with the evidence available at the time of its approval, shows there is a lack of substantial evidence that the drug product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling, in that there is a lack of evidence that this product is effective at the dosage level recommended or as a fixed combination.

In addition to the grounds for the proposed withdrawal of the approval, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug product, e.g., any contention that such product is not is not a new animal drug within the meaning of section 201(w) of the act (21 U.S.C. 321(w)).

In accordance with the provisions of section 512 of the act, section 108 of Pub. L. 90-399, and the regulations

promulgated thereunder (21 CFR Part 514), American Cyanamid is hereby given an opportunity for a hearing to show why approval of NADA 55-055 should not be withdrawn and § 546.110f, which provides for its use, amended in accordance with this proposed withdrawal of approval, and an opportunity to raise, for administrative determination, all issues related to the legal status of Calf Scour Oblets. Any other person may also submit comments on this notice within the time and pursuant to the requirements specified in this notice.

American Cyanamid shall file on or before August 17, 1978, a written appearance electing whether or not to avail itself of the opportunity for a hearing. Such written appearance shall give the reason why the approval should not be withdrawn, together with a well-organized and full factual analysis of the clinical and other investigational data in support of the opposition to the Director's proposal.

Such analysis shall include all protocols and underlying raw data and shall be submitted in accordance with the requirements of § 314.200 (c)(2) and (d) (21 CFR 314.200 (c)(2) and (d)), which are hereby made applicable to this notice by reference. Wherever in § 314.200(d) reference is made to the requirements of § 300.50 (21 CFR 300.50), that reference shall be deemed, for the purposes of this notice, to be a reference to the requirements for combination drug products as expressed in § 514.1(b)(8) and this notice.

The failure of American Cyanamid to file a timely written appearance and request for hearing as required by § 514.200 constitutes an election not to avail itself of the opportunity for a hearing concerning the action proposed and a waiver of any contentions concerning the legal status of the drug, and the Director will summarily enter a final order withdrawing the approval of NADA 55-055. Calf Scour Oblets may not thereafter lawfully be marketed.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing there is a genuine and substantial issue of fact that requires a hearing. If a hearing is requested and justified by American Cyanamid's response to this notice of opportunity for hearing, the issues will be defined, an Administrative Law Judge will be assigned, and a written notice of the time and place at which the hearing will commence will be issued as soon as practicable. If it clearly appears from the data submitted and from the reasons and a factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of Calf Scour Oblets and amendment to the regulation that provides for its use (for example, no adequate and well-controlled clinical investigations to support the claims of effectiveness have been identified), the Commissioner of Food and Drugs will enter summary judgment against American Cyanamid, making findings and conclusions, and denying a hearing, and the applicable regulation will be immediately amended consistent with such determination without further opportunity for objection or hearing.

All submissions pursuant to this notice shall be filed in quintuplicate with the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville MD 20857. They may be seen, except for data and information prohibited from public disclosure pursuant to section 301(j) of the act (21 U.S.C. 331(j)) or 18 U.S.C. 1905, in the office of the Hearing Clerk during regular business hours, 9 a.m. to 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 507, 512, 59 Stat. 463 as amended, 82 Stat. 343-351 (21 U.S.C. 357, 360b)) and the Animal Drug Amendments of 1968 (sec. 108(b), 82 Stat. 353) and under authority delegated to the Commissioner (21 CFR 5.1) and redelegated to the Director (21 CFR 5.84).

Dated: July 7, 1978.

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

[FR Doc. 78-19578 Filed 7-17-78; 8:45 am]

[4110-87]

Center for Disease Control

OCCUPATIONAL SAFETY AND HEALTH

Request for Comments on Certain Chemical/Physical Agents and Industrial Processes

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, Public Health Service, HEW.

ACTION: Request for comments.

SUMMARY: This notice solicits comments concerning subjects for which NIOSH may develop recommended occupational safety and health standards (criteria documents). The comments will be used along with other information in selecting subjects for criteria documents to be developed in 1983.

DATE: Comments concerning this notice should be submitted by September 1, 1978.

ADDRESS: Comments and recommendations should be submitted in writing to: Dr. Vernon E. Rose, Director, Division of Criteria Documentation and Standards Development, PRAB No. 78-2, National Institute for Occupational Safety and Health, 5600 Fishers Lane, Room 8A-53, Rockville, Md., 20857.

FOR FURTHER INFORMATION CONTACT:

Donald A. Hensel, Project Administrator, Priorities and Research Analysis Branch, DCDSD, NIOSH, 301-443-2100.

SUPPLEMENTARY INFORMATION: Section 20(a)(3) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a)(3)) provides that the Secretary of Health, Education, and Welfare, on the basis of information available to him, shall develop criteria dealing with toxic materials which will describe exposure levels that are safe for various periods of employment. Section 22(c) of the act authorizes the National Institute for Occupational Safety and Health (NIOSH) to develop recommended occupational safety and health standards and to perform all functions of the Secretary of Health, Education, and Welfare, under sections 20 and 21 of the act. NIOSH is proposing to develop criteria documents containing recommended occupational health standards for 24 of the following chemical substances, physical agents, and industrial processes for completion in 1983.

I. INDUSTRIAL PROCESSES

Demolition and wrecking.
Dentistry.
Electric power generation.
Electronics manufacture.
Estrogens and androgens—manufacture and formulation.
Ferrous smelting.
Fertilizer manufacture.
Food processing.
Glass and ceramics manufacturing.
Hairdressing and barbers.
Hormones manufacture and formulation (excluding estrogens and androgens).
Intermetallics use and manufacture.
Jewelry manufacturing.
Nonferrous smelting.
Oil well drilling and oil fields.
Petrochemicals (subdivided into at least 10 groups manageable as criteria documents).
Plastics and resins (formulation, shaping, fabrication, and pressing).
Plywood and particle board manufacturing (including pressed board such as Masonite).
Steel manufacturing.

II. SINGLE CHEMICALS

Acrolein.
Butyl acetate.
Carbon oxysulfide.
Cyanogen.
Cyclohexylamine.
Dimethyl acetamide.
Dimethyl formamide.
Dimethyl Terephthalate.
Ethyl silicate.
Hexamethyl phosphoramide.
Methyl sulfate.
Terephthalic acid.

III. CHEMICAL CLASSES OR GROUPS

Acrylic acid and its esters.
Amorphous silicas.
Aryl phosphates.
Aryl sulfonic acids and salts.
Cyclopentadienes.
Fluorescent brightening agents.
Hydraulic fluids.
Methacrylic acid and its esters.
Molybdenum and its compounds.
Peroxides (organic).
Polyethylene glycols.
Polypropylene glycols.
Polyurethanes.
Silicon compounds (organic).
Tetramethylbenzenes.

IV. PHYSICAL AGENT

Infrasonics.

Prior to finalizing plans for the development of these documents, the public is invited to submit comments, including suggestions for additions or deletions, with accompanying documentation to the address above.

NIOSH is anticipating making a final decision in May 1979, on the documents to be developed in 1983.

Information which is considered trade secret by those submitting that information will not be accepted by NIOSH. All other information received concerning this notice will be available for public inspection at the foregoing addresses.

Dated: July 12, 1978.

J. MICHAEL LANE,
Acting Director, National Institute for Occupational Safety and Health.

[FR Doc. 78-19715 Filed 7-17-78; 8:45 am]

[4110-87]

OCCUPATIONAL SAFETY AND HEALTH

Request for Information on Certain Chemical/Physical Agents

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, Public Health Service, HEW.

ACTION: Request for information.

SUMMARY: NIOSH is proposing to update the information in the recommended occupational health standards (criteria documents) for 11 substances and is requesting new information or data which has been developed since the criteria documents were published.

DATES: Pertinent information is requested and should be transmitted to NIOSH on or before September 1, 1978.

ADDRESS: Information and data concerning the 11 substances should be submitted in writing to: Dr. Vernon E. Rose, Director, Division of Criteria Documentation and Standards Development, PRAB No. 78-3, National Institute for Occupational Safety and Health, 5600 Fishers Lane, Room 8A-53, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Donald A. Hensel, Project Administrator, Priorities and Research Analysis Branch, DCDSD, NIOSH, 301-443-2100.

SUPPLEMENTARY INFORMATION: Section 20(a)(3) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a)(3)) provides that the Secretary of Health, Education, and Welfare, on the basis of information available to him, shall develop criteria dealing with toxic materials which will describe exposure levels that are safe for various periods of employment. Section 22(c) of the act, authorizes the National Institute for Occupational Safety and Health (NIOSH) to develop recommended occupational safety and health standards (criteria documents) and to perform all functions of the Secretary of Health, Education, and Welfare, under sections 20 and 21 of the act. Since 1972, NIOSH has developed and forwarded to the Assistant Secretary for Labor criteria documents on more than 80 subjects. Published and unpublished information relating to many of the criteria documents which were published during 1973-76 has increased at such a rate that NIOSH must now consider an update of the following 11 criteria documents:

Criteria Document and GPO No.

Acrylamide, 017-033-00185-5.
Cadmium, 017-033-00206-1.
Chromic acid, 017-033-00020.
Chromium (VI), 017-033-00125-1.
Epichlorohydrin, 017-033-00197-9.
Methylene chloride, 017-033-00194-4.
Oxides of nitrogen, Out of print.
Phosgene, 017-033-00134-1.
1,1,2,2,-tetrachloroethane, 017-033-00179-1.
Tetrachloroethylene, not available from GPO.
1,1,1-trichloroethane, not available from GPO.

Each criteria document includes among other items an evaluation of available information relative to the areas listed below.

1. Establishment of safe occupational environmental levels for such agents including levels for acute and chronic exposure to airborne concentrations of the chemical agents as well as safe practices concerning direct contact with such agents.

2. Establishment of biologic standards, i.e., the levels of such agents, metabolites, or other effects of exposure which may be present within the body without a person suffering ill effects, taking into consideration (a) the correlation of air borne concentrations of, and extent of exposure to, such substances with effects on specific biologic systems of man such as the circulatory, respiratory, urinary, and nervous system, and (b) the analytical methods for determining the amount of the substance which may be present within the body.

3. Engineering controls, including ventilation, environmental temperature, humidity, and housekeeping and sanitation procedures, with attention to the technological feasibility of such controls.

4. Specifications for the conditions under which personal protective devices should be required.

5. Methods, including instruments, for air sampling and sample analysis of the chemical agents and methods of measuring levels of exposure to the physical agents.

6. The need for medical examinations for workers exposed to such agents, the frequency of such examinations, and the specific diagnostic tests which should be used and the rationale of their selection.

7. Work practices or procedures which may be instituted for control of the workplace environment in normal operations and those which may be instituted when occupational environmental levels are temporarily exceeded or where peak concentrations of chemical agents in man are reached.

8. The types of records concerning occupational exposure to such agents that employers should be required to maintain.

9. Warning devices and labels which should be required for the prevention of occupational diseases and hazards caused by such agents.

Information which is considered trade secret by those submitting that information will not be accepted by NIOSH. All other information received concerning these substances will be available for public inspection at the foregoing address.

Dated: July 12, 1978.

J. MICHAEL LANE,
Acting Director, National Institute for Occupational Safety and Health.

[FR Doc. 78-19716 Filed 7-17-78; 8:45 am]

[4110-83]

Health Resources Administration

FLORIDA HEALTH SERVICE AREAS 3 AND 5

Redesignation

In accordance with section 1511(b)(4) of the Public Health Service Act as amended by Pub. L. 93-641, the Secretary of Health, Education, and Welfare has determined that Florida Health Service Areas 3 and 5 no longer meet the requirements of section 1511(a) of the Public Health Serv-

ice Act and should be revised to add Volusia County to Health Service Area 3 and remove Volusia County from health service area 5. This revision constitutes approval of a redesignation request initiated by the Governor of Florida on February 6, 1976.

A notice of redesignation based upon the Secretary's determination was originally published in the FEDERAL REGISTER on March 23, 1978 (43 FR 12089-12090). However, at that time the Secretary was under a temporary restraining order regarding the redesignation. This restraining order has since been dissolved and the Secretary is, therefore, proceeding to implement the redesignation.

Section 122.205 of the governing regulations (42 FR 12833) provides that the Secretary will determine the populations of health service areas based upon the latest available estimate from the Department of Commerce and will publish annually in the FEDERAL REGISTER a list of all health service areas and their populations. A notice to this effect was published on September 2, 1977 (42 FR 44288-44289). A determination has been made that the population of the revised health service area 3 is 916,900 and the population of the revised health service area 5 is 816,800.

Accordingly, Florida Health Service Areas 3 and 5 are revised as follows:

FLORIDA

Health service area 3 is the geographic area comprised of the following counties: Baker, Clay, Duval, Flagler, Nassau, St. Johns, and Volusia.

Health service area 5 is the geographic area comprised of the following counties: Brevard, Orange, Osceola, and Seminole.

Dated: July 10, 1978.

HENRY A. FOLEY,
Administrator.

[FR Doc. 78-19770 Filed 7-17-78; 8:45 am]

[4110-39]

National Institute of Education

INFORMATION AND DATA ACQUISITION ACTIVITY

Collection; Opportunity for Comments

Pursuant to section 406g(2)(B), General Education Provisions Act, notice is hereby given as follows:

The National Institute of Education is proposing an information and data acquisition activity which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

This data acquisition activity as described below is also subject to review by the HEW Education Data Acquisition Council.

Written comments on the proposed activities are invited. Comments should refer to the form number and must be received on or before August 17, 1978, and should be addressed to the Administrator, National Center for Education Statistics ATTN: Management Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from the Project Officer, Mary Lou Randour, Educational Policy and Organization, National Institute of Education, 202-254-5470.

JUNE SCHUCKHARDT,
Alternate Forms Clearance Officer, National Institute of Education.

JULY 12, 1978.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Evaluation of Freestyle

2. AGENCY/BUREAU/OFFICE

National Institute of Education

3. AGENCY FORM NUMBER NIE 187

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"(e)(1) In order to carry out the objectives of the Institute the Director is authorized, through the Institute, to conduct educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants, or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this subsection, the term 'educational research' includes (basic and applied), planning, surveys, evaluations, investigations, experiments, developments, and demonstrations in the field of education (including career education)." (Section 405(e)(1) of the General Education Provisions Act as amended, 20 U.S.C. 1221e)

5. VOLUNTARY/OBLIGATORY NATURE FOR THIS ACTIVITY

Voluntary.

6. HOW INFORMATION COLLECTED WILL BE USED

Assessment of Program Effectiveness: NIE will be informed regarding the ability of Freestyle to meet its stated objectives for its audience of 9-12 year olds, i.e., a product validation. These objectives are concerned with reducing the effect of sex role stereotyping on the knowledge of and preferences and attitudes toward:

a. Interests and activities,
b. Adult career and family roles, and
c. General behavioral strategies, such as leadership, needed for achievement.

Three outcomes will be assessed: 1. What the child's attitude is about an appropriate activity, behavior, future occupation or family role for herself or himself.

2. The child's attitude about what is acceptable and appropriate for girls and boys and women and men in general.

3. Increased knowledge about the activities, interests, and behaviors as well as adult occupations and family roles which are presented in the project's materials.

Use by Potential Consumers: Information obtained from evaluation can recommend adoption and utilization procedures, such as optimum classroom scheduling and procedures for use in the classroom that will facilitate the implementation of Freestyle in the school curriculum. This information will be available to teachers, principals, and ITV managers, for example.

Other Federal Agencies: Information obtained from the evaluation will allow comparison of the impact of the project across different treatment groups. These different treatments will allow recommendations to be made to other agencies such as the Office of Education and the Public Broadcasting Service about the relative effectiveness of an educational television intervention designed for school viewing, compared to home viewing only.

Social Science Researchers: A research base will be provided on the nature and durability of sex role attitudes of 9-12 year olds to social science researchers. This research base will add to present knowledge as well as lead to future research that will enhance equal educational opportunity efforts.

7. DATA ACQUISITION PLAN

(a) Method of collection. Questionnaire in person and by mail, and telephone interview.

(b) Time of collection. Pretest—September, 1978, Posttest—January, 1979.

(c) Frequency. Single time, intermittent.

8. RESPONDENTS

(a) Type. Public elementary schools.

(b) Number. Sample—7,010.

(c) Estimated average person-hours per respondent: 2.7.

(a) Type. Teachers, elementary schools.

(b) Number. Sample—255.

(c) Estimated average person-hours per respondent: 1.

(a) Type. Parents.

(b) Number. Sample—2,390.

(c) Estimated average person-hours per respondent: 36.

9. INFORMATION TO BE COLLECTED

Elementary school students—Data will be requested on the student's knowledge, attitudes and preferences for: (1) interests and activities; (2) adult career and family roles; (3) specified behavioral strategies, such as leadership, cooperation, etc.

Elementary school teachers—Data will be requested on teachers' background, experience using ITV, experience with career education, and attitudes toward the Freestyle television series and its goals.

Parents—Data will be requested on parents' expectations for their children in the areas of career attainment and participation in activities common to 9-12 year olds.

[FR Doc. 78-19695 Filed 7-17-78; 8:45 am]

[4110-02]

Office of Education

COMMUNITY EDUCATION ADVISORY COUNCIL

Meeting

AGENCY: Office of Education, HEW, Community Education Advisory Council.

ACTION: This notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Community Education Advisory Council. It also describes the functions of the Council. Notice of these meetings is required under section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92-634. This document is intended to notify the general public of their opportunity to attend.

DATES: Meeting: August 8-9, 1978.

ADDRESS: Radisson Denver Hotel, 1790 Grant Street, Denver, Colo. 80203.

FOR FURTHER INFORMATION CONTACT:

Margaret Beavan, Office of Education, Department of Health, Education, and Welfare, Room 5622-ROB-3, 7th and D Streets SW., Washington, D.C. 20202. Telephone, 202-245-0691.

SUPPLEMENTARY INFORMATION: The Community Education Advisory Council is authorized under Pub. L. 93-380. The Council is established to advise the Commissioner of Education on policy matters relating to the interest of community schools. All sessions of this meeting will be open to the public. On both days the meetings will begin at 9 a.m. and end at 4:30 p.m.

The Council decided during their last meeting held in Minneapolis, Minn., on April 25-26, 1978, to work with the National Community Education Association concerning the development and further understanding of the community education concept. Together with the National Community Education Association the Council will discuss cooperative efforts and make recommendations concerning long-range planning for the Council.

Since the House and Senate committees have both passed the new community education legislation and full House and Senate votes on the legislation is anticipated shortly, the Council will devote a portion of their time to the identification of issues relevant to this legislation. These and other issues will ultimately become a part of policy for regulatory development.

The proposed agenda includes:

(1) Federal planning, update, general administrative matters and related business;
(2) Update of legislative matters;
(3) Long-range planning;
(4) Discussion concerning possible legislative development and Council involvement in policy analysis;
(5) Presentation on evaluation final report;
(6) Presentation on Annual Report to Congress for Calendar Year 1977; and,
(7) Schedule of future meetings.

Records shall be kept of all Council proceedings and shall be available for public inspection in Room 5622, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. 20202.

Signed at Washington, D.C. on July 13, 1978.

JULIE ENGLUND,
Director,
Community Education Program.

[FR Doc. 78-19857 Filed 7-17-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CANON CITY GRAZING ADVISORY BOARD, COLORADO

Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Canon City District Grazing Advisory Board to be held in the San Luis Valley on August 25, 1978. The meeting will be held on a field trip format and time and exact location will be announced.

The purpose of this meeting will be to review Allotment Management Plans proposed in the Final San Luis Grazing Management Environmental Statement and to act on proposals for expenditure of range betterment funds.

This meeting may be open to the public. However, due to its field trip nature, facilities to accommodate members of the public will be extremely limited and persons may be accommodated on a first-come, first-served basis. Any member of the public may file with the Board a written statement concerning matters to be discussed.

Persons wishing further information concerning the meeting may contact Melvin D. Clausen, District Manager, Bureau of Land Management, 3080 E. Main Street, Canon City, Colo. at 303-275-7494.

Minutes of the meeting will be available at the Canon City District Office for public inspection 30 days after the meeting.

Dated July 10, 1978.

MELVIN D. CLAUSEN,
District Manager.

[FR Doc. 78-19693 Filed 7-17-78; 8:45 am]

[4310-84]

Bureau of Land Management

[Colorado 24402 K, L]

NORTHWEST PIPELINE CORP.

R/W Application for Pipeline

JULY 10, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corp., 315 East 200 South, Salt Lake City, Utah 84111, has applied for a right-of-way for a 4½" o.d. natural gas pipeline for the East Douglas Creek gathering system approximately 1.125 miles long, across the following public lands:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLO.

T. 3 S., R. 100 W.,
Sec. 28, NW¼SW¼;
Sec. 29, E½SE¼.
T. 3 S., R. 101 W.,
Sec. 13, E½SW¼ and SW¼SW¼;
Sec. 14, SE¼SE¼;
Sec. 23, NE¼,NE¼.

The above-named gathering system will enable the applicant to collect natural gas in areas through which the pipeline will pass and to convey it to the applicants' customers.

The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions, (2) to give all interested parties the opportunity to comment on the application, and (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corp.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, Jr.,
Leader, Craig Team,
Branch of Adjudication

[FR Doc. 78-19771 Filed 7-17-78; 8:45 am]

[4310-84]

[U-39729]

UTAH

Application

JULY 10, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Glen A. Dow and T. Keith Marks have applied for a crude oil treatment and storage facility right-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 40 S., R. 23 E.,
Sec. 20.

The needed right-of-way is for production of Dow-Marks well I-20 (Federal lease U-27357) and compliance with NTL-2B.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

PAUL L. HOWARD,
State Director.

[FR Doc. 78-19772 Filed 7-17-78; 8:45 am]

[4310-84]

[Colorado 26921]

WESTERN SLOPE GAS CO.

Pipeline Application

JULY 10, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Western Slope Gas Co., P.O. Box 840, Denver, Colo. 80201, has applied for a right-of-way for 4.5-inch o.d. natural gas distribution pipeline totaling approximately 5.7 linear miles across the following public lands:

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 2 S., R. 97 W.,
Sections 13, 24, 25, and 36.
T. 3 S., R. 97 W.,
Sections 1 and 12, all in Rio Blanco County.

The primary purpose for construction of the proposed prpeline is to enable the applicant to convey natural gas from the West Douglas Natural Gas Field by way of the West Douglas to Black Sulphur Natural Gas Transmission Line to an industrial customer.

The purposes of this notice are: To inform the public that the Bureau of Land Management will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved and, if so, under what terms and conditions; to allow interested parties to comment on the application; and to allow any persons asserting a claim to the lands or having bona fide objections to the proposed natural gas pipeline right-of-way to file their objections in this office. Any person asserting a claim to the lands or having bona fide objections must include evidence that a copy thereof has been served on the applicant.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, Jr.,
Leader, Craig Team
Branch of Adjudication.

[FR Doc. 78-19692 Filed 7-17-78; 8:45 am]

[4310-03]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before July 7, 1978. Pursuant to section 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by July 28, 1978.

WILLIAM J. MURTAGH,
Keeper of the
National Register.

ARIZONA

Cochise County

Pearce, *Pearce General Store*, Ghost Town Trail and Pearce Rd.

Coconino County

Flagstaff, *First Presbyterian Church of Flagstaff*, 319 S. San Francisco St.

DELAWARE

New Castle County

Odessa vicinity, *MacDonough, Comdr. Thomas, House*, N of Odessa on U.S. 13

FLORIDA

Dade County

Miami, *Vizcaya*, 3251 S. Miami Ave. (boundary increase)

Escambia County

Pensacola vicinity, *Fort Barrancas Historical District*, Pensacola Naval Air Station

GEORGIA

Pulaski County

Hawkinsville, *Taylor Hall*, Kibbe St.

IDAHO

Ada County

Eagle, *Eagle Flour Mill*, ID 44

Bannock County

Pocatello, *Hood, John, House*, 554 S. 7th Ave.

Idaho County

Kooskia vicinity, *O'Hara House*, E of Kooskia off U.S. 12

INDIANA

St. Joseph County

Mishawaka, *Dodge House*, 415 Lincolnway E.

IOWA

Pottawattamie County

Council Bluffs, *Dodge, Grenville M., Gardens and Bluffs, Clark Ave. and Story St.*

KENTUCKY

Bath County

Owingsville, *Owingsville Commercial District and Courthouse Square*, Main and Court Sts.

Boone County

Burlington, *Burlington Historic District*, KY 18

Fayette County

Lexington vicinity, *Lemon Hill*, E of Lexington off U.S. 60

LOUISIANA

Orleans Parish

New Orleans, *Tewell House*, 1503 Valence St.

MARYLAND

Frederick County

Taneytown vicinity, *Bullfrog Road Bridge*, NW of Taneytown off of MD 97

Harford County

Bel Air, *Hays House*, 324 S. Kenmore Ave.
Bel Air vicinity, *Norris-Stirling House*, 4 mi. (6.4 km) SW of Bel Air

Talbot County

Easton, *Easton Historic District*

Wicomico County

Allen vicinity, *Bounds Lott*, 4 mi. (6.4 km) W of Allen

MASSACHUSETTS

Barnstable County

Chatham, *Chatham Railroad Depot*, 153 Depot Rd.
Chatham, *Chatham Windmill*, Chase Park

Dukes County

Oak Bluffs, *Martha's Vineyard Campground*, roughly bounded by Cottage Park, Quequechan, Clinton, Dukes County, Siloam, Lake, and Central Aves.

Essex County

Lawrence, *High Service Water Tower and Resevoir*, Yale St.

MINNESOTA

Clearwater County

Alida vicinity, *Upper Rice Lake Site*, W of Alinda
Zerkel vicinity, *Lower Rice Lake Site*, NW of Zerkel

Hennepin County

Minneapolis, *Stewart Memorial Church*, 116 E. 32nd St.
Richfield, *Bartholomew, Riley Lucas, House*, 6901 Lyndale Ave. S.

Hubbard County

Nevis vicinity, *Moser, Louis J., Homestead*, NW of Nevis on Mantrap Lake

Morrison County

Little Falls, *Morrison County Courthouse*, Broadway and 2nd St.

Pine County

Finlayson, *Oldenburg, John A., House*, MN 18

Steele County

Owatonna, *Steele County Courthouse*, 139 E. Main St.

Washington County

Newport, *Red Rock Mission*, off U.S. 10/61
Woodbury vicinity, *Spangenberg, Charles, Farmstead*, SE of Woodbury

NEW JERSEY

Bergen County

Leonia, *Vreeland House*, 125 Lakeview Ave.

Union County

Hillside, *Woodruff House*, 111-113 Conant St.

NEW YORK

New York County

New York, *Plaza Hotel and Grand Army Plaza*, 5th Ave. and 59th St.

OREGON

Clackamas County

Oregon City, *Canemah Historic District*, roughly bounded by Willamette River, 5th Ave., Marshall, and Paquet Sts.

PENNSYLVANIA

Armstrong County

Kittanning, *Armstrong County Courthouse and Jail*, Market and Jefferson Sts.

Berks County

Reading vicinity, *Wertz's Covered Bridge*, NW of Reading spanning Tulpehocken Creek

Bucks County

Carversville, *Carversville Historic District*, off PA 32

Centre County

Boalsburg, *Boal Mansion*, U.S. 322 and PA 45

Chester County

Coatesville, *Terracina*, 76 S. 1st Ave.

Clarion County

Clarion, *Clarion County Courthouse and Jail*, Main St.

Clearfield County

Burnside, *Irvin-Patchin House*, Main St.

Crawford County

Cambridge Springs, *Riverside Hotel*, 1 Fountain St.
New Richmond, *Brown, John, Tannery Site*, off PA 77

Cumberland County

Carlisle, *Carlisle Historic District*, roughly bounded by Penn, East, Walnut and College Sts.
Mechanicsburg, *Cumberland Valley Railroad Station and Station Master's House* 2, 4 W. Strawberry Alley
Newville vicinity, *McCullough, John, House*, SE of Newville on PA 233

Dauphin County

Hummelstown, *Matlack, Enoch, House*, 250 E. Main St.
Hummelstown, *Zion Luthern Church and Graveyard*, Rosanna St.

Franklin County

Mercersburg, *Mercersburg Historic District*, Main and Seminary Sts.

Greene County

Waynesburg, *Hanna Hall*, Waynesburg College campus

Huntingdon County

Allenport vicinity, *Smalley, Lewis, Homestead*, E of Allenport on PA 103

Indiana County

Indiana, *Mitchell, James, House*, 57 S. 6th St.

Jefferson County

Brookville, *Hall, Joseph E., House*, 419 W. Main St.

Lancaster County

Lancaster, *Abbeville*, 1140 Columbia Ave.
Lancaster, *Lancaster Historic District*, roughly bounded by Queen, Church, Duke, Chestnut, Plum, and Howard Sts.
Lancaster vicinity, *Witmer's Tavern*, 2014 Old Philadelphia Pike
Terre Hill vicinity, *Weaver, Henry, Farmstead*, S of Terre Hill off U.S. 322

Lawrence County

New Castle, *Lawrence County Courthouse*, Court St.

Lebanon County

Campbelltown, *Stauffer, Dr. B., House*, 192 W. Main St.
Lebanon, *Chestnut Street Log House*, 1110 Chestnut St.

Luzerne County

Wyoming, *Swetland Homestead*, 855 Wyoming Ave.

Montgomery County

Hatboro, *Loller Academy*, 424 S. York Rd.

Philadelphia County

Philadelphia, *Fidelity-Philadelphia Trust Company Building*, 123-151 S. Broad St.
Philadelphia, *Powelton, The*, 3500-3520 Powelton Ave., 214-218 35th St., 215-221 36th St.
Philadelphia, *Solomon House*, 130-132 S. 17th St.
Philadelphia, *University of Pennsylvania Campus Historic District*, roughly bounded by Hamilton Walk, South 32nd, Walnut, 36th, Spruce, and 39th Sts.
Philadelphia, *Warwick, The*, 1701 Locust St.
Philadelphia, *Wesley F.M.E. Zion Church*, 1500 Lombard St.

SOUTH CAROLINA

Beaufort County

Parris Island, *Parris Island Drydock and Commanding General's House*, Tripoli and Mexico Sts.

TEXAS

Washington County

Brenham, *Giddings-Stone Mansion*, 204 E. Stone St. (boundary increase)

UTAH

Wayne County

Green River vicinity, *Cowboy Caves*, S of Green River

WASHINGTON

Chelan County

Chelan Vicinity, *Lucas Homestead*, SW of Chelan

[FR Doc. 78-19363 Filed 7-17-78; 8:45 am]

[4310-70]

National Park Service

ANACOSTIA MARINA, INC.

Intention To Negotiate Extend Concession Contract

Pursuant to the provisions of section 5 of the act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on or before August 17, 1978, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Anacostia Marina, Inc., authorizing it to continue to provide concession facilities and services for the public at National Capital Parks-East, for a period of five (5) years from date of execution of the contract.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Office of the Superintendent, National Capital Parks-East.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expired by limitation of time on December 31, 1972. Since that time, National Park Service has recognized the continued operations pursuant to the same terms and conditions. Pursuant to the act of October 9, 1965, as cited above, the concessioner is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Anacostia Marina, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new contract and a preference in the award of the contract, if, thereafter, the offer of Anacostia Marina, Inc., is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: July 11, 1978.

DANIEL J. TOBIN, Jr.,
Associate Director,
National Park Service.

[FR Doc. 78-19758 Filed 7-17-78; 8:45 am]

[4710-14]

INTERNATIONAL JOINT COMMISSION

PUBLIC HEARING

The International Joint Commission on July 21, 1978, 9:30 a.m., Cleary Auditorium, Windsor, Ontario.

The International Joint Commission will hold a public hearing on July 21, 1978 in Windsor, Ontario to obtain public comment on four new and revised water quality objectives for the Great Lakes. The four objectives which the Governments of Canada and the United States have asked the Commission to study are for temperature, chlorine, silver and cyanide. Testimony submitted will assist the Commission in making appropriate recommendations to the two Governments.

Twelve objectives had originally been recommended by the Great Lakes Water Quality Board to the Commission. However, on June 29, 1978 the Commission was formally advised by the Governments that eight of these objectives will be included in the 1978 Great Lakes Water Quality Agreement, expected to be signed in the near future. The specific water quality objectives on which the agreement has been reached are for copper, iron, parathion, hydrogen sulfide, nickel, Mirex, guthion and ammonia. Submissions on these eight objectives will be placed in the record, if presented, but the July 21 hearing is on the four objectives receiving further study.

At the hearings, opportunity will be given to anyone, whether on his own behalf or in a representative capacity, to offer pertinent information which may assist the Commission in its inquiry. The Commission may limit the time allotted to each witness. If a written statement is expected to take longer than ten (10) minutes to present, the witness should present a summary statement, submitting his full statement for the record. While not mandatory, written statements are desirable to supplement oral testimony and to ensure accuracy of the record. When a written statement is presented, thirty (30) copies should be provided, if possible, for distribution to the news media and for Commission purposes. Written statements may be submitted for the Commission record up to September 1, 1978. These should be sent to the International Joint Commission in Ottawa, Ontario or Washington, D.C.

William A. Bullard, Secretary, U.S. Section, International Joint Commission, 1717 H Street NW., Room 200, Washington, D.C. 20440.

David G. Chance, Secretary, Canadian Section, International Joint Commission, 151 Slater Street, Suite 850, Ottawa, Ontario K1P 5H3.

JULY 12, 1978.

[FR Doc. 78-19782 Filed 7-17-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

U.S. CIRCUIT JUDGE NOMINATING COMMISSION; SIXTH CIRCUIT PANEL

Meetings

The Sixth Circuit Panel of the U.S. Circuit Judge Nominating Commission has been activated to nominate candidates to fill one vacancy on the Sixth Circuit Court of Appeals. The Panel's schedule of meetings is as follows:

(1) The first meeting will be held on August 1, 1978, at 11 a.m., on the 28th floor of Citizens Plaza, Fifth and Jefferson Streets, Louisville, Ky. The morning session will be open to the public. The afternoon session will be devoted to discussion of candidates and will be closed to the public pursuant to Pub. L. 92-463, section 10(D) as amended. (CF 5 U.S.C. 552b(c)(6).)

(2) The second meeting will be held on August 22, 1978, at 9 a.m., in room 501 of the U.S. Post Office and Federal Building. The purpose of this meeting is to interview candidates and the meeting will be closed to the public pursuant to Pub. L. 92-463, section 10(D) as amended. (CF 5 U.S.C. 552b(c)(6).) If necessary, the meeting will be continued through August 23, 1978.

Dated: July 5, 1978.

JOSEPH A. SANCHES,
Advisory Committee,
Management Officer.

[FR Doc. 78-19760 Filed 7-17-78; 8:45 am]

[4410-18]

Law Enforcement Assistance Administration

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Resolicitation

The National Institute of Law Enforcement and Criminal Justice announces a competitive solicitation for an evaluation of the LEAA antifencing program. The solicitation asks for submission of preliminary grant proposals for the evaluation of undercover business-front fencing operations of the

antifencing program. Twenty-four sites which have completed their undercover fencing operations will be studied.

Preliminary grant proposals will be reviewed by a peer review process and in accordance with criteria defined in the solicitation. Upon completion of the reviews of the preliminary grant proposals, formal proposals will be requested. In order to be considered all preliminary proposals must be postmarked no late than August 11, 1978.

The grant is planned for award in September 1978, for 15 months with support not to exceed $250,000. Because this is a solicitation for an evaluation grant, profitmaking organizations are prohibited by LEAA policy from applying.

Further information and copies of the solicitation can be obtained by contacting Rosemary Murphy or Paul Lineberry, Office of Program Evaluation, NILECJ, 633 Indiana Avenue NW., Washington, D.C. 20531, or by calling 202-376-3824.

BLAIR G. EWING,
Acting Director, NILECJ.

[FR Doc. 78-19773 Filed 7-17-78; 8:45 am]

[4510-27]

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

AMERICAN SANITARY SALES AND SERVICE CO., INC.

Notice of Debarment

On June 30, 1978, for violation of Executive Order 11246, as amended, American Sanitary Sales and Service Company, Inc. was debarred from the award of any contract or subcontract funded in whole or in part with Federal funds, including federally assisted construction contracts and subcontracts and from extensions or other modifications of any such existing contracts or subcontracts.

The debarment also applies to American Sanitary Sales and Service Co.'s officers, subsidiaries and divisions, if any, and to all purchasers, successors, assignees and/or transferees.

A copy of my decision is enclosed for publication in the FEDERAL REGISTER.

Dated: June 30, 1978.

WELDON J. ROUGEAU,
Director, OFCCP.

U.S. DEPARTMENT OF LABOR, OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

In the matter of American Sanitary Sales & Service Co., Inc., Respondent, docket No. CC-5.

DECISION BY THE DIRECTOR OF OFCCP

The Department of Health, Education, and Welfare (HEW) initiated an enforcement proceeding under Executive Order 11246 against American Sanitary Sales & Service Co., Inc. alleging violations of the "Philadelphia Plan" and Executive Order 11246 through, inter alia, its failure to take good faith efforts to meet its goals and timetables under the Philadelphia Plan on four construction projects: (1) a classroom facility, library, and other buildings for the Montgomery County Community College at Blue Bell, Pa; (2) the Academic Building and Learning Resources Center for Bucks County Community College in Newton Township, Pa.; (3) the Physical Education Building for Lincoln University at Oxford, Pa; and, (4) the Fine Arts Building for Temple University, Cheltenham Township, Pa.

After a hearing, Administrative Law Judge William Naimark concluded that American Sanitary Sales & Service Co. was subject to Executive Order 11246 and the Philadelphia Plan Bid Conditions, and that it had violated its contractual obligations and the Executive Order by failing to make adequate good faith efforts to meet its goals for minority employment on each of the four projects. Judge Naimark also found that the Company had violated the Executive Order by failing to inform its subcontractor, Robertshaw Controls, of its obligations under the Executive Order and the Philadelphia Plan, and that HEW had complied with the requirements of section 207 of the Executive Order in its attempts to encourage the unions, with which the Company has collective bargaining agreements, to refer minority employees to it. Accordingly, the Administrative Law Judge recommended debarment of the Company.

Respondent filed 41 exceptions to Judge Naimark's decision with HEW's Reviewing Authority, which was comprised of four persons. On September 19, 1973, the Reviewing Authority granted 30 of the exceptions and denied 11. It held, inter alia, in a split decision [1] that Judge Naimark erred in holding: (a) that the Company had not made sufficient good faith effort to comply with its obligations under the Executive Order and the Philadelphia Plan; (b) that HEW complied with the requirements of section 207 of the Executive Order; and (c) that the Company had failed to inform its subcontractor, Robertshaw Controls, of its Executive Order obligations. Therefore, it recommended that the Company should not be debarred from future Government contract activity.

The Department of Health, Education, and Welfare, has transmitted to the Office of Federal Contract Compliance Programs the Final Decision of the Reviewing Authority which reverses the Administrative Law Judge's Recommended Decision.

I. *Factual background.* Respondent does not dispute the fact that it failed to meet its contractually required minority utilization goals. However, it argues, inter alia, that it made every good faith effort to meet those goals, and that HEW did not use its best efforts, as required by section 207 of the Executive Order, to cause the unions with which the Company has collective bargaining agreements to cooperate in the implementation of the Executive Order's purposes.

A. *Undisputed facts.* In its exceptions, Respondent did not dispute the following findings made by Judge Naimark:

1. Each of the four projects in question involved a total cost of more than $500,000, and each of Respondent's contracts exceeded $10,000.

2. In the bids which it submitted to perform heating, ventilation, and air conditioning work on the four projects, Respondent submitted with its bids specific numerical goals for manpower utilization for the trades of steamfitting, plumbing, and sheetmetal which met Philadelphia Plan requirements.

3. Under section 8 of the June 27, 1969, Philadelphia Plan Order, and section 5 of the September 23, 1969, Philadelphia Plan Order, Respondent was obligated to make every good faith effort to meet its goals and timetables on the four projects.

4. Respondent began work at Montgomery County Community College in approximately July 1970 and finished work in April 1972. During its work on the project, Respondent employed steamfitters, plumbers and sheetmetal workers as follows:

a. *Steamfitters:* (1) July 1970-December 1970: 6,617 workhours, of which 216 were performed by a minority group worker.

(2) January 1971-December 1971: 15,747.5 workhours, of which 390 were performed by a minority.

(3) January 1971-April 1972: 608 workhours, of which none was performed by a minority.

(b). *Plumbers:* (1) July 1970-August 1971: 2,332 workhours, of which none was performed by a minority.

c. *Sheetmetal workers:* (1) June 1971-October 1971: 1,248 workhours, of which none was performed by a minority. During its work on the project, Respondent did not meet its minority manpower utilization goals for any of the three trades.

5. Respondent performed work on the Bucks County Community College facility as follows:

a. *Steamfitters:* (1) September 1970-March 1972: 12,558.5 workhours, of which none was performed by a minority.

(b). *Plumbers:* (1) September 1970-March 1972: 6,993.5 workhours, of which none was performed by a minority. During its work on the project, Respondent did not meet its minority manpower utilization goals for either of the two trades.

6. Respondent performed work on the Lincoln University facility as follows:

a. *Steamfitters:* April 1970-April 1972: 3,784.5 workhours, of which none was performed by minorities. During its work on the Lincoln project, Respondent did not meet its minority manpower utilization goals for Steamfitters.

7. Respondent performed work on the Temple University project as follows:

a. *Steamfitters:* January 1971-May 1972: 6,066 workhours, of which none was performed by minorities. During its work on the Temple project, Respondent did not meet its minority manpower utilization goals for Steamfitters.

8. Between July 1970 and November 1971, Respondent employed 78 new hires consisting of 58 steamfitters, 18 plumbers, and 2 sheetmetal workers. During the same period, it laid off 40 steamfitters, 20 plumbers, and 2 sheetmetal workers.

[1] Two members of the Reviewing Authority signed the Majority Opinion; one member concurred; and one member dissented.

9. Mechanical Contractors Association (MCA) is composed of 60 member employers, including Respondent. It negotiates collective bargaining agreements with various unions on behalf of its members, and it conducts programs on behalf of its members with respect to labor relations, public relations, and equal employment opportunities.

10. Effective May 1, 1969, MCA executed collective bargaining agreements on behalf of its members with: Steamfitters Local 420, Plumbers & Steamfitters Local 428, and Plumbers Local 690. The agreements with Locals 420 and 690 provided, inter alia, that an employer "may hire employees directly on its own or by requesting the union to refer applicants who must pass a journeymen's test." In addition, they must become union members within 7 days following their employment. By contrast, the agreement with Local 428 provided that all employees had to be obtained through the union's hiring hall.

11. Each of the three collective bargaining agreements provided that all disputes between a contractor and the union shall be submitted to arbitration, and that no strike or lockout is permitted pending the arbitrator's decision.

12. In at least two preconstruction conferences conducted by HEW, a representative of Respondent asked what it should do if a union shut down a job after a minority worker was hired. Respondent was informed by HEW that it should advise it immediately, and that the Federal Government would follow through with the matter.

13. Between August 19, 1970–April 7, 1971, a series of letters was exchanged between HEW and the Respondent. These reveal, inter alia, the following:

a. That HEW requested a good faith showing by Respondent regarding its minority goals and manpower utilization reports, and that HEW sent the Company three show cause notices between August 19, 1970, and February 25, 1971, indicating that the Company had not met the requirements of the Philadelphia Plan.

b. That Respondent stated that it had, through MCA, an affirmative action program which had been submitted to OFCCP; that Local 428 promised to supply the Company with minority workers; and that the Company expected to hire minority employees through Local 428.

c. That Respondent stated that the three locals only accepted a few minority workers into membership although over 300 minority men were sent to the unions by MCA; that Respondent stated that it was almost impossible to get minorities to go to the Lincoln project; that Respondent had requested the unions to send minority employees, but that they refused to do so; that hiring must be done through the unions; and that the union agreements state that hiring must be done through the hiring hall.

14. HEW informed Respondent that if minority workers would not go to the Lincoln project, the Company should employ them on its other projects, and that HEW would take this fact into consideration in assessing the Company's overall compliance.

15. Pursuant to a compliance review on April 27, 1971, at the Lincoln project, HEW informed Respondent of the existence of various nonunion sources through which the Company could hire employees. The Company responded that the MCA was set up to assist contractors and that the Company's efforts were being carried out by the MCA.

16. In May 1971, HEW representatives met with Local 420's Business Agent to seek the Union's cooperation in obtaining minorities on jobs. While the Business Agent refused to modify apprenticeship criteria, he agreed that it might be possible for his minority members to recruit others.

17. On June 8, 1971, HEW met with Local 420 to discuss union cooperation in hiring minorities. The union Official agreed that a work permit could be granted to a minority group person.

18. On June 14, 1971, HEW met with a representative of Local 428 who stated that the Union was "relaxed" about minorities, but that there were minimum skill test requirements.

19. In an October 28, 1971, telephone conversation with HEW, the Company stated that a declining work force precluded good faith efforts. The Company admitted that it had not tried to recruit employees from any source other than the union. HEW recommended that the Company contact the Journeyman Outreach Program which HEW stated had an extensive program of recruitment and in-house training of minority journeymen in the steamfitting and plumbing trades.

20. Thurston Gault tried to help the Company by supplying it with a pamphlet from the Journeyman Outreach Program, which has a list of available employees. When Gault attempted to give the Company the pamphlet, the Company refused it on the grounds that it would not help the Company since its problem was with the unions.

21. On January 10, 1972, an HEW representative spoke with the Company regarding the possibility of hiring minority workers. The Company responded that its problem was with the unions, at which point HEW informed the Company that if it ever tried to get a minority on the job and the union impeded employment of the minority, then the Government would act. Respondent was also informed that contractors such as itself have the prime responsibility of acting with regard to the unions.

22. Respondent failed to place minority workers on its jobs because they were nonunion and not referred by the unions with which MCA has collective bargaining agreements; and because the Company feared that there would be trouble with the unions, including a possible strike or shutdown of its projects.

23. Between February 24, 1970, and May 14, 1971, Respondent wrote 10 letters to Local 420, 13 letters to Local 428, and 6 letters to Local 690 in which it stated that it must have minority workers on its projects and in which it urged the unions to send men to it. It also advised the unions that HEW had threatened to take steps to terminate the Company's contracts unless it hired minority workers.

24. William C. Mitchell is employed by MCA as its employment advisor. Mr. Mitchell utilized lists furnished by OFCCP, as well as lists of resources maintained by himself in an attempt to find qualified minority workers. Of the 23 resources on his list, Mr. Mitchell visits a few daily, and others weekly or several times a year.

25. In late 1970, Mr. Mitchell met with the Company and gave it a list of available minority applicants for jobs of steamfitter and plumber. In early 1971, the Company met with the Business Agent of Local 428 and told the Union that it had three specific minority men that it wished to hire. The Business Agent informed the Company that the Union could not take anyone else into the Union because it had members who were out of work.

26. On June 28, 1971, the Manpower Administration of the Department of Labor, Local 420, Local 428, Local 698 and MCA, entered into a contract to place minority workers in an on-the-job training program. Under the contract, which is unrelated to MCA's minority recruitment program, 60 minority workers were to be trained for 52 weeks by MCA contractors. At the end of the period, they were to be evaluated and placed in a category no lower than second year apprentice.

27. In a July 14, 1971, letter, the Director of OFCCP notified the MCA that a contractor who develops on-the-job training opportunities and participates in any association training program, satisfies one of the specific affirmative action steps under the Philadelphia Plan regarding minority manpower utilization.

B. *Findings of fact affirmed by the Reviewing Authority.* In addition, while Respondent filed 11 exceptions regarding 10 of the Administrative Law Judge's Findings of Fact, the Reviewing Authority affirmed the Judge on the following Findings which are relevant to this Decision and which I hereby affirm:

1. At preconstruction conferences or job meetings attended by the Company, an HEW representative explained that contractors must attempt to meet the goals set for hiring minority workers; and that if the goals were not met, good faith efforts must be made to meet them. The Company was informed that good faith efforts include contacting minority organizations to locate minority employees, seeking minorities from the union, advertising for workers, and asking employees who were employed if they knew where minorities could be obtained. In addition, the HEW representative suggested that contractors should notify him if they needed assistance in obtaining minority workers.

2. On October 19, 1970, the Company's president met with an HEW representative to discuss the Company's failure to comply with its goals on the Montgomery Community College project. The Company contended that the size of its crew was too small to produce an opportunity to employ minorities; that the unions would not furnish minority employees and would not allow Respondent to put minority workers on the job; and that the MCA was undertaking, on behalf of the Company, to comply with the Philadelphia Plan. HEW advised the Company that it could not relieve itself of its obligations to hire minorities under the Plan merely because it had a contract with a union in respect to hiring; and that because MCA's affirmative action program had not yet been approved. Respondent had to demonstrate its compliance individually.

3. On May 13, 1971, the Company's president asked HEW if it could do something about the unions' failure to provide minority workers. HEW told the Company that it was the Company's responsibility to put a minority group person on the job, and to notify OFCCP in writing if the union was impeding recruitment of minorities with a description of the manner in which it was impeding recruitment. HEW agreed to seek cooperation from the unions, but told the

Company that hiring was its responsibility. HEW also suggested that the Company contact minority organizations and tell them that there were opportunities for minority workers; that the Company should establish a liaison with organizations listed by OFCCP; that the Company should contact minority jobbers or sub-contractors; and that it should contact the Naval Shipyard and Atlantic Richfield who had recently experienced a layoff.

4. At no time did Respondent itself contact or seek to recruit minority workers from any agency or organization which refers or recruits minority workers. Instead, Respondent relied upon MCA to obtain minority applicants for employment.

5. Local 428, but not Locals 420 and 690, threatened to shut down Respondent's projects if it employed a nonunion worker.

6. In May 1971, when Local 428 refused to take three named minority men onto its lists for employment by Respondent, the Company did not notify HEW, or any other governmental representative involved in this matter, that it had three minority men that it wished to hire, and that Local 428 would not permit it to do so.

7. At no time material to this action did MCA notify a minority person or organization of employment opportunities with Respondent, nor did it secure individuals from training programs for employment with Respondent.

8. At the time of the hearing in this case, but subsequent to the completion of work on all four of the projects involved in this matter, Respondent, through its own efforts, employed five minority workers as a result of the on-the-job training program developed by the Manpower Administration with MCA and the three union locals.

C. *Undisputed facts regarding Philadelphia Plan requirements.* There is also no dispute regarding the fact that the June 27, 1969, and September 23, 1969, Revisions of the Philadelphia Plan, which were applicable to Respondent, provided in pertinent part that:

1. "8. *Post-award compliance.* (a) Each agency shall review contractors' and subcontractors' employment practices during the performance of the contract * * *. In the event of failure to meet the goals, the contractor shall be given an opportunity to demonstrate that he made every good faith effort to meet his commitment. In any proceeding in which such good faith performance is in issue, the contractor's entire compliance posture shall be reviewed and evaluated in the process of considering the imposition of sanctions. Where the agency finds that the contractor or subcontractor has failed to comply with the requirements of Executive Order 111246, the implementing regulations and its obligations under its affirmative action program, the agency shall take such action and impose such sanctions as may be appropriate under the Executive Order and the regulations. Such noncompliance by the contractor or subcontractor shall be taken into consideration by Federal agencies in determining whether such contractor or subcontractor can comply with the requirements of Executive Order 11246 and is therefore a "responsible prospective contractor" within the meaning of the Federal procurement regulations.

(b) *It is no excuse that the union with which the contractor has a collective bargaining agreement failed to refer minority employees.*[2] Discrimination in referral for employment, even if pursuant to provisions of a collective bargaining agreement, is prohibited by the National Labor Relations Act and Title VII of the Civil Rights Act of 1964. It is the longstanding uniform policy of OFCC that contractors and subcontractors have a responsibility to provide equal employment opportunity if they want to participate in Federally-involved contracts. To the extent they have delegated the responsibility for some of their employment practices to some other organization or agency which prevents them from meeting their obligations pursuant to Executive Order 11246, as amended, such contractors cannot be considered to be in compliance with Executive Order 11246, as amended, or the implementing rules, regulations and orders." [June 27, 1969]. (Emphasis added.)

2. "5. *Criteria for measuring good faith.* Section 8 of the June 27 Order provides that a contractor will be given an opportunity to demonstrate that he has made every good faith effort to meet his goal of minority manpower utilization in the event he fails to meet such goal. If the contractor has failed to meet his goal, a determination of "good faith" will be based upon his efforts to broaden his recruitment base through at least the following activities:

(a) The OFCC Area Coordinator will maintain a list of community organizations which have agreed to assist any contractor in achieving his goal of minority manpower utilization by referring minority workers for employment in the specified trades. A contractor who has not met his goals may exhibit evidence that he has notified such community organizations of opportunities for employment with him on the project for which he submitted such goals as well as evidence of their response.

(b) Any contractor who has not met his goal may show that he has maintained a file in which he has recorded the name and address of each minority worker referred to him and specifically what action was taken with respect to each such referred worker. If such worker was not employed by the contractor, the contractor's file should document this and the reasons therefor.

(c) A contractor should promptly notify the OFCC Area Coordinator in order for him to take appropriate action whenever the union with whom the contractor has a collective bargaining agreement has not referred to the contractor a monority worker sent by the contractor or the contractor has other information that the union referral process has impeded him in his efforts to meet his goal.

(d) The contractor should be able to demonstrated that he has participated in and availed himself of training programs in the area, especially those funded by this Department referred to in section 3(c) of this Order, designed to provide trained craftsmen in the specified trades." [September 23, 1969]

II. *Discussion and holding.* A. Based upon the above-stated facts, I find that: 1. Respondent was subject to Executive Order 11246 and the Philadelphia Plan on each of the four projects in question and that it failed to meet its goal on each of those projects.

2. That Respondent was aware of the fact that failure of the unions to refer employees to it could not be used as a defense unless it could meet all four of the criteria for measuring good faith effort listed in paragraph I, C, 2, on pages 15-16, above.

3. That HEW informed Respondent that is was its primary responsibility to comply with the Executive Order and the Philadelphia Plan.

4. That HEW informed the Respondent that if the unions refused to refer named minority workers, it should immediately notify the Government which would take appropriate action.

5. That while Respondent informed HEW of problems with the unions, it did not inform HEW or OFCCP, as required by its contractual obligations under the Philadelphia Plan, that local 428 had refused to refer three named minority group workers to it.

6. That HEW met with union representatives and encouraged them to refer monority workers.

7. That although MCA used OFCCP's list of community organizations as a source of minority workers, Respondent did not.

8. Neither MCA nor Respondent notified organizations on OFCCP's list of community organizations of employment opportunities with Respondent on specific projects subject to the Philadelphia Plan goals and timetables as required by Respondent's contractual commitments under the Philadelphia Plan.

Thus, while Respondent did take some action with regard to the unions, in order to obtain minority workers, it clearly did not comply with its obligations under the Philadelpia Plan to notify HEW and/or OFCCP of the unions' failure to refer named monority personnel to Respondent, and it did not notify community organizations of job vancancies with Respondent. Under the circumstances, I find that Respondent's efforts did not comply with the Philadelphia Plan criteria for Good Faith effort in situations where a contractor has not met its goals and timetables. Therefore, based upon the above findings, Judge Naimark's holding that Respondent failed to take sufficient good faith efforts as required by the Philadelphia Plan is affirmed.

B. Two remaining issues are before me which have bearing on this case. The first involves the correct interpretation of section 207 of the Executive Order; and the second involves the effect, if any, which Respondent's participation in the Department of Labor funded on-the-job training program, which was begun after all or most of Respondent's work on the four projects had been completed, has on its compliance status under Executive Order 11246.

1. *Section 207 of Executive Order 11246:* Section 207 provides that: The Secretary of Labor shall use his best efforts, directly and through contracting agencies, other interested Federal, State, and local agencies, contractors, and all other available instrumentalities to cause any labor union engaged in work under Government contracts or any agency referring workers or providing or supervising apprenticeship or training for or in the course of such work to cooperate in the implementation of the purposes of this Order. The Secretary of Labor shall, in appropriate cases, notify the Equal Employment Opportunity Commission, the Department of Justice, or other appropriate Federal agencies whenever it has reason to believe that the practices of any such labor organization or agency violate Title VI or Title VII

[2] Sell also *Contractors Association of Eastern Pennsylvania* v. *Secretary of Labor*, 442 F. 2d 159, 172 (C.A. 3, 1971), *cert. denied*, 404 U.S. 854 (1971).

of the Civil Rights Act of 1964 or other privision of Federal law.

The Reviewing Authority found that a contractor's efforts to achieve its contractually agreed upon goals and timetables is not necessarily a condition precedent for the Government to use its best efforts under section 207; and that section 207 requires a "sense of vigilance on the part of the Government, rather than action on the basis of some formal complaint made by a contractor pursuant to section 5(c) of the second Philadelphia Order." The Reviewing Authority also found, inter alia: (a) that the term "best effort" "speaks of the ultimate, highest or supreme effort. It is stronger than good faith and implicit in best effort is the need to surpass all others;" and, (b) that section 207 requires HEW to "resort to pressure tactics in respect to the unions."

The Reviewing Authority erred in its definition of section 207. While I agree that a contractor's efforts to achieve its contractually agreed upon goals and timetables is not necessarily a condition precedent to a compliance agency's use of its "best efforts" under section 207, these words are not a "term of art." They do not require pressure tactics, and they do not require the "ultimate, highest or supreme effort." The words merely mean that in appropriate circumstances, the Government will use its "good offices" to attempt to obtain cooperation by unions, and where violations of title VII of the Civil Rights Act of 1964 or other provisions of Federal law are alleged, that the Government will take action. Under the circumstances of this case, I do not believe that the Administrative Law Judge erred in holding that HEW used its best efforts. HEW, when informed of the Respondent's problems with the unions, met with union officials. When Local 428 refused to cooperate by referring three named minority group persons to Respondent, the Company did not inform HEW or OFCCP of that fact as it was required to do by the Philadelphia Plan and by oral instructions which HEW had given to Respondent. THEREFORE, I affirm the Administrative Law Judge's holding and reverse the Reviewing Authority's split decision in which it found that the Government did not use its best efforts to secure union cooperation in this case.[3]

2. *Respondent's participation in the on-the-job training program:* Respondent's participation in the on-the-job training program after work on the four projects had been completed (or was almost completed), while laudable, does not alter the fact that Respondent failed to meet its contractually agreed upon goals and timetables or that it failed to take good faith action required by sections 5(a) and 5(b) of the September 23, 1969, Revision of the Philadelphia Plan. Thus, its participation in the on-the-job training program has no bearing on the outcome of this case.[4]

THEREFORE, in accordance with the powers granted to the Director, Office of Federal Contract Compliance Programs by Title 41, Code of Federal Regulations, sections 60-1.2 and 60-1.27 of the Secretary of Labor's regulations issued presuant to Executive Order 11246, as amended, I hereby approve the debarment of American Sanitary Sales and Service Company, Inc., and its officers, subsidiaries and divisions and all purchasers, successors, assignees, and/or transferees from the award of any contract or subcontract funded in whole or in part with Federal funds, including Federally-assisted construction contracts and subcontracts, and from extensions or other modifications of any such existing contracts or subcontracts.

The debarment will continue in effect until such time as American Sanitary Sales and Service Company, Inc., has satisfied the Director, Office of Federal Contract Compliance Programs, that it has established and will carry out employment policies and practices in compliance with the equal opportunity clause of Executive Order 11246, as amended.

This debarment shall be effective as of this date.

Copies of the Recommended Decision of the Administrative Law Judge and the HEW Final Decision of the Reviewing Authority (Civil Rights) are attached hereto and made a part hereof except as modified by this Decision.

Signed at Washington, D.C., this the 30th day of June, 1978.

WELDON J. ROUGEAU,
Director, OFCCP.

ADMINISTRATIVE PROCEEDING IN THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

In the Matter of American Sanitary Sales And Service Co., Inc. (hereinafter called Respondent), Respondent. Docket No. CC-5.

FINAL DECISON OF THE REVIEWING AUTHORITY (CIVIL RIGHTS)

This proceeding has been brought against American Sanitary Sales and Services Co., Inc. (hereinafter referred to as Respondent) under section 202 (6) of Executive Order 11246 which provides that: "In the event of the Contractor's noncompliance with the nondiscrimination clauses * * * the Contractor may be declared ineligible for further Government contract * * *"

The Respondent, engaged in heating, ventilating and air conditioning work located at Willow Grove, Pa., was granted four prime contracts during 1970, 1971, and 1972. The Administrative Law Judge (hereinafter referred to as the Judge) found (Finding of Fact No. 6) that each project involved a total cost in excess of $500,000 or more and the Respondent's participation in excess of $10,000, which was described as follows:

1. Steamfitting, plumbing, and sheetmetal work in the construction of classroom facility, science complex, library, physical education building, and administrative and student areas for the Montgomery County Community College in Montgomery County, Pa.;

2. Steamfitting and sheetmetal work in the construction of a physical education building for the Lincoln University in Chester County, Pa.;

3. Steamfitting work in the construction of a fine arts building for Temple University in Montgomery County, Pa.;

4. Plumbing and steamfitting work in the construction of an academic building and learning resources center for the Bucks County Community college in Bucks County, Pa.

Respondent, in submitting bids for the above described contracts, obligated itselt to make good faith efforts to achieve specific goals in the utilization of minority manpower as specified in the Philadelphia Orders of June 27, 1969, and September 23, 1969, issued to implement Executive Order 11246, which obligates, under section 202 therof, Federal and federally assisted contractors and subcontractors not to discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

Pursuant to section 208 of the Executive Order 11246 and the implementing Regulations (41 CFR section 60-1.26(b)), the General Counsel of the Department of Health, Education, and Welfare (hereinafter called the Department) issued a Notice of Hearing to the Respondent alleging non-compliance with its affirmative obligation to employ minority employees as required by the Order. The Respondent contended, in substance, that it made every good faith effort to comply with its affirmative obligation, but was impeded by the unions through whom its employees were hired, and that the Department took no action to assist Respondent pursuant to its obligation under section 207 of the Executive Order 11246 (hereinafter referred to as section 207) which provides that: "The Secretary of Labor shall use his best efforts, directly and through contracting agencies, other interested Federal, State, and local agencies, contractors, and all other available instrumentalities to cause any labor union engaged in work under Government contracts * * * to cooperate in the implementation of the purposes of this Order. The Secretary of Labor shall, in appropriate cases, notify the Equal Employment Opportunity Commission, the Department of Justice, or other appropriate Federal agencies whenever it has reason to believe that the practices of any such labor organization * * * violate title VI or title VII of the Civil Rights Act of 1964 or other provisions of Federal Law."

After a prehearing conference held on December 8, 1972, in Philadelphia, during which time the Department and the Respondent stipulated certain facts, a hearing was held on January 17, 18, 19, 24, 25, and 26, at Philadelphia, Pa. The Judge, in his recommended decision, recommended that the Respondent be declared ineligible for the award of any contract or subcontract, funded in whole or part with Federal funds, until the Respondent has satisfied the Secretary of Labor that it has established it will carry out personnel and employment policies in compliance with the provisions of

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[3] I do not here reach the Reviewing Authority's decision on the issue of the Company's notice to its subcontractor regarding its Executive Order responsibilities as that decision would not affect the outcome of this case (i.e., regardless of whether the Company notified Robertshaw of its Executive Order responsibilities, it violated its contractual obligations to attempt to obtain minority group persons for its construction projects).

[4] Likewise, the fact that OFCCP did not disapprove MCA's proposed affirmative action program until after a substantial period of review, has no bearing on this case since HEW informed Respondent that it was being judged on its individual compliance with its obligations under the Philadelphia Plan. Furthermore, the issue of whether MCA could have satisfied Respondent's obligations under the Philadelphia Plan has no bearing on the outcome of this case since MCA, itself, did not comply with sections 5 (a) and (c) of the September 1969 Philadelphia Plan requirements with regard to employment opportunities on Respondent's projects.

Executive Order 11246, and the rules, regulations, and orders promulgated thereunder.

The Judge pointed out the possible impact of a 1971 contract between the Manpower Administration and the particular trade unions which served the Respondent. This contract set up a training program designed to train minority workers, hopefully affording them the opportunity to become members of the involved unions. Respondent has hired five such minority trainees. The Judge suggested that this training program be taken into consideration in determining whether to dissolve any debarment order which may be issued against the Respondent.

The Judge also found, that in accordance with sections 8 and 5 of the Philadelphia Plan Orders of June 27, 1969 and September 23, 1969, respectively, which provide that in the event a contractor does not meet the manpower goals, it will be given the opportunity to show that it made every good faith to meet such goals, that the Respondent did not in fact make every good faith effort: and that contrary to the Respondent's contention, the Department in fact did try to assist in obtaining the cooperation of the unions. The Judge found further that the Respondent did not take adequate steps to notify, in accordance with its contractual obligations, a subcontractor of the affirmative manpower goals. The subcontractor was Robertshaw Controls, Inc.

The Judge rejected the contentions by the Respondent that:

1. It made every good faith effort to comply both directly and individually through the Mechanical Contrator's Association of which it was a member;

2. That the Department failed to assist in using its best efforts as required under section 207 of the Executive Order 11246 to cause the unions to cooperate;

3. That this proceeding should be delayed until the Office of Federal Contract Compliance passes on the request for approval of an affimative action program submitted by the Mechanical Contractor's Association (hereinafter referred to as MCA).

DISCUSSION OF THE LAW

Executive Order 11246 was promulgated mandating each department of the Federal Government to require, as a condition of the approval of any grant funded by it, that the recipient of such grant agree to have incorporated into certain construction contracts the provision prescribed for Federal contracts by section 202 of the Executive Order, together with the two-part Philadelphia Plan, June 27 and September 23, 1969. The Order provides for sanctions and penalties for violation of its provisions and rules, regulations, and orders promulgated by the Secretary of labor.

Section 202 of the Order requires, in part, for all Federal contracts the following: "The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship."

The Philadelphia Plan in its two orders was formulated to implement section 202.

Section 4 of the findings contained in the June 27 Philadelphia Plan stated: "Because of the exclusionary practices of labor organizations, there traditionally has been only a small number of Negroes employed in these seven trades. These exclusionary practices include: (1) failure to admit Negroes into membership and into apprenticeship programs * * * (2) failure of the unions to refer Negroes for employment * * *"

The Philadelphia Plan was thus designed to deal generally with the exlusionary practices in the construction industry, and specifically in certain trades. To accomplish this objective, the Plan set up affirmative minority manpower utilization goals for the contractors covered by the Plan. The Plan, in section 8 of the June 27 Order and in section 5 of the September 23d Order, provide that if a contractor is unable to meet the specific manpower goals provided for by the Plan he will be given an opportunity to demonstrate that he had made every good faith effort to meet his goal, the good faith to be measured by his efforts to widen his employment base through at least the activities specifically outlined in section 5 of the second Order. These activities essentially obligate those contractors (a) to avail themselves of employment lists of minority workers maintained by the Labor Department, and to notify community organizations of such employment opportunities; (b) to maintain a file of names and addresses of minority workers referred to them, and documentation of follow-up activities with respect to each such worker; (c) to notify the area coordinator of the Plan whenever the union with whom the contractors deal has not referred a worker whom the contractors have sent to the union, or when the contractors have other information reflecting the unions impeding the desired goal; and (d) to participate in and avail themselves of training programs, especially those funded by the Government.

Section 207, cited above, in providing that the Secretary of Labor shall use his best efforts to seek union cooperation in implementation of the program, sets up a process invoking active participation of contractors and the Government designed to break through the wall of discrimination. There is no question that the contractor has the primary obligation to hire

The Exception is denied.

The Judge found in this finding and in finding of fact No. 38 that HEW agreed to seek union cooperation and in fact did so. The testimony from pages 191 et seq.; in the transcript, supports this finding.

4.

"Respondent excepts to finding of fact No. 36 in its entirety."

The Exception is denied.

The language of the finding is not at odds with the conclusion that MCA is agent of the Respondent.

5.

"Respondent excepts to finding of fact No. 39 insofar as it concludes that no evidence controverting HEW Representative Mr. John Rother's testimony concerning Robertshaw Controls, Inc., (hereinafter referred to as Robertshaw) is in the Record."

The Exception is granted.

The Respondent, in support of this Exception, argued that the Judge did not base his finding on the best evidence which would have been the bid documents rather than the testimony of Mr. Rother.

Although not precisely stated, it appears that the thrust of Respondent's Exception herein is to the testimony of the Govenment's witness, Rother, regarding an alleged failure by Respondent to notify a subcontractor, Robertshaw Controls Inc., that the project in question was covered by Philadelphia Plan requirements. Inasmuch as the Judge ruled that such testimony was violative of the best evidence, any finding that such a notice was or was not given to Robertshaw based upon witness Rother's testimony would be incorrect (Tr. p. 241 et seq.).

"Respondent excepts to finding of fact No. 43 insofar as it concludes that the business agent of Local Union 428 told Respondent that if it employed a minority nonunion worker on the Montgomery project, it alone would be shut down."

In support of the Exception, the Respondent argued that the uncontroverted testimony of Mr. Geftman (Officer of Respondent) was that the unions would shut down *all* of his jobs if he put nonunion minority employees on any job. (Tr. 119, 331).

If the words "it would be shut down" have for their antecedent the words "Montgomery project," then the Exception is granted because the record supports the Respondent's contention that Local 425 threatened to shut down all of Respondent's jobs if it hired a nonunion minority.

If the words "it would be shut down" have for their antecedent the word "Respondent" then the Exception is denied because this interpretation would be consonant with the Respondent's contention. In any event, that part of this finding which indicates that no other unions than Local 428 threatened Respondent with a shutdown is supported by the record.

"Respondent excepts to finding of fact No. 46 insofar as it concludes that the MCA's Affirmative Action Program was intended to supplement the efforts of the employer-members, but not replace their Affirmative Action Programs."

The Exception is granted.

The record clearly indicates that Respondent relied upon the MCA for the primary and foremost performance of the Affirmative Action Program. However, the record also indicates that the Respondent supplemented its agent's (MCA) activities and submitted extensive testimony and documentary evidence confirming these activities. (Respondent's Exhibits R-3 through 27 and 29, 30 A, B, C, D, and E; Tr. 333-338, 390-394, 434-438, 468; G.C. Brief 35-39 and 41)

"Respondent excepts to finding of fact No. 48 insofar as it concludes that the efforts of Mr. William C. Mitchell, the employment advisor of the MCA, to recruit and obtain minority workers have not been too successful. By way of further exception, said finding is inconsistent with finding of fact No. 38 that the business agent of Local Union 420 refused to modify its apprenticeship criteria in order to assist more minorities in obtaining membership in said Union."

The Exception is granted.

Success, like beauty, may well be in the eye of the beholder. Mr. Mitchell was extremely successful in finding members of minority groups who were potential employ-

ees, union apprentices, etc. Mr. Mitchell, like his principal, the Respondent, and the Government, was somewhat unsuccessful in obtaining the cooperation of the unions. (G.C. Brief, page 50) The record does indicate that Mr. Mitchell and his principal, the Respondent, were several times more successful than the Government in obtaining cooperation from the unions.

9.

"Respondent excepts to finding of fact No. 51 insofar as it concludes that Respondent did not notify HEW or any governmental representative involved herein that local Union 428 would not permit to hire minority employees."

The Exception is denied.

Finding of fact No. 51 stated, "Respondent did not notify HEW, or any governmental representative mentioned herein, that it had three minority men it wished to hire and Local No. 428 would not permit it to so."

This finding that there was no notification by the Respondent to HEW that Respondent specifically had three *minority men* (emphasis ours) it wished to hire and its intention to do so was impeded by Local 428, is indicated in the record. The conclusion by the Judge that "Respondent did inform HEW and OFCC representatives that the unions refused to furnish minority workers," is not at odds with the Judge's finding No. 51; the fact that the union refused to furnish minority workers does not address itself nor equivocate the fact that Respondent had three minority men it wished to hire and its efforts thereby were impeded by Local 428.

10.

"Respondent excepts to finding of fact No. 53 in its entirety. This finding is clearly inconsistent with the Administrative Law Judge's finding No. 50 which sets forth how Mr. Mitchell of MCA, referred minority workers to Respondent through its president, Mr. Geftman. Mr. Geftman's unanswered letter (Tr. 327) of March 26, 1971 to HEW makes reference to a meeting between Mr. Mitchell and Mr. Geftman at which time Mr. Geftman sought to obtain more minority workers for Respondent (Exh. GC-14(a))."

The Exception is denied.

Although the record supports the fact that MCA did secure minority persons for training programs for eventual employment opportunities with its constituency of which the Respondent is a member, the record does not indicate that MCA secured individuals *from* training programs for eventual employment specifically with the Respondent. In fact, in support of this Exception, the Respondent itself contends that it, *by its own efforts*, obtained five such trainees for employment on its jobs. Moreover the fact that the Respondent was notified of the unavailability of minority employees does not controvert the Judge's finding that these employees were not themselves notified of employment opportunities specifically with the Respondent.

11.

"Respondent excepts to finding of fact No. 56 in its entirety."

The Exception is denied.

Respondent excepted to finding of fact No 56 in its entirety. In support of its Exception, the Respondent argues that the Judge's finding was incorrect in that it concluded that the projects in question were completed when the Manpower Administration's on-the-job training program was established, and further that the finding created an unfounded inference, "that this does not redound to Respondent's credit during the progress of said projects." However, we wish to point out that a careful reading of this finding and the Judge's discussion thereof on page 20 of his decision indicated that the Judge's concern dealt with the time when the Respondent availed himself of this program in acquiring minority workers rather than when the program itself was established. Moreover, this finding is supported by the record. With respect to the unfavorable inference alleged by the Respondent regarding the efforts of the program not redounding to the Respondent's credit during the progress of said projects, the fact that Respondent had employed the five minority workers in question *after* completion of its work affords credibility to any such inference. In passing, we wish to point out that the final paragraph of the Judge's decision does take into consideration Respondent's subsequent hiring of five minority workers as a result of the on-the-job training program by suggesting a consideration thereof be given to Respondent's performance under this training program in determining whether to suspend or debar.

12.

"Respondent excepts to the Administrative Law Judge's conclusion that the facts demonstrate that the Government exercised its best efforts under section 207 of Executive Order 11246 and 41 CFR 60-1.9 (ALJ p. 13, paragraph 1 lines 1-3). HEW's "best efforts" consisted of holding background meetings (Tr. 234, 236) "a kind of follow-up role of maintaining records (Tr. 233, 260). There is no evidence that HEW exerted any pressure (direct or indirect) on the Union business agents, the people primarily responsible for getting workers on construction jobs (Tr. 261)."

The Exception is granted.

The Judge based this conclusion principally on the following considerations:

(1) The Respondent had lodged no formal protest or complaint against the unions, nor called upon the Government to take formal action against them, and that lack of such notification precluded the Government from taking all measures provided under section 207 of Executive Order 11246; and (2) that although with minimum effect, the Government did in fact hold meetings with official of Locals 420 and 428 on May 31, June 8, and June 14, 1971, on apprentice openings, agreements or open solicitation, and the possibilities of minority journeymen gaining entrance to the unions.

The Government emphasized additionally that it had used its best efforts to seek the cooperation of the unions considering that: (1) the lack of timely complaint on the part of the Respondent, particularly with reference to the three minority workers it wished to hire, coupled with the Respondent's failure to comply with its primary obligation under section 5 of the Philadelphia Plan, dated September 23, 1969, prevented a ripeness of the situation which would have allowed the Government to utilize all the mechanisms available to it under section 207 of Executive Order 11246, as well as under 41 CFR 60-1.9; and (2) that the Respondent, contrary to the meaning of its contracts with the Government's incorporating by reference applicable Federal law, held its collective bargaining contracts in higher regard.

The Respondent, on the other hand, argued in support of its Exception that: (1) the Philadelphia Plan envisioned a cooperative scheme involving both Government and Contractors to seek greater minority representation in certain critical construction trades; and that such a plan to be effective must involve a greater participation on the part of the Government to justify a finding that it used its best efforts in accordance with section 207; and further that (2) the Respondent did in fact sufficiently comply with section 5 of the September 23, 1969, Philadelphia Plan to invoke more intensive Government action in seeking union cooperation.

In the instant case, we are convinced that whatever lack of performance on the part of the Respondent may have existed, the Government's activity, which amounted to holding three meetings with union officials on May 31, June 8, and June 14, 1971, did not constitute *"best efforts"* as provided for in section 207.

Neither the Constitution, the statutes, the regulations nor the national conscience will allow the Government to shirk its duties under the Executive Order. The Government, under section 207, cannot delegate to a private entity nor contract out to such entity its affirmative and independent duty to exercise its best efforts. In addition, it is a safe and logical assumption that a contractor bids in reliance upon the legal mandate that the Government's best efforts will be forthcoming. Furthermore, it is an essential reality that Philadelphia goals will oftimes be difficult to obtain unless the Government does exert its best efforts.

13.

"Respondent excepts to the conclusion that Respondent had lodged no formal protest or complaint against the unions nor called upon the Government to take formal action against them (ALJ p. 13, paragraph 1, lines 5-7)."

The Exception is denied.

The Respondent supports its Exception by pointing out that it sent letters to unions requesting minority employees as well as its request for help from the Government.

Whatever communications appeared in the record flowing from the Respondent to the Government, the conclusion of the Judge dealt only with the lack of a *formal complaint* made by the Respondent. Such a conclusion is supported by the record. However, it should be noted that neither the Executive Order nor the Regulations require *formal* notice. In fact, the Government's witnesses were contradictory as to what notice was needed and referred to "calls" on occasion. (Tr. 37, 43, 125, 193.)

See also our response to Exception No. 9.

14.

"Respondent excepts to paragraph 3 on page 13 and 1 on page 14 in their entirety."

The Exception is denied.

We find the Judge's description supported by the record, but also an indication that the Government was aware of a difference of opinion between the Respondent and the unions.

15.

"Respondent excepts to the conclusion that section 207 of Executive Order 11246 (hereinafter § 207) does not require HEW to resort to pressure tactics in respect to the unions (ALJ p. 14, paragraph 2, lines 1-3)."

The Exception is granted.

See our response to Exception No. 12.

16.

"Respondent excepts to the conclusion that HEW's obligation under § 207 is satisfied when it, in the first instance, contacts a union and seeks its cooperation (ALJ p. 14, paragraph 2, line 3-6)."

The Exception is granted.

See our response to Exception No. 12.

17.

"Respondent excepts to the failure to conclude that the Government must procure the Union's cooperation and consent under § 207."

The Exception is granted.

We find that best effort speaks of the ultimate, highest or supreme effort. It is stronger than good faith and implicit in best effort is the need to surpass all others.

See also our response to Exception No. 12.

18.

"Respondent excepts to the conclusion that HEW is obliged, under § 207, merely to seek union cooperation insofar as the contractor's hiring of minorities is concerned (ALJ p. 14, paragraph 3, line 9-11)."

The Exception is granted.

See our responses to Exceptions No. 12 and 17.

19.

"Respondent excepts to the conclusion that the Record reveals that it failed to include performance provisions of the Philadelphia Plan in its contract with subcontractor Robertshaw in violation of section 202 of the Philadelphia Plan (ALJ p. 15, paragraph 1, lines 1-2)."

The Exception is granted.

Unlike the Judge, we find Rother's testimony to be hearsay and contrary to the Judge's best evidence ruling. Furthermore, the filing of minority utilization reports by Robertshaw supports a strong inference that such information was supplied to the subcontractor.

See also our response to Exception No. 5.

20.

"Respondent excepts to the conclusion that Mr. Rother's testimony is unrefuted and shows that Robertshaw was not notified by Respondent that it was subject to the Philadelphia Plan (ALJ p. 15, paragraph 1, lines 2-5)."

The Exception is granted.

See our responses to Exceptions No. 5 and 19.

21.

"Respondent excepts to the conclusion that there is no evidence to support Respondent as having included the provision of section 202 in its subcontract with Robertshaw (ALJ p. 15, paragraph 1, lines 11-13)."

The Exception is granted.

See our responses to Exceptions No. 5 and 19.

22.

"Respondent excepts to the conclusion that although minority utilization reports were filed by Robertshaw as a subcontractor, this was not tantamount to Respondent's complying with the requirement under Executive Order 11246 to notify subcontractors of their obligations under the Philadelphia Plan (ALJ p. 15, paragraph 1, line 14)."

The Exception is granted.

Technically, the filing of minority utilization reports by a subcontractor is not tantamount to a contractor's obligation under Executive Order 11246 to notify subcontractors of their obligations under the Philadelphia Plan. However, see our responses to Exceptions No. 5 and 19.

23.

"Respondent excepts to the conclusion that the Philadelphia Plan required Respondent to take affirmative steps to place on the job those minority applicants found or furnished through MCS (ALJ p. 17, paragraph 2, lines 4-6)."

The Exception is granted.

In order to deal with this Exception, one must read lines 1-6, rather than merely lines 4-6. The lines read as follows: "One must agree that an employer may still establish good faith effort in the face of a refusal by unions to furnish minority workers. But this denial by labor organizations gives rise to an examination of what steps the contractor takes when so confronted. In my opinion it required the Respondent to take affirmative steps to place on the job those minority applicants found or furnished through MCA."

We do not read section 5 in either (a), (b), (c), or (d) to even suggest that once a union refuses to refer an applicant for employment that the contractor is required to take any steps other than to notify the Government under 5(c).

24.

"Respondent excepts to the conclusion that under the Philadelphia Plan a contractor must employ minorities, not merely locate them (ALJ p. 17, paragraph 2, lines 14-16)."

The Exception is denied.

There is no question that the purpose of the Philadelphia Plan is to employ minority workers, not merely to locate such workers. However, the Judge found that the contractor has undertaken to employ minorities within the implicit context of § 5 good faith efforts. Such a finding does not and cannot preclude the contractor from making a showing of good faith.

25.

"Respondent excepts to the conclusion that the Philadelphia Plan requires a contractor to take the risk of union shutdowns and if it is so impeded, to notify the Government which can than take appropriate action (ALJ p. 17, paragraph 3, lines 6-8)."

The Exception is granted.

We do not read the Philadelphia Plan as intending the contractor to take necessarily the risk of a shutdown, and if it is impeded, the employer must then notify the Government which can then take appropriate action. To require the contractor to make the union shut him down, as General Counsel appears to argue, before the Government will do anything is about the same as requiring him to play Russian roulette. This position by General Counsel would be and is untenable. The Judge, throughout his recommended decision, recognized the fact that Respondent would most likely be shut down. In this case, the Government has not realistically faced up to the absolute necessity of dealing firmly, fairly, and forcefully with the unions in order to overcome past discriminatory practices in the labor union movement. With all of this in mind, the Government then attempts to abdicate its responsibility to move the unions when they refused to budge or doggedly drag their feet. Furthermore, the failure of Government to carry out its mandatory *best efforts* obligation under section 207 makes it inconceivable to require Respondent to, in effect, shut itself down. In passing, it should be noted that the mandatory requirement derives from an Order of the President. Neither the Secretary of Labor nor any other person may dilute or disobey its direct order that he (the Secretary) "shall use his best efforts * * *." The Plan is a departmental one which is subordinate to and must give way to the Presidential Order. Neither the Secretary nor any of his agents can, by rule, regulation, or otherwise amend, change, or waive the mandatory requirement of the Order. Thus, the Government cannot, by indirection, i.e., refusal to recognize and/or carry out the section 207 requirements, thwart the will of the President.

26.

"Respondent excepts to the conclusion that a failure to hire minority employees because of the union's conduct negates good faith efforts (page 18, paragraph 1, lines 9-10)."

The Exception is granted.

This statement of the Judge has to be balanced with the statement made on page 17, paragraph 2, lines 1 and 2 which read, "One must agree that an employer may still establish good faith efforts in the face of a refusal by unions to furnish minority workers."

See also our response to Exception No. 25.

27.

"Respondent excepts to the conclusion that in order to comply with § 5(a) of the PPO, an employer would necessarily be required to specify opportunities for employment with American Sanitary Sales on a particular project (ALJ p. 18, paragraph 3, lines 7-10)."

The Exception is granted.

Section 5(a) provides that the contractor should notify community organizations of employment opportunities on particular projects. Here the Government, not having fulfilled its obligation under 5(a) to supply lists of community organizations to the Respondent, should not then question the good faith efforts of the Respondent in not including in such notice the particular projects involved. Furthermore, the General Counsel stated in his argument and the Judge set out in the Recommended Decision that the MCA could act on behalf of the Respondent. The ICA had submitted an Affirmative Action Program (Exception No. 35, infra) which the Government did not act upon for almost two years. In view of the absence of timely rejection, the Respondent has the right to rely upon the efforts of the MCA under the Program and to assume Government acquiescence in the MCA recruitment and training program in satisfaction of the requirements of 5(a).

See also our responses to Exception No. 7, supra and No. 5, infra.

28.

"Respondent excepts to the conclusion that since MCA does not advise minority applicants or agencies of openings with Respondent that the requirement of § 5(a) are not fulfilled (ALJ p. 18, paragraph 3, line 15-18)."

The Exception is granted.

See our responses to Exceptions No. 7 and 27, supra and No. 35, infra.

29.

"Respondent excepts to the conclusion that Mr. William C. Mitchell, the Employment Advisor of the MCA, admitted that the MCA does not advise minority applicants or agencies of openings with Respondent (ALJ p. 18, paragraph 3, lines 5-18)."

The Exception is denied.

See our responses to Exception No. 10, supra. However, reference is also made herein to our response to Exception No. 7 and 27, supra and No. 35, infra.

30.

"Respondent excepts to the conclusion that the Respondent did not utilize MCA's records regarding minorities at least in respect to hiring them (ALJ p. 19, lines 4-6)."

The Exception is granted.

The Respondent supported this Exception by arguing that the referred to conclusion of the Judge was clearly contrary to the agency relationship of MCA to the Respondent. Accordingly, it argued that since MCA maintained required records on behalf of its contractor members which included the Respondent, the agent's action are properly ascribed to the Respondent as principal.

The Transcript and numerous exhibits reflect that Respondent availed itself of MCA's records by the agency relationship of MCA. There is evidence that Respondent, as principal, also referred available minority personnel to the Union.

See also our response to Exception No. 7, supra.

31.

"Respondent excepts to the conclusion that the MCA did not document the reasons for many of the minority applicants not being hired by Respondent (ALJ p. 19, lines 9-10 from the top)."

The Exception is granted.

Section 5(b) of the September 23, 1969, Order states, in part: "If such worker *was not* sent to the union hiring hall for referral *or* if such worker was not employed by the contractor, the contractor's file *should* document this and the reasons therefor." (Emphasis ours)

The record reflects that MCA referred all workers to the unions and it is uncontradicted that the MCA kept more than adequate records (documents) of the workers so referred. Section 5(b) does not simply seek documentation of why the worker was not hired. It seeks documentation of why the worker was not referred to the union or why the contractor did not employ the worker. If the worker was referred, 5(b) does not require any document or reasons.

It is important to note the word "or" because the phrascology of 5(b) gives the MCA and its principal (Respondent) an elective. It is also significant to note that throughout section 5 (a), (b), (c), and (d), the words "may" and "should" are used in referring to activities which demonstrate good faith efforts thereby making it clear that such activities are not mandatory, but instructive. On the other hand, the only direct reference to a Government obligation is in 5(a) which uses the work "will" thereby clearly and unequivocally indicating a mandatory requirement for the OFCC area coordinator.

32.

"Respondent excepts to the conclusion that Respondent did not comply with § 5(b) of the PPO (ALJ p. 19, lines 11-13 from the top)."

The Exception is granted.

See our response to Exception No. 31, supra.

33.

"Respondent excepts to the conclusion that Respondent did not comply with § 5(c) of the PPO (ALJ p. 19, paragraph 1, lines 1-2)."

The Exception is granted.

Section 5(c) reads, in part: "A Contractor *should* promptly notify the OFCC * * * wherever the union has not referred * * * *or* the contractor has other information that the union

34.

"Respondent excepts to the conclusion that § 5(c) of the PPO envisages an employer taking steps to hire a particular minority employee and thence being thwarted by the unions (page 19, paragraph 2, lines 5-9)."

The Exception is granted.

See our response to Exception No. 25.

35.

"Respondent except to the conclusion that Respondent did not satisfy section 5(d) of the Philadelphia Plan (ALJ p. 19, paragraph 3)."

The Exception is granted.

Section 5(d) is as follows: "The contractor *should* be able to demonstrate that he *has participated* in and availed himself of training programs in the area, especially those funded by this Department referred to in section 3(c) of this Order, designed to provide trained craftsmen in the specified trades." (Emphasis ours.)

In what is denominated as a "Summary of the Evidence", the General Counsel for the Government describes in some detail an on-the-job training program for minority persons as conducted by the MCA and states that the "Associations' affirmative action program began in early 1968." He further recited that "the purpose of the program has been to give *collective* effort to improvement of the pipe trades industry through improvement of minority participation in that industry. MCA felt that such an effort could better be carried out by the MCA than by the member firms acting in their individual capacities." (Emphasis ours.) (G.C. Brief pages 45 and 46.)

In General Counsel's own words, the Respondent *participated* in a *collective* effort. How then did Respondent *avail* himself of the training program(s). Respondent and/or its agent (MCA) referred "nine journeymen applicants to the three unions for registration. Six of the nine were accepted for employment or placed on job sites." (G.C. Brief page 52; Ex. G.C. No. 19B; Ex. G.C. No. 24). Under section 5(b), Respondent and/or its agent MCA sent these men to the union hiring hall for referral. The fact that the union(s) failed and/or refused to refer the applicant to the Respondent does not vitiate the fact that it *participated* in and *availed* itself of the program.

However, the most grievous inequity perpetrated by the Government involves an Affirmative Action Program, dated May 1, 1969 (Ex. R-46). This comprehensive plan was executed in recognition of the Civil Rights Act of 1964 and Executive Order 11246 by the MCA, Local Union 420 and in order to achieve the objectives of the Act and the Order. The program agreed to establish an apprenticeship training program and contained numerous other representations relating to equal employment opportunity.

The record reflects no response from the OFCC of the Department of Labor until a letter of May 3, 1971, from the Director, John L. Wilks (Ex. R-45). With the passage of some 22 months, Mr. Wilks began his letter as follows:

"After *considerable* evaluation * * * the Affirmative Action Agreement * * * is not acceptable."

To say the least, there must have been considerable (22 months worth) evaluation. The very office charged with carrying out section 207 of the Executive Order and the very office which would require the Respondent to *promptly and formally* notify it of impeding union activities takes this inordinate period of time to respond to the proposed plan. General Counsel at page 53 of his Brief, recited that the MCA and the unions entered into an on-the-job training program with the Department of Labor (Ex. R-37) on June 30, 1971, which was not immediately implemented. He stated that there was "a layoff period in the Philadelphia construction industry * * * and the three unions insisted on delaying the placing of the trainees on the jobs with MCA member contractors." He further recited that "* * * such delay eventually resulted in the Labor Department extending the 18-month period of the funding agreement." Thus, except for union reluctance, and Government consent, Respondent had a training program available consistent with 5(d) in mid-1971.

Additionally, the Government would assist in establishing and implementing training programs. Yet the Government, which complains of the Respondent's inaction, did not exert its best efforts to seek union cooperation and took almost 2 years to determine that the Affirmative Action Program was not acceptable.

Furthermore, the MCA and its members established in 1970, and participated in, the Joint Apprentice Outreach Program (JAOP) which attempted to recruit and place minority apprentices. This program was funded by the Department of Labor and was a training program for apprentices. (Tr. 489 et seq.) From a total review of the record, the preponderance of the credible, substantial evidence is that the Respondent complied with the spirit of section 5(d) and might well have complied with the letter of this section were it not for union reluctance and Government procrastination or outright indifference to the Respondent's difficulties (Ex. R-38 and R-45).

See also our response to Execption No. 37, supra.

36.

"Respondent excepts to the conclusion that the efforts of the MCA with regard to JAOP do not redound to the credit of Re-

spondent in view fo the fact that Respondent did not avail itself of those efforts."

The Exception is granted.

See our responses to Exceptions No. 7, 27 and 35, supra.

37.

"Respondent excepts to the conclusion that the Manpower Administration Contract Program of the MCA did not get underway until March 1972. (ALJ p. 20, paragraph 1, lines 10-12)."

The Exception is granted.

See our response to Exception No. 35.

38.

"Respondent excepts to the conclusion that the Manpower Administration Contract got underway at a time when Respondent was phasing out its contracts and his conclusion that Respondent failed to avail himself of this program insofar as the four projects in question were concerned (ALJ p. 20, paragraph 2, lines 1-5)."

The Exception is granted.

See our response to Exception No. 35, supra.

39.

"Respondent excepts ot the conclusion that the Respondent, whether acting on its own or through the MCA, did not exercise sufficient efforts, within the spirit or letter of Executive Order 11246 and the Plans to comply with the nondiscrimination directives (ALJ p. 20, paragraph 3)."

The Exception is granted.

See our responses to Exceptions No. 7, 8, 23, 27, 30, 31, 33, 35, supra.

40.

"Respondent objects to conclusion of law No. 3 insofar as it concludes that Respondent failed to demonstrate that it exercised sufficient good faith efforts to achieve its minority goals—all in violation if its contract, the Order and the Plans."

The Exception is granted.

See our responses to Exceptions No. 7, 8, 23, 27, 30, 31, 33, 35, supra.

41.

"Respondent excepts to the proposed Remedy insofar as it recommends that the Reviewing Authority declare American Sanitary Sales ineligible for the award of any contract or subcontract; funded in whole or part with Federal funds, from any agency of the United States, or for any extensions or other modifications of such existing contracts for any period of time."

The Exception is granted.

See our responses to Exceptions No. 7, 8, 12, 23, 25, 27, 30, 31, 33, 35, supra.

DECISION AND ORDER

After a review of the total record and the hearing of oral argument, a majority of the Reveiwing Authority are agreed that the Respondent has met the basic elements of good faith as set forth in section 5 of the Order of the Department of Labor dated Septmeber 23, 1969. As a reading of the rulings on Exceptions will reveal, a majority are also agreed that the Government did not exert its best efforts to seek union cooperation as is the mandatory requirement of section 207 of the Executive Order 11246 and the Regulations. Therefore, it is found that the Respondent is the compliance and *It is ordered*, That these proceedings be, and the same are hereby, dismissed and that the request that the Respondent be declared ineligible for the award of any contract or subcontract be, and the same is hereby, denied.

EDWARD A. POTTS,
Chairman, Reviewing Authority (Civil Rights).
WILLIAM F. ABLE,
Member, Reviewing Authority (Civil Rights).

CONCURRING OPINION

Although I concur in the rulings and holding, set out above, I intend to file a concurring opinion at some later date.

IRVING FERMAN,
Member, Reviewing Authority (Civil Rights).

DISSENTING OPINION

I respectfully dissent from the majority opinion but in order not to delay the issuance of this decision and Order, I will file my dissenting opinion at a later date.

OLIVER MORSE,
Members, Reviewing Authority (Civil Rights).

Dated: September 19, 1973.

U.S. DEPARTMENT OF LABOR, OFFICE OF ADMINISTRATIVE LAW JUDGE, WASHINGTON, D.C.

ADMINISTRATIVE PROCEEDING IN THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

In the matter of American Sanitary Sales & Service Co., Inc., Respondent, Docket No. CC-5.

James Miles and *Edward Levy*, Esqs. for the General Counsel, Office of Civil Rights, Department of Health, Education, and Welfare.

Thomas Heilmann, Esq. for the Respondent.

Before *William Naimark*, Administrative Law Judge.

RECOMMENDED DECISION

STATEMENT OF THE CASE

This proceeding arises under Executive Order 11246 which requires, under section 202 thereof, that Federal and Federally Assisted contractors and subcontractors not discriminate against employees or applicants for employment because of race, color, religion, sex, or national origin. Such Executive Order was implemented by an Order [1] dated June 27, 1969, which is a Revised Philadelphia Plan for compliance with equal opportunity requirements of Executive Order 11246 for federally involved construction in five counties in the area of Philadelphia, Pa. This Revised Philadelphia Plan was itself implemented in respect to ranges of minority manpower utilization, and also amended in other respects, by an order [2] dated September 23, 1969. Both the June 27, 1969 and the September 23, 1969 orders are referred to at times either separately, or collectively, as the Philadelphia Plan.

On May 19, 1972 the General Counsel of the Department of Health, Education, and Welfare (herein called the Department) issued a Notice of Hearing, on behalf of the Department, against American Sanitary Sales and Service Company, Inc., (herein call the Respondent). The Notice of Hearing, which was issued pursuant to section 208 of Executive Order 11246 and the Regulations of the office of Federal Contract Compliance, Department of Labor (41 CFR Part 60-1, 60-1.26(b), contains allegations concerning Respondent's noncompliance with the aforesaid Executive Order 11246, Philadelphia Plan orders, the rules and regulations issued thereunder, and its contracts, during the performance of mechanical contracting work in 1970, 1971, and 1972. The contracting work by Respondent was performed (1) on a classroom facility, library and other buildings for the Montgomery County Community College (herein called Montgomery) at Blue Bell, Pa (2) on the Academic Building and Learning Resources Center for Bucks County Community College (herein called Bucks), Newton Township, Pa.; (3) on the Physical Education Building for Lincoln University, (herein called Lincoln) at Oxford, Pa.; and on the fine Arts Building for Temple University, (herein called Temple), Cheltenham Township, Pa. An Amended Notice of Hearing alleged that Respondent failed to notify the Area Coordinator, Office of Federal Contract Compliance, Department of Labor, that it had been impeded by the unions in achieving its goals of minority manpower utilization.

Respondent filed an answer to the Notice of Hearing herein by which it admitted certain factual allegations, but denied it had not complied with the requirements of the Philadelphia Plan on the four construction projects wherat it performed work. The answer alleged that Respondent made every good faith effort to comply with its minority manpower obligations, but was frustrated by the unions through whom employees were obtained that the government, while aware of the fact that Respondent was impeded by the unions, took no action to assist Respndent; and that, in any event, the Philadelphia Plan does not contain any definitve requirements for showing Respondent's good faith.

A pre-hearing conference was held on December 8. 1972 at Philadelphia, Pennsylvania which was attended by counsel for the Department, Respondent, and the undersigned. The issues were defined at that time, and the parties agreed upon certain facts contained in the General Counsel's Request for Admissions theretofore served upon Respondent. Moreover, various documents referred to in General Counsel's Request for Admissions were deemed genuine and authentic. In addition, the parties signed a Joint Fact Stipulation [3] on December 15, 1972 as to work performed by Respondent's employees. The relevant admissions of fact, documents admitted as genuine and authentic, and stipulated facts, will be referred to in those findings of fact considered to be necessary and material to a determination or decision herein.

A hearing was held before the undersigned on Januyary 17, 18, 19, 24, 25, and 26, 1973 at Philadelphia, Pennsylvania. Both parties hereto were represented by counsel and were afforded full opportunity to be heard, to adduce evidence, and to examine as well as cross-examine witnesses. Thereafter, both parties filed briefs with the undersigned which have been duly considered.

The General Counsel of the department contends Respondent violated Executive Order 11246 and the Philadelphia Plan

[1] GC Exhibit 1.
[2] GC Exhibit 2.
[3] GC Exhibit 8.

Orders in 1970, 1971 and 1972. Its position is that Respondent did not meet the minority manpower utilization goals of the Philadelphia Plan on any of the four Federally assisted projects—Montgomery, Bucks, Lincoln, and Temple—where it performed work in those years. Moreover, Respondent did not make good faith efforts to meet these goals as required in Section 8 of the June 2, 1969 Philadlphia Plan Order and in Section 5 of the September 23, 1969 Philadelphia Plan Order. General Counsel maintains it undertook to assist Respondent in voluntary complying with the Executive Order and the Plans. Further, it is contended Respondent did not take adequate steps to notify a subcontractor of its obligation under the Executive Order and the Plans. Finally, it is argued that Respondent did not take adequate steps to assure non-discrimination during its performance on these projects as required by the equal opportunity clause in the Executive Order.

Respondent admits it did not meet the manpower minority goals set forth in the Plan, but contends it made every good faith effort to do so, both directly and through the Mechanical Contractor's Association, of which it is a member, so as to satisfy the requirements of the Plans. It also contends the Department failed to assist Respondent in achieving voluntary compliance and has not used best efforts, as required under Section 207 of the Executive Order, to cause the unions to cooperate in the implementation of the purposes of said Order. Respondent further maintains this proceeding should be delayed until OFCC passes on the request for approval of an affirmative action program submitted by Mechanical Contractor's Association.

Upon the entire record[4] in this case, from his observation of the witnesses and their demeanor, and from all of the testimony and evidence adduced at the hearing, the undersigned makes the following findings, conclusions and recommendations:

FINDINGS OF FACT

1. Respondent is a mechanical contractor engaged in heating, ventilating and air conditioning work on institutional, industrial, and commercial projects, with its principal place of business located at Willow Grove, Pa.

2. Respondent was a prime contractor on the Montgomery project, which was Federally assisted by a grant administered by the Department, and Respondent carried out work in 1970 and 1971 thereat involving the steamfitting, plumbing and sheetmetal trades in the construction of a classroom facility, science complex, library, physical education building, and administration and student areas for the Montgomery County Community College in Montgomery County, Pa.

3. Respondent was a prime contractor on the Bucks project, which was Federally assisted by a grant administered by the Department, and Respondent carried out work in 1970 and 1971 thereat involving the plumbing and steamfitting trades in the construction of an academic building and learning resources center for the Bucks County Community College in Bucks County, Pa.

4. Respondent was a prime contractor on the Lincoln project, which was Federally assisted by a grant administered by the Department, and Respondent carried out work in 1970 and 1971 thereat involving the steamfitting and sheetmetal trades in the construction of a physical education building for the Lincoln University, in Chester County, Pa.

5. Respondent was a prime contractor on the Temple project, which was Federally assisted by a grant administered by the Department, and Respondent carried out work in 1970, 1971, and 1972 thereat involving the steamfitting trade in the construction of a fine arts building for Temple University in Montgomery County, Pa.

6. Each one of the aforesaid projects, Montgomery, Bucks, Lincoln, and Temple, involved a total cost greater than $500,000, and each one of Respondent's contracts to perform heating, ventilation and air-conditioning work thereat exceeded $10,000.

7. Respondent submitted bids to perform the heating, ventilation and air conditioning work at the aforesaid projects, the Respondent submitted with such bids specific numerical goals for minority manpower utilization at each project for the particular trades of steamfitting, plumbing and sheetmetal, which goals were sufficient to meet the standards required under the Philadelphia Plans for minority manpower utilization for such trades.

8. Respondent is obligated under section 8 of the June 27, 1969 Philadelphia Plan Order, to make every good faith effort to meet the goals it established in its submitted bids under an affirmative action program, and such requirements were included in each of Respondent's contracts for heating, ventilating and air-conditioning work on the Montgomery, Bucks, Lincoln, and Temple projects.

9. Respondent commenced work on the *Montgomery* project approximately in July 1970 and finished approximately in April 1972. In 1970 Respondent employed one minority apprentice steamfitter on this project in 1970 and 1971. Between July 1970 and December 1970 Respondent performed 6,617 manhours of *steamfitting* work on this project, of which 216 manhours were performed by a minority worker. Between January 1971 and December 1971 Respondent performed 15,747.5 manhours of steamfitting work on this project, of which 390 manhours were performed by a minority worker. Between January 1972 and April 1972 Respondent performed 608 manhours of steamfitting work on this project, none of which was performed by minority workers.

10. Respondent did not meet the minority manpower goals for *steamfitters* at the *Montgomery* project in 1970, 1971, or 1972 as set forth in the Philadelphia Plan and Respondent's contract.

11. Between July 1970 and December 1970 Respondent performed 660 manhours of *plumbing* work on *Montgomery* project, all of which were performed by non-minority workers. Between January 1971 and August 1971 Respondent performed 1,672 manhours of plumbing work on said project, all of which were performed by non-minority workers.

12. Respondent did not meet the minority manpower goals for *plumbers* at the *Montgomery* project in 1970 and 1971 as set forth in the Philadelphia Plans and Respondent's contract.

13. Between June 1971 and October 1971 Respondent performed 1,248 manhours of *sheetmetal* work on the *Montgomery* project, all of which were performed by non-minority workers.

14. Respondent did not meet the minority manpower goals for *sheetmetal* workers at the *Montgomery* project in 1971 as set forth in the Philadelphia Plans and Respondent's contract.

15. In December 1970 Respondent performed 96 manhours in *steamfitting* at the *Bucks* project, all of which were performed by non-minority workers. Between January 1971 and December 1971 Respondent performed 11484.5 manhours in steamfitting at said project, all of which were performed by non-minority workers. Between January 1972 and March 1972 Respondent performed 978 manhours in steamfitting at said project, all of which were performed by non-minority workers.

16. Respondent did not meet the minority manpower goals for *steamfitters* at the *Bucks* project in 1970, 1971, or 1972 as set forth in the Philadelphia Plans and Respondents's contract.

17. Between September 1970 and December 1970 Respondent performed 1349 manhours in *plumbing* at the *Bucks* project, all of which were performed by non-minority workers. Between Janurary 1971 and December 1971 Respondent performed 5,218.5 manhours in plumbing at the Bucks project, all of which were performed by non-minority workers. Between January 1972 and March 1972 Respondent performed 426 manhours in plumbing at the Bucks project, all of which were performed by non-minority workers.

18. Respondent did not meet the minority manpower goals for *plumbers* at the *Bucks* project in 1970, 1971, or 1972 as set forth in the Philadelphia Plans and Respondent's contract.

19. Between April 1970 and December 1970 Respondent performed 985 manhours in *steamfitting* at the *Lincoln* project, all of which were performed by non-minority workers. Between Janurary 1971 and November 1971 Respondent performed 2,688.5 manhours in steamfitting at the said project, all of which were performed by non-minority workers. Between March 1972 and April 1972 Respondent performed 111 manhours in steamfitting at said project, all of which were performed by non-minority workers.

20. Respondent did not meet the minority manpower goals for *steamfitters* at the *Lincoln* project in 1970, 1971, or 1972 as set forth in the Philadelphia Plans and Respondent's contract.

Between January 1971 and December 1971 Respondent performed 5,059 manhours in *steamfitting* at the *Temple* project, all of which were performed by non-minority workers. Between January 1972 and May 1972 Respondent performed 1,007 manhours in steamfitting at said project, all of which were performed by non-minority workers.

22. Respondent did not meet the minority manpower goals for *steamfitters* at the *Temple* projects in 1971 and 1972 as set forth in the Philadelphia Plans and Respondent's contract.

23. Between July 1970 and November 1971 Respondent employed 78 new hires for its total workforce—Federally and non-Federally involved—consisting of 58 steamfitters, 18

[4] The undersigned received a motion on March 14, 1973 from the Government to correct the transcript herein. No opposition having been interposed by Respondent, and the proposed corrections appearing to be proper, the motion is granted and attached hereto as Appendix A.

plumbers and 2 sheetmetal workers. During the same period Respondent laid off from its total workforce 40 steamfitters, 20 plumbers and 2 sheetmetal workers.

24. Respondent subcontracted part of the sheetmetal work on the Montgomery project to Charles Knecht; and Respondent subcontracted work on the Lincoln project for the installation of an automatic temperature control system to Robertshaw Controls Company.

25. Mechanical Contractors Association, herein called MCA, is composed of 60 employers as members thereof, and it negotiates collective bargaining agreements with various unions on behalf of its members who perform most of the commercial and institutional construction work in plumbing and steamfitting in the Philadelphia area. MCA arbitrates grievances with the plumbers and steamfitter unions on behalf of employer members; provides technical services, educational programs, and informational services for its members; and conducts programs on behalf of its employer members in respect to labor relations, public relations, and equal opportunities. Respondent is, and has been at all times material herein, a member of MCA.

26. MCA executed a collective bargaining agreement, on behalf of its members, effective from May 1, 1969 until April 30, 1972 with Steamfitters Local Union No. 420, providing that (a) all journeymen shall become and remain members of the union within 7 days following their employment, (b) an employer may hire employees directly on its own or by requesting the union to refer applicants who must pass a journeyman's test given by the union. Local 420 assumed jurisdiction over the steamfitters working on the Bucks and Temple projects.

27. MCA executed a collective bargaining agreement, on behalf of its members, effective from May 1, 1969 until April 30, 1972, with Plumbers and Steamfitters Local Union No. 428, providing that (a) all journeymen shall become and remain members of the union within 7 days following their employment, (b) all employees must be obtained through the union's referral of applicants to the employer, (c) the contractor must employ qualified journeymen, and Local 428 was the sole judge as to the qualifications of applicants who must pass a journeymen's test. Local 428 operated an exclusive hiring hall and it assumed jurisdiction over the plumbers and steamfitters on the Temple project.

28. MCA executed a collective bargaining agreement, on behalf of its members, effective May 1, 1969 until April 30, 1972, with Plumbers Local Union No. 690, providing that (a) all journeymen shall become and remain members of the union within 7 days following their employment, (b) an employer may hire employees directly on its own or by requesting the union to refer applicants. The fee for joining Local 690 is $2,000, and in order to become a member a license is necessary, which is obtained from the Plumber's Board, a public licensing entity, that requires each applicant to pass a test to obtain such license. Local 690 assumed jurisdiction over the plumbers employed on the Bucks project.

29. The agreements executed by MCA, on behalf of its members, with Locals 420, 428, and 690, provide that all disputes between a contractor and the union shall be submitted to arbitration, and no strike or lockout is permitted pending an arbitration decision.

30. The Joint Apprenticeship Committee is composed in each instance herein of three members from MCA and three members from the particular union, and it administers a program for training apprentices. To join the apprentice program an applicant must comply with various health and educational requirements (high school), and must pass a test given by the Bureau of Employment Security. The Joint Apprenticeship Committee supervises or passes upon the acceptability of apprentices who have applied for entry into the industry.

31. Pre-construction conferences or job meetings were held at each project and attended by various contractors, including Respondent herein. Timothy A. Burke, representative of Office for Civil Rights, HEW, appeared thereat, explaining that the contractors must attempt to meet the goals set for hiring minority workers. He informed the contractors that if the goals were not met, good faith efforts must be made to meet these goals. This required contacting minority organizations to locate minority employees, seeking minorities from the union, advertising for such workers, and asking employees who were employed if they knew where minorities could be obtained. Burke suggested the contractors should notify him if they needed assistance in obtaining minority workers.

32. At one of these conferences it was stated by the contractors that minority workers would not go to the Lincoln project. Burke said if the minority workers refused to do so, the contractor should employ him on other projects and HEW would take this into consideration in assessing the contractor's compliance on this job. At two of these conferences Respondent's representative inquired what to do if a union shut down a job after a minority worker was hired. Burke told Respondent that it should advise him immediately and the Federal Government would follow through with the matter.

33. A series of letters between Owen P. Kiely, Director of the Division of Contract Compliance of Office for Civil Rights, HEW, and Respondent, during the period of August 19, 1970-April 7, 1971, revealed the following:

(a) HEW requested a showing of good faith effort by Respondent to meet minority goals and proper manpower utilization reports, including reports for periods not submitted.[5]

(b) Respondent stated it had, through MCA, an affirmative action program which was submitted to OFCC; that Local 428 promised to supply minority workers to Respondent, and Respondent expected to hire minority employees soon through this union.

(c) HEW sent three show-cause letters to Respondent between August 19, 1970 and February 25, 1971 indicating that it had not met the requirements of the plans, and again requesting a good faith demonstration of efforts to meet the goals.

(d) Respondent stated the local only accepted a few minority workers into membership although over 300 minority men were sent by MCA to them; that it was almost impossible to get minority workers to go to Lincoln; that Nathaniel Brown, a minority apprentice on the Montgomery job, failed to report regularly and had he done so Respondent would have been in compliance thereat, that Respondent had requested the unions to send minority employees but it refused to do so, and hiring must be done through the unions; that MCA was able to get 21 minority applicants tested in January, 1971 for the apprentice program, that Geftman had met with Mitchell of MCA on March 28, 1971 to get more minorities; that MCA was recruiting, training and referring minority applicants, but if the unions don't take them in, "how can we possibly hire them?"; that the agreements with the union state Respondent must hire through the hiring hall, and the problem is with the unions—not the contractors.

34. During the entire period of Respondent's performance in the four projects involved herein, Respondent employed no minority steamfitters or plumbers except for Nathaniel Brown.

35. A series of meetings between Respondent and representatives of HEW, occurred as follows:

(a) On October 19, 1970, Raymond Geftman, President of Respondent met with Frank Baldau, HEW, to discuss Respondent's failure on the Montgomery job to comply with the Plan. Baldau stated that the company's obligation re manpower utilization reports requires furnishing same periodically whether or not there are employees on the job. Geftman contended that the size of the crew at Montgomery was too small to produce an opportunity to employ minorities; that the unions would not furnish minority employees and would not allow Respondent to put minority workers on the job; that MCA was undertaking, on behalf of Respondent, to comply with the Plan. Baldau advised Geftman that the Respondent cannot relieve itself of its obligations to hire minorities under the Plan just because it has a contract with a union in respect to hiring. He also informed Geftman that since MCA has not had its affirmative action program approved, Respondent must demonstrate compliance on its own.

(b) On May 13, 1971, Geftman asked if the Government could do something about the unions' failure to provide minority workers. HEW representative Barry Anderson told Geftman it was his responsibility to put a minority man on the job, and to notify OFCC in writing if the union was impeding recruitment of minorities as well as the manner in which it did so. Anderson did agree to seek cooperation from the unions, but told Geftman hiring was his responsibility.[6] He also suggested the employer contact

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[5] There is some conflicting testimony in the record as to whether Respondent submitted manpower utilization reports for the period February 28, 1970-March 30, 1970. Further, there is some evidence to indicate the report furnished by Respondent at the outset were not as required by HEW. Since other contractors were not complying completely or adequately in the submission of these reports, and in view of Respondent's compliance ultimately with this requirement, I do not conclude herein that the manner in which reports were initially submitted by Respondent warrants an adverse finding under section 202 of the Order.

[6] Geftman testified Anderson agreed to get "permission" from the unions for Respondent to hire minorities. This is not in accord with the testimony of either Anderson or Burke. Although I do not conclude that either commitment from the HEW representative affects the disposition of this matter, I find Anderson did not agree to visit the unions in order to obtain approval or permission for Respondent to hire minorities.

minority organizations and tell them there were opportunities for minority workers; that there should be a liaison between Geftman and the organizations listed by OFCC; that Geftman contact minority jobbers or sub-contractors; and that he contact Naval Shipyard and Atlantic Richfield who had a layoff recently.

36. At no time material herein did Respondent itself contact or seek to recruit minority workers from any agency or organization which refers or recruits minority workers, but Respondent relied upon MCA to obtain minority applicants for employment.

37. A compliance review of Respondent's progress was conducted by Joyce Rush, OFCC, Department of Labor, on April 27, 1971 at Lincoln project. Rush mentioned that non-union sources, through whom Respondent could hire minorities, were Joint Apprenticeship Outreach Program, Opportunities Industrialization Center, and Urban League. Geftman stated MCA was set up to assist contractors and his efforts were being carried out by the association.

38. Hew resprsentatives Burke and Anderson met with Local 420's Business Agent Dugan in the latter part of May 1971 to seek the union's cooperation in obtaining minorities on jobs. Dugan refused to modify apprenticeship criteria, but agreed it might be possible for his minority members to recruit others. He remarked that MCA brought minority applicants to the union but they failed the test. HEW representative John Rother met with Harry Plummer of Local 420 on June 8, 1971 to discuss union cooperation in hiring minorities. The union official agreed a work permit could be granted to a minority. Rother met with Fund Administrator Fitzpatrick for Local 428 on June 14, 1971 who said the union was relaxed about minorities, but there were minimum skill tests.

39. HEW representative Rother met with officals from Robertshaw Controls on June 28, 1971 since it had no minority employees on Lincoln project. These officials stated a letter from Office of Civil Rights was the first notice they had this project was covered by the Philadelphia Plan; that Respondent had failed to notify Robertshaw Controls of their obligation by not including the Plan in the bid documents they received to be able to bid on the job. No evidence appears to the contrary, except that Respondent made available in its office an extra set of job plans and specifications for subcontractors. Further, in 1971 Robertshaw Controls sent Respondent minority utilization reports for the work performed on the Lincoln project.

40. Rother telephoned Geftman on October 28, 1971 to ascertain what Respondent had done since July re compliance. Geftman stated a declining work force precluded good faith efforts, but admitted he had not tried to recruit from any source other than the union. Rother mentioned he had talked to Robinson, who runs the Journeyman Outreach Program, and was told it had an extensive program of recruitment and in-house training of minority journeymen in steamfitting and plumbing trades. It was suggested by Rother that Geftman contact this organization.

41. Thurston Gault, deputy for General State Authority, tried to help contractors by supplying names of workers. At Temple he was Human Relations Representative, and Gault contacted Journeyman Outreach Program which gave him lists of employees. When he attempted to give Geftman a pamphlet from Outreach, the latter said it would not help him since his problem was with the unions.

42. On January 10, 1972 Rother spoke to Geftman again concerning the possibility of Respondent's hiring minority workers. Geftman replied the problem was with the unions. Whereupon Rother advised him that if Respondent tries to get a minority on the job and the union impedes it, the Government would then act. Respondent's official was informed that the contractors have the prime responsibility of acting with regard to the unions.

43. Respondent was told by Howard Hurst, Business Agent of Local 428, that if he employed a minority non-union worker on the Montgomery project, it would be shut down. No other unions threatened Respondent with a shut down if he employed a non-union worker.

44. Respondent failed to place minority workers on the job because they were non-union and not referred by the unions herein; and Respondent feared there would be trouble with the unions, including the prospect of a shut down or strike at any or all of its projects herein.

45. Between February 24, 1970 and May 14, 1971 Respondent wrote 10 letters to Local 420, 13 letters to Local 428, and 6 letters to Local 690. In these letters Respondent stated it must have minority workers on the various jobs, and the unions were urged to send same so the company could comply with Plan. The unions were also advised that HEW had threatened to take steps to terminate its contracts unless Respondent hired Minority workers.

46. MCA commenced an affirmative action program in 1968, which continued during 1970, 1971, and 1972, to increase employment of minorities by its members in the plumbing and pipefitting trades. This was intended to supplement the efforts of the employer-member, but not replace their affirmative action programs.

47. MCA employed William C. Mitchell, a black employee, as its employment advisor. He contacted resources and attempted to find qualified minority workers. Mitchell utilized lists furnished by OFCC, as well as lists of resources maintained by himself. Mitchell has maintained a Revised list of 23 resources which he uses to obtain minority applicants for plumbing and steamfitting jobs. Some of those on his list were not found on the OFCC list of resources. A few of these organizations he visits daily, while others are contacted weekly or several times a year.

48. In respect to apprentice workers, Mitchell considered Apprenticeship Information Center his best resource. He interviewed applicants there, and explained the job as well as the union's requirements. He arranged for them to visit a physician and get a doctor's certificate at no cost, and to obtain a birth certificate or Baptismal slip. They were also assisted in filling out applications. If an applicant is found to be satisfactory, he was referred by Mitchell to JAOP which helps prepare him for the test. The MCA advisor follows through if an applicant has not filed his application, by visiting him to find out if he is still interested in the apprentice program. Mitchell visited vocational or high schools, talked to seniors regarding apprentice training, and passed out leaflets. He visited community centers and other resources. Mitchell has kept reports of all his activities and contacts with minority organizations since 1961. His efforts have not been too successful. Between April–June, 1972 only 2 minority workers were accepted by Local 420 as apprentice steamfitters, although 65 were interviewed by MCA and 25 referred to the union to file applications. During the same period 42 applicants were interviewed by MCA as prospective plumbers. Only 2 minority workers were accepted by Local 690 although 23 were referred to said union to file applications.

49. In respect to journeymen, Mitchell recruits minorities from 3 main sources; Atlantic Refining, Navy Yard and Opportunities Industrialization Center. He spoke to the superintendent at Atlantic Refining, and at the Navy Yard he conferred with the Business Agent of the local union. When he located minority applicants, Mitchell referred them to one of the 3 unions. Of 9 whom he referred in 1970 and 1971, 6 were accepted and placed for employment. MCA has also helped journeymen obtain the requisite fee to join a union. It alerts a man to the program instituted by JAOP which assists the journeymen in this regard.

50. In late 1970 Mitchell met with Raymond Geftman and gave him a list of available applicants for jobs of steamfitter and plumber. Geftman indicated he would visit the union to follow up on the matter. In early 1971 Geftman spoke to Business Agent Hurst of Local 428, telling Hurst that he had 3 specific minority men he wanted to hire. Geftman had received the names from Mitchell. But Hurst said he could not take anyone else in the union as he had members out of work.

51. Respondent did not notify HEW, or any governmental representative involved herein, that it had 3 minority men it wished to hire and Local 428 would not permit it to do so.

52. Notice of the December, 1971 Local 420 apprenticeship test was put by MCA in the Philadelphia Tribune, the Afro-American, and the Girard Home News. Further, MCA made available to schools visual aids, films, and speakers, and Mitchell visited plants to show young men some aspects of the construction and pipe trades.

53. At no time material herein did MCA notify a minority person or organization of employment opportunities with Respondent, nor did it secure individuals from training programs for employment with Respondent.

54. On June 28, 1971 the Department of Labor, Manpower Administration, the 3 unions involved herein, and MCA, entered into a contract to place minority workers in an on-the-job training program. This plan, unrelated to the minority recruitment program of MCA, provides for recruiting by the Department of Labor. Under the contract 60 minority workers are to be trained for 52 weeks by contractors of MCA. At the end of this period trainees will be evaluated by the Joint Apprenticeship Committee of the appropriate union which shall place him in no less category than second year apprentice. The ultimate goal of the training program is that the 60 workers become skilled plumbers and steamfitters, be provided with employment, and thereby become members of one of the three unions involved herein.

55. By letter dated July 14, 1971, John L. Wilks, Director of OFCC, wrote MCA executive vice president William H. Lindsay and advised him that a contractor who develops

on-the-job training opportunities, and participates in any association training program, satisfies one of the specific affirmative action steps under the Plan regarding minority manpower utilization.

56. At the time of the hearing herein, but subsequent to the completion of work by it at the 4 named projects, the Respondent had employed 5 minority workers as a result of this on-the-job training program developed by Manpower Administration with MCA and Locals 420, 428, and 690 herein.

CONCLUSIONS

RESPONDENT'S COMPLIANCE WITH EXECUTIVE ORDER 11246 AND THE PHILADELPHIA PLANS

A. *Efforts by HEW to cause the unions herein to cooperate in the implementation of the order.* It is contended by Respondent that the Government agency failed to adhere to its obligations under the Order. HEW is obliged, maintains the Respondent, to use its best efforts to obtain the union's cooperation so that the employer could comply with the Plan. Not having done so, it is urged that HEW can scarcely fault Respondent for not achieving compliance.

Under Section 207 of the Order the Secretary of Labor, directly and through the interested agency, is required to use "best efforts" to cause a labor union, involved in Government contract work, to cooperate in implementing the purposes of the Order. The Director, Office of Federal Contract Compliance (OFCC) is likewise charged with the same responsibility under 41 CFR 60-1.9.

While consideration of this issue involves a judgment value as to whether the Government exercised "best efforts" herein, I am persuaded that the facts demonstrate it has done so. It is true that Respondent made known to HEW that the unions were not furnishing minority workers or consenting to the hiring of such employees by Respondent. But the latter had lodged no formal protest or complaint against the unions, nor called upon the Government to take formal action against them. In such a posture, the agency could scarcely have caused the Secretary to notify either the Equal Opportunity Commission or Department of Justice, as is provided under section 207 of the Order when there is reason to believe practices of the unions violate the Civil Rights Act of 1964. Had the unions herein engaged in overt acts of blockage or stoppage, in respect to Respondent's putting minority employees to work, the Government may have failed in its duty had it not taken action against the labor organizations. But an inchoate threat, as the employer bespeaks of here, did not, in my opinion, suffice to warrant the Government taking formal action under section 207 of the Order. Moreover, Burke notified representatives of the contracting employer herein that if the union took action to picket or shut down the project—in the event of minority workers being placed on the job—the employer should notify Burke immediately so the Government could take appropriate action.

The meeting which finally gave rise to steps being taken by the Government to contact the unions occurred on May 31, 1971. At this meeting between representatives of HEW and Respondent, the latter did state it needed assistance from the Government to persuade the unions to permit the company to hire minorities. Anderson, although advising Raymond Geftman to write OFCC if the unions were impeding the recruitment of minority workers, agreed to attempt to obtain union cooperation in respect to the hiring by Respondent of minority employees. Accordingly, a week or two later, Burke and Anderson met with Business Agent Dugan of Local 420. Apart from telling the union official that they were there to seek union cooperation in implementing the Plan, Anderson asked Dugan if he thought the minority apprentices from Local 420 could be sent to recruit other minority applicants for the union. Anderson also asked if the union could modify its apprenticeship standards. While Dugan replied it might be possible to recruit minority employees through its present minority members, he refused to disturb the apprenticeship requirements.

A representative of Office of Civil Rights, Contracts Compliance Division, John Rother, began discussions with union representatives on June 8, 1971 concerning the employment by contractors of minorities. Rother and Harry Plummer, Director of Apprenticeship Program of Local 420 talked on that date regarding the use by a contractor of a minority journeyman who was non-union. Plummer stated if a contractor had a minority worker it wanted to employ, it could get the union's permission to hire that individual. This method, known as open solicitation, resulted in the non-union applicant being granted a permit.

Another meeting took place on June 14, 1971 between John Rother and Local 428 Fund Administrator Fitzpatrick regarding the possible cooperation by this union with contractors. In addition to a general discussion of the manner in which union members were recruited and referred to employers, the parties discussed the possibilities of minority journeymen gaining entrance to the union. Fitzpatrick commented that open solicitation was the practice and, apart from a minimal skill test, the union was "relaxed" about admitting minority applicants. He also agreed to participate in any program sponsored by the MCA.

The admonition under section 207 of the Order to use best efforts in seeking union cooperation does not, in my opinion, call upon the Government to resort to pressure tactics in respect to the unions. While HEW officials may not have been successful in obtaining the union's cooperation and approval in hiring minority workers, its obligation is satisfied when it, in the first instance, contacts the union and seeks its cooperation. I do not conclude that the Government *must* procure the union's cooperation and consent, nor that the measure of its obligation is the degree of its success in this regard. Thus, when HEW official Burke, Anderson and Rother visited representatives of Local 420 and 428 and discussed the possibility of obtaining approval for the contractors to hire minority workers, the Government was pursuing the directive of the Order. They were, as stated to the union officials, seeking to obtain the unions' cooperation in implementing the Plan—and, further, Plummer of Local 420 and Fitzpatrick of Local 428, at least impliedly suggested minorities could be utilized on jobs by contractors in the future.

It is true that the efforts of the HEW representatives were unproductive, and did not result in the unions 'opening the gates' to minority applicants. Perhaps, in any event, the attempts to obtain union cooperation by sanctioning hiring of minority workers—who may not have been referred by the union—is destined to be a useless gesture. This is likely to be so in the face of the closed method of operation by unions, including its hiring hall procedures. But I do not interpret the Order as requiring the Government to wrest promises from the unions to change its ways. It is obliged merely to seek union cooperation insofar as the contractors' hiring of minorities is concerned and I am convinced they did so here.

B. *Adequacy of respondent's notification to, and inclusion of performance provisions in contract with subcontractor Robertshaw controls.* The Order imposes a responsibility upon all contractors who subcontract part of their work. Section 202(7) requires that a contractor include the provisions of paragraphs (1) through (7) of this section in every subcontract so that such provision will be binding upon said subcontractor. The included provisions deal with the commitments by the contractor to take certain steps in compliance with the Order so as not to discriminate against minorities. Paragraph 6 of the September 23, 1969 Plan provides that a subcontractor who subcontracts a portion of the work in the trade on which his goals of minority manpower utilization are predicated, shall include his goals in such subcontract. These goals are then to become the goals of the subcontractor who shall be bound by them.

The record herein reveals that Respondent did not adhere to the above stated requirements under the Order and the Plan. Rother's testimony, which is unrefuted, shows that Robertshaw Controls, the subcontractor for installing an automatic control system on the Lincoln project, had not been notified by Respondent that it was subject to the Plan. Further, the provisions of the Order had not been incorporated in the subcontract or included in the bid documents pertaining to the job for the subcontractor. While Raymond Geftman testified that plans and specifications made available to subcontractors are identical to those he uses in bidding on a job, it does not appear that the goals were in fact part of this particular subcontractor's bid documents. Moreover, there is no evidence to support Respondent's having included the provision of section 202 in its subcontract with Robertshaw Controls. Despite the fact that minority reports were filed by the subcontractor, this was not tantamount to Respondent's complying with the requirements under the Order and the Plan. Accordingly, I find and conclude that American Sanitary Sales and Service Company, Inc. did not fulfill its obligations under section 202(7) of the Order and paragraph 6 of the September 23, 1969 Plan.

C. *Good faith efforts by respondent to comply with order and plan.* The June 27, 1969 Revised Philadelphia Plan concerned itself with implementing Executive order 11246, and in this regard the Plan set forth, *inter alia*, guidelines as to compliance by contractors with the equal opportunity requirements of the Order. Recognizing that a contractor may not be able to meet goals set forth in his affirmative action program, paragraph 8(a) of this Plan provides that, in the event of such failure, the contractor shall be given an opportunity to demonstrate he made every good faith effort to meet his commitment. It also states that in any such proceeding where good faith performance is in issue, the contractor's *entire compliance posture* shall be evaluated in

considering the imposition of sanction. Paragraph 8(b) provides it is no excuse that a union with which the contractor has a collective bargaining agreement failed to refer minority employees. This paragraph recites further that contractors have a responsibility to provide equal employment opportunity if they want to participate in Federally-involved contracts.

The foregoing Plan was amended and affirmed by the September 23, 1969 Order which established ranges of minority manpower utilization. In addition, it provides, in paragraph 5 thereof, that if a contractor fails to meet his goals, a determination of "good faith" will be based upon his efforts to broaden his recruitment base through at least four criteria. These are as follows:

(a) The OFCC Area Coordinator will maintain a list of community organizations which have agreed to assist any contractor in achieving his goal of minority manpower utilization by referring minority workers for employment in the specified trades. A contractor who has not met his goals may exhibit evidence that he has notified such community organizations of *opportunities for employment with him in the project for which he submitted such goals* as well as evidence of their response. (Emphasis supplied.)

(b) Any contractor who has not met his goals may show that he has maintained a file in which he has recorded the name and address of each minority worker referred to him and specifically what action was taken with respect to each such referred worker. If such worker was not sent to the union hiring hall for referral or if such worker was not employed by the contractor, the contractor's file should document this and the reasons therefor.

(c) A contractor should promptly notify the OFCC Area Coordinator in order for him to take appropriate action whenever the union with whom the contractor has a collective bargaining agreement has not referred to the contractor a minority worker sent by the contractor or the contractor has other information that the union referral process has impeded him on his efforts to meet his goal.

(d) The contractor should be able to demonstrate that he has participated in and availed himself of training programs in the area, especially those funded by this Department referred to in section 3(c) of this Order, designed to provide trained craftsmen in the specified trades.

The crucial issue to be determined herein—Respondent having conceded it did not meet its minority goals—is whether sufficient good faith efforts were made to realize such goals. Although the Plan sets forth certain criteria in respect to making this determination, as will be discussed hereinbelow, one must view the entire conduct of Respondent in resolving this issue. In the final analysis, the employer must adhere to the admonition contained in section 202(1) of Executive Order 11246 that "*the contractor will take affirmative action to ensure that applicants are employed* • • •" (Emphasis supplied.)

The record contains a plethora of testimony, adduced by Respondent, to the effect that it tried to obtain minority workers, either directly or through the Association. To the extent that the contractor herein was not averse to hiring minorities, and would have done so if able to, I cannot fault Respondent. However, the difficulty with its position lies in the fact that its inability to employ such individuals was traceable to its posture *vis-a-vis* the unions. Raymond Geftman admits that minority apprentices or journeymen were discovered, and the record reflects 300 were sent by MCA to the unions. Despite the fact that the Association was recruiting, training, and referring minority applicants, they were not being admitted to the unions. Thus, the president of Respondent retorts, "how can we possibly hire them?" When Geftman discussed his compliance status with Baldau of HEW on October 19, 1970, the employer said the unions would neither furnish, nor allow him to hire, minority workers. Moreover, Respondent's chief official, when he refused to take a Journeyman Outreach pamphlet from Thurston Gault, General State Authority Deputy, commented it would not help him since *his problem was with the unions.*

That Respondent made earnest efforts to obtain minority workers by means of contacting the unions cannot be gainsaid. During 1970 and 1971 it wrote approximately 30 letters—some to each of the three unions—beseeching them to send Respondent a minority worker, and explaining it was in jeopardy of losing a contract if the unions did not oblige. Notwithstanding this refusal to send the employer minority workers, Respondent asserts in its brief that such inaction by the local unions is not asserted as a defense herein. Moreover, urges Respondent, the failure by a union to furnish minority employees does not, under 8(b) of the June 27, 1969 Plan, preclude the employer from demonstrating it has exercised good faith efforts to meet its goals and broaden its recruitment base. It argues that to find an absence of good faith effort, by reason of a union's failure to refer minorities, would nullify the Plan and penalize a contractor for having a collective bargaining contract.

One must agree that an employer may still establish good faith efforts in the face of a refusal by unions to furnish minority workers. But this denial by labor organizations gives rise to an examination of what steps the contractor takes when so confronted. In my opinion it required the Respondent to take affirmative steps to place on the job those minority applicants found or furnished through MCA. It does not allow Respondent to refuse to hire the three minority applicants in 1971, whose names he received from Mitchell of MCA, because Local 428 did not approve. Further, it requires Respondent to make an effort to employ steamfitters or plumbers on the list maintained by MCA's Mitchell, which had been given to Geftman in 1970. It requires Respondent to seek out some of the 300 minority men found by MCA or to contact Robinson of Journeyman Outreach after Geftman talked to Rother, and attempt to place minorities on the job. This it must do albeit Local 428 had threatened a shut down. For, as I read the Order and the Plans, a contractor has undertaken to *employ* minorities—not merely to locate them. And although this hiring of a minority may, and probably will, result in a confrontation with the union, it is an expression of efforts to hire.

The realities of collective bargaining and employer-union relationships dictate that in certain trades it is foolhardy to expect an employer may hire without approval of, or referral from, the particular trade union. Thus, even though the contracts with Locals 420 and 690 allowed the employer to hire on its own, Respondent may well have faced the wrath of such unions if it did so. However, the theme of the Order and Plans seems to require a contractor to take that risk—and if it is impeded, the employer must notify the Government which can then take appropriate action. But the directives, before that occurs, are leveled at the employer, and it is he who is charged with the responsibility to hire minorities. The Respondent was so advised by HEW's Burke, Anderson and Rother, and these representatives told Geftman to notify the Government if the union impedes him when he hires a minority. Apart from notifying the Government that Local 428 threatened to shut down Respondent if he hired a minority nonunion man, the employer herein had no cause to advise as to any other impeding acts. For, except for a failure to furnish men—which is merely an act of omission—there were none. Moreover, Respondent never notified HEW that it had 3 minority workers it wished to hire and Local 428 refused to permit it to do so.

During the period July, 1970 and November, 1971 Respondent hired 78 new men. No declining work force nor small crew prevented hirings of non-minorities during this interval. To attempt to justify failure to comply with its goals because of these conditions is not equitable, under the circumstances, with the exercise of good faith by Respondent to hire minority workers. In truth, the reason why Respondent did not hire minority employees is because the union did not refer them or permit them to be employed. And while the unions' conduct does not preclude Respondent from showing efforts to employ them, a failure to hire minority men *because* of it negates good faith efforts in this direction.

It is asserted by Respondent that its compliance is evidenced in the steps taken by MCA, of which it is a member to comply with the criteria for good faith efforts recited in section 5 of the September, 1969 Plan. Although I agree that the Association may act on Respondent's behalf, the ultimate decision herein must rest on whether the latter has itself undertaken good faith efforts to meet these standards. Nevertheless, it is appropriate to examine the conduct of MCA, as well as that of Respondent, in light of the criteria hereinabove mentioned and decide whether—apart from my observations as to Respondent's failure to hire minority men because of the unions—there was compliance with those requirements.

In respect to 5(a), Respondent maintains that Mitchell of MCA not only notified community organizations of opportunities for employment, but he visited these agencies and conducted personal interviews with each minority recruit. Further, Mitchell updated the list it received from OFCC, adding its own resources for obtaining minorities. It is thus contended that Respondent's obligation was fulfilled by reason of MCA's efforts in this regard. I reject this argument, since, in order to comply with 5(a), an employer (and, in this instance, MCA) would necessarily be required to specify opportunities for employment with American Sanitary Sales on a particular project. Paragraph 5(a) provides that a contractor should notify organizations of opportunities with him in the project for which he submitted goals, and also show evidence of their response. The visits by MCA representative Mitchell to or-

ganizations, with attendant discussions regarding the field of steamfitting and plumbing, do not put minority agencies on notice of jobs with Respondent. To the extent that MCA does not advise minority applicants, or agencies, of openings with Respondent—and this is admitted by Mitchell—the requirements of 5(a) are not fulfilled.

In urging that Respondent has met the requirements under 5(b) of this Plan, Respondent points to the monthly recruitment reports [7] and EEO Daily Activity Report [8] kept by Mitchell of MCA. In addition, the Association kept records of the applicants referred to the unions, and the number of these minority workers accepted into membership. While the records kept by MCA were detailed in this respect, they served little purpose insofar as Respondent was concerned. Except for obtaining a list from Mitchell in late 1970, Respondent did not avail itself of the minority workers included thereon. Since hiring by Respondent was done through the unions, it did not utilize MCA's records regarding minorities, at least in respect to hiring them. Thus, any files maintained by MCA as to names, addresses, and happenings of minority recruitments becomes meaningless in viewing Respondent's compliance as to this requirement. Further, I agree with the Government that MCA did not document the reasons for many of the minority applicants not being hired by Respondent. Accordingly, I find that the lists or files maintained by MCA regarding minority workers did not suffice insofar as the obligations imposed upon Respondent.

Although Respondent believes it clearly complied with 5(c) of the Plan, I cannot subscribe to that belief. On numerous occasions Geftman did inform HEW and OFCC representatives that the unions refused to furnish minority workers. But I do not read this section of the Order as being satisfied upon such notification being given to the Government. The thrust of 5(c) is the existence of an actual impediment, interposed by the union, to the contractor's meeting his goal. It envisages, in my opinion, an employer taking steps to hire a particular minority employee, and thence being thwarted by the unions. In such an instance, notification, to the OFCC Area Coordinator will serve a purpose. While there was an actual attempt by Respondent to hire 3 specific minority workers in 1971, which was squashed by Business Agent Hurst of Local 428, the employer failed to notify the Government of the union's conduct.

If the mere failure of a union to refer minority men, with resultant notification by Respondent to the Government, were sufficient to meet 5(c)'s requirements, there would be little served by so notifying the OFCC. The latter would hardly be expected to take appropriate action, which is contemplated under this section, since the union's only dereliction is a failure to furnish minority employees. Moreover, the unions' refusal to permit the contractor to hire, or put on, minority workers does not constitute "impeding" Respondent in its hiring of employees. Accordingly I conclude that Geftman's advising the HEW officials that the unions' refusal to allow him to hire minority employees, or to send same to Respondent, is not the type of notification contemplated by 5(c) of the Plan.

Under 5(d) of the Plan a contractor is obligated to demonstrate he has participated in and availed himself of training programs, especially those funded by the Department referred to in section 3(c) of the Plan, designed to provide trained craftsmen. One of the programs discussed in 3(c) is the apprenticeship outreach program. The record reflects MCA did refer recruits to JAOP for pre-apprentice training, and that Lindsay, is a member of the Board of Directors of JAOP, participating in its decisions. The efforts of MCA in this regard, however extensive they were, do not redound to the credit of Respondent in view of the fact that the latter did not avail itself of these efforts. Those workers trained through this JAOP program were never utilized by the employer herein, and thus MCA's participation in this program has little significance. The language of this section suggests that an employer must be seeking to obtain minority workers through, at least, a training program—and that these minority employees will be placed on the job. To participate, via MCA, in a training program which results in no minorities being sought for placement by Respondent—since the latter will shut the door of employment unless the union approves—is not, in my opinion, availing oneself of a training program.

There is now, I agree, an innovative program which involves on-the-job training of minority workers. The Manpower Administration Contract involves not only the MCA but the 3 unions involved herein. Under this procedure 60 minority workers will be trained for 52 weeks in the trades of steamfitting or plumbing by the contractors of MCA. At the end of this period they will be slotted into apprenticeship levels by the appropriate union at no less than a second year apprentice. Ultimately these men will become skilled steamfitters and plumbers and become members of one of these unions. This contract, which was signed on June 28, 1971, has the singular feature of including the 3 unions as parties. The program did not get under way until March, 1972 but it resulted in Respondent employing 5 minority men at the time of the hearing.[9]

While the program is commendable, it did not suffice for Respondent to obtain minority workers on the projects involved herein. It got under way at a time when Respondent was phasing out its contracts, and it can scarcely be concluded that the employer availed himself of this program *insofar as these 4 projects were concerned.*

In sum, the record reflects that Respondent, whether acting on its own or through MCA, did not exercise sufficient efforts within the spirit or the letter of the Executive Order 11246 and the Plans to comply with the nondiscrimination directives. Despite persistent admonitions by HEW and OFCC representatives that Respondent could not rely on its contracts with the unions, not find solace in MCA's recruiting efforts, the employer took no affirmative steps to place minorities on the projects, except for one worker at the Montgomery site. It refused to run afoul of the union, and relied upon them to either furnish, or approve the hiring of, minority workers. And while it may be understandable that Respondent would be reluctant to do so, the scheme of the Order, and its implementing Plans, call upon a contractor to *hire* minorities, not just be desirous of doing so. At that points where the unions interfere with this process, or retaliate against an employer via boycott, or the like—which point was never reached here—the contractor (Respondent) may be able to justifiably claim its hands were tied. All the recruiting efforts, and these were many, of MCA—even if extended on behalf of Respondent—were distined to be of no avail to the latter in light of its reliance upon the unions in respect to minorities.

Based upon the foregoing findings and conclusions, and the record as a whole, I make the following:

CONCLUSIONS OF LAW

1. Executive Order 11246 and the Philadelphia Plan Orders were applicable to the federally assisted projects: (a) Montgomery, which involved Respondent as prime contractor in steamfitting, plumbing, and sheetmetal work constructing a classroom facility, science complex, library, physical education building, and administration and student areas for Montgomery County Community College in Montgomery County, Pennsylvania, (b) Bucks, which involved Respondent as prime contractor in plumbing and steamfitting work in the construction of an academic building and learning resources center for Bucks County Community College in Bucks County, Pennsylvania, (c) Lincoln, which involved Respondent as prime contractor in steamfitting and sheetmetal work in the construction of a physical education building for Lincoln University, in Chester County, Pennsylvania, (d) Temple, which involved Respondent as prime contractor in steamfitting work in the construction of a fine arts building for Temple University in Montgomery County, Pennsylvania—and to Respondent's subcontracts at Montgomery and Lincoln projects.

2. The Executive Order and the Philadelphia Plan Orders require that a contractor establish minority hiring goals in its performance on the project, and that it engage in good faith efforts to meet such goals.

3. Respondent was subject to the requirements of the Order and Plans, as aforesaid, and it failed to meet the minority goals it established or to demonstrate that it exercised sufficient good faith efforts to achieve its minority goals—all in violation of its contract, the Order and the Plans.

4. The Department exercised adequate and best efforts toward obtaining the cooperation of the unions, who were in a contracting relationship with Respondent, toward assisting Respondent in complying with its obligations under the Order and Plans.

REMEDY

It is provided under section 202(b) of the Order that a contract may be cancelled, terminated or suspended in the event of a contractor's noncompliance. It is further provided the contractor may be declared ineligible for further Government contracts. The contracts involving the projects herein have been completed. Accordingly, I recommend to the reviewing authority that from the date of this decision American Sanitary Sales and Service Company, Inc., be declared ineligible for the award of any contract or subcontract, funded in whole or part with Federal funds, from any agency of

[7] GC Exhibit 14C.

[8] Respondent Exhibit 41.

[9] There is some testimony by Geftman that 2 or 3 minority workers were obtained before May, 1972. He was not sure. However, the parties stipulated and the record supports the finding that Nathaniel Brown was the only minority worker employed at the projects prior to their completion.

the United States, or for extensions or other modifications of such existing contracts, until American Sanitary Sales and Service Company, Inc., has satisfied the Secretary of Labor that it has established it will carry out personnel and employment policies in compliance with the provisions of Executive Order 11246, and the rules, regulations and orders promulgated thereunder.

Particular note is taken by the undersigned of the Manpower Administration's contract of June 28, 1971, entered into with Mechanical Contractor's Association and Steamfitters Local Union 420, Plumbers and Steamfitter Local Union 428 and Plumbers Local Union No. 690. As a result of the training program instituted to train 60 minority workers and afford them an opportunity to become members of the union, Respondent has already obtained 5 minority workers. Since this program involves the unions as contracting parties, a way may be opened for meeting, in whole or in part, the minority goals of contractors such as Respondent. In view of steps taken thereunder by Respondent, the undersigned suggests that consideration be given to its performance under this training program in determining whether to suspend, in the future, any debarment order against Respondent at whatever time the Secretary of Labor concludes that American Sanitary Sales and Service Company, Inc., is exercising good efforts to obtain and has obtained, minority workers under this Manpower Administration training program.

Dated at Washington, D.C., this 24th day of April 1973.

WILLIAM NAIMARK,
Administrative Law Judge.

[FR Doc. 78-19620 Filed 7-17-78; 8:45 am]

[4510-27]

PAINTING CORPORATION OF DETROIT, INC.

Notice of Debarment

Notice hereby is given that for violating Excutive Order 11246, as amended, Painting Corp. of Detroit. Inc., is declared ineligible for further contracts and subcontracts with the United States; for further federally-assisted construction contracts and subcontracts, or for modifications or extensions of any such existing contracts or subcontracts.

The debarment also applies to Painting Corp. of Detroit, Inc.,'s officers, subsidiaries,and divisions, and to all purchasers, successors, assignees, and/or transferrees.

A copy of my Decision and Order is enclosed for publication in the FEDERAL REGISTER.

Dated: June 30, 1978.

WEIDON J. ROUGEAU,
Director, OFCCP.

U.S. DEPARTMENT OF LABOR OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

United States Departments of Housing and Urban Development and Health, Education, and Welfare, Plaintiffs v. Painting Corp. of Detroit, Inc., Warren, Mich. Defendant, OFCCP No. EO-77-1-CC.

DECISION AND ORDER

On November 9, 1977, the Departments of Labor, Housing and Urban Development, and Health, Education, and Welfare filed an administrative Complaint pursuant to Executive Order 11246, as amended, in which they alleged that defendant Painting Corp. of Detroit, Inc., had violated the Executive Order through, inter alia, failing to show good cause for its violation of contractually agreed upon goals and timetables for the hiring of minority workers in the painter trade and also for its refusal to supply records requested by the Department of Health, Education, and Welfare. Defendant did not file an Answer, and on January 10, 1978, Administrative Law Judge Mast issued an Order to Show Cause why the allegations contained in the Complaint should not be deemed admitted as required by 41 CFR 60-30.6(b). Defendant did not respond to the Show Cause Order, and on February 27, 1978, Judge Mast issued a Recommended Decision and Order in which he found that the defendant had violated the Executive Order's requirements, and in which he recommended that Painting Corp. of Detroit, Inc., be ineligible for an contracts or subcontracts, or extensions or modifications of existing contracts or subcontracts funded in whole or in part by Federal funds from any agency of the United States until such time as defendanat has satisfied the Director of the Office of Federal Control Compliance Programs that it is in compliance with the provisions and requirements of Executive Order 11246 and the rules, reguations, and orders issued thereunder. However, Judge Mast denied plaintiffs' request for an injuction based upon his conclusion that the Executive Order only provides for injunctive relief under section 209(a)(2) in and action brought by the Department of Justice.

On April 14, 1978, Chester C. McGuire, Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development, issued and opinion in which he concurred with Judge Mast's findings and recommendations.

Although it is true that section 209(a)(2) of the Executive Order is the only Executive Order Section to mention injunctive relief, that fact does not deprive and Administrative Law Judge of the Authority under 41 Code of Federal Regulations, sections 60-1.26(d) and 60-30.15 to recommend that the Secretary or Director, as appropriate, issue an "injunction." That position is buttressed by the fact that section 202(6) of the Excutive Order, which was part of defendant's federally-assisted contracts and subcontracts, specifically recognized the Secretary of Labor's authority to provide for sanctions and remedies not specifically enumerated in the Executive Order. Under authority granted by section 201 of the Executive Order, the Secretary issued the regulations in question.

In accordance with the powers granted to the Director, Office of Federal Contract Compliance Programs by Title 41, Code of Federal Regulations, sections 60-1.27 and 60-30.30(b), I hereby approve Judge Mast's and Assistant Secretary McGuire's findings and recommendations with the exception of the injuction issue.

Accordingly, I approve the debarment of Painting Corp. of Detroit, Inc., its officers, subsidiaries, divisions, purchasers, successors, assignees, and/or transferees from the award of any contract or subcontract funded in whole or in part with Federal funds, and from extensions or other modifications of any such existing Federal contracts and subcontracts and federally-assisted contracts and subcontracts.

The debarment will continue in effect until such time as Painting Corp. of Detroit, Inc., has satisfied the Director, Office of Federal Contract Compliance Programs, that it has established and will carry out employment policies and practices in compliance with the equal opportunity clause of Executive Order 11246, as amended.

This debarment shall be effective as of this date.

Attached hereto and made a part hereof except as amended in this Decision and Order is the Recommended Decision and Order of Department of Housing and Urban Development Chief Administrative Law Judge, James W. Mast.

Signed at Washington, D.C., this 30th day of June 1978.

WELDON J. ROUGEAU,
Director, OFCCP.

UNITED STATES OF AMERICA, BEFORE THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, AND DEPARTMENT OF LABOR, OFFICE OF FEDERAL CONTRACT COMPLIANCE

In the matter of Painting Corp. of Detroit, Inc., Respondent, docket No. 77-1-CC.

Charles M. Farbstein, Assistant General Counsel, and *Betty C. Kaufman,* Attorney for the Department of Housing and Urban Development.

Carin Ann Clauss, Solicitor of Labor, *James D. Henry,* Associate Solicitor, and *Louis G. Ferrand, Jr.,* Counsel for Civil Rights for the Department of Labor.

Wendelin Burkhardt, President of Respondent, for Respondent.

RECOMMENDED DECISION

On November 9, 1977, the Department of Housing and Urban Development, herein the Department; the Department of Health, Education, and Welfare, herein HEW; and the Department of Labor, herein Labor; issued and served on Respondent an Administrative Complaint pursuant to Executive Order 11246, as amended, 3 CFR 339, et seq., herein E.O. 11246, and the Rules and Regulations of Labor, herein the Rules, 41 CFR Chapter 60. Service was accomplished by the U.S. Postal Service on November 16, 1977, by certified mail. No answer was filed by Respondent. On January 6, 1978, Counsel for the Department filed with the undersigned a proposed recommended decision. A copy of the proposed recommended decision was served on Respondent by certified mail, return receipt requested.

On January 10, 1978, the undersigned issued an Order to Show Cause. By the Order, Respondent was directed to show cause why a recommended decision should not issue. On January 12, 1977, a copy of the show cause order was served on Respondent by certified mail, return receipt requested. Service was accomplished by the U.S. Postal Service on January 24, 1978. Respondent did not respond to the show cause order.

By the Rules 41 CFR § 60-30.7(a), Respondent was required to answer the Administrative Complaint by December 6, 1977, 20 days from receipt of the Complaint. Respondent failed to comply. Further, Respondent failed to respond to the proposed recom-

mended decision. Finally, Respondent failed to respond to the Order to Show Cause. There has been no claim that there are reasons which should excuse the failures to answer or respond. Under the circumstances, Respondent is determined to be in default; it is concluded that issuance of a recommended decision is appropriate under 41 CFR §§ 60-30.7 (b) and (c), in that Respondent is deemed to have admitted the allegations of the Complaint, and to have waived its right to a hearing.

Accordingly, on the entire record, I make the following:

FINDINGS OF FACT

1. Respondent is and has been, at all times material, a contractor which maintains a place of business and employment at 25800 Flanders, Warren, Mich., where it has engaged and continues to engage in the business of construction work.

2. At all times material, Respondent was a contractor and/or subcontractor within the definition at 41 CFR § 60-1-3 in that it entered into a subcontract agreement on March 13, 1974, with the F. H. Martin Construction Co., herein Martin, to furnish materials, equipment, and services necessary for the completion of painting and vinyl wall covering work for additions to the Sinai Hospital, Detroit, Mich., a federally assisted construction project, in which it agreed to be bound by the terms and conditions of Executive Order 11246 and the provisions of the Detroit Plan.

3. The subcontract was for an amount greater than $10,000.

4. As a nonexempt contractor and/or subcontractor, Respondent was, during its work on the Sinai Hospital, subject to section 202(1) of the Executive Order 11246 which provides in relevant part that "[t]he contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin."

5. As a nonexempt contractor and/or subcontractor, Respondent was, during its work on the Sinai Hospital, also subject to sections 202(2)-(7) of Executive Order 11246.

6. Section 202(4) of the Executive Order provides that: "The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and the rules, regulations, and relevant orders of the Secretary of Labor."

7. Section 202(5) provides that: "The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules and regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders."

8. Section 301 of Executive Order 11246 provides that applicants for Federal financial assistance for construction shall agree to incorporate the standard equal employment opportunity provisions set forth at section 202 of Executive Order 11246 in all construction contracts and subcontracts paid for in whole or in part with the Federal financial assistance, "together with such additional provisions as the Secretary (of Labor) deems appropriate to establish and protect the interest of the United States in the enforcement of those obligations."

9. The Detroit Plan requires that, on each applicable federally assisted construction project, no contract subject to the requirements of Executive Order 11246 shall be awarded to a bidder on a project covered by the Detroit Plan unless the bidder's affirmative action program contains specific numerical minority utilization goals which meet the standards, specified in the invitation for bids, for the trades to be used in performing the contract. The bidder must incorporate these goals into its bid.

10. The Sinai Hospital, a federally assisted construction project was subject to the Detroit Plan.

11. Part III-B of the Detroit Plan, applicable to the Sinai project, provided as relevant:

"In the event that any * * * subcontractor—who at the time of bid opening for the prime contract was contemplated as being subject to the terms and conditions of the Detroit Plan * * * comes within the applicability of part II * * * subject to the bid opening, such contractor shall be deemed bound to an affirmative action plan meeting the criteria of part II."

12. Bids on the Sinai project were opened on December 14, 1973.

13. Prior to October 11, 1974, painters were a part I trade under the Detroit Plan. Effective October 11, 1974, painters were made a part II trade and thus became subject to part III-B of the Detroit Plan as set forth in paragraph 11, above.

14. The Detroit Plan, applicable to the entire Sinai project, specified in part II that an acceptable affirmative action program for the painter trade would result in manpower utilization on the project from 15 percent to 17.7 percent in the period from January 1, 1975 through December 31, 1975.

15. During Respondent's performance on the Sinai project from March 1975 to January 1976, Respondent did not participate in any multi-employer program pertaining to the painter trade which was approved by the Office of Federal Contract Compliance Programs and which was acceptable in lieu of a goal for minority painter employees.

16. Based on the commitment set forth in the bid of the prime general contractor, Martin, Respondent had goals for minority employment in the painter trade for the Sinai project in 15 percent-17.7 percent during the period from Jaunuary 1975 through December 31, 1975.

17. Respondent was obligated, through the commitment set forth in the bid of Martin to make every good faith effort to meet the 15-17.7 percent goals.

18. Respondent began work on the Sinai project in March 1975 and completed its performance on the project in January, 1976. Respondent had no minority painters on its payroll in March 1975, but had ten (10) nonminority painters on its payroll in the Detroit Plan area. Respondent had no minority painters on its payroll in April 1975, but had fifteen (15) nonminority painters on its payroll in the Detroit Plan area. After the HEW issued a warning letter to Respondent on April 22, 1975, for failure to meet the goals for the painters' trade for March 1975, Respondent hired two (2) minority painters. These two (2) minority painters hired by Respondent began work in May 1975 after at least fifteen (15) nonminority painters had already been hired and were working for Respondent. In June 1975, Respondent employed a total of seventeen (17) nonminority painters and one (1) minority group painter for an overall increase of nonminority painters and a decrease of one minority painter over the previous month.

19. During the period that Respondent worked on the Sinai project, (from March 1975 to January 1976), minority painters performed approximately 6.74 percent of Respondent's total painter manhours worked, while white males performed approximately 93.26 percent of the work.

20. Pursuant to a show cause notice dated July 23, 1975, and letters dated November 3 and November 30, 1975, the HEW unsuccessfully attempted to obtain inter alia, the following data from Respondent:

a. Total workforce payroll records covering the period from March 1975, to August 7, 1975, covering all of Respondent's employees on the Sinai Hospital project, and at all other projects at which Respondent performed work during that time period in Wayne, Oakland, and Macomb Counties;

b. The Collective Bargaining Agreement under which Respondent was then operating; and,

c. The method in which each new employee was "taken on" (i.e., employed) by Respondent between March and August 1975.

21. Respondent did not supply the information listed in Paragraph 20, supra.

22. Efforts were made by the Department and HEW to secure voluntary compliance by Respondent with 11246 and the Detroit Plan through conciliation and persuasion. These efforts were unsuccessful.

SUMMARY

E.O. 11246, which issued September 24, 1965, established as public policy the requirement of equal employment opportunity on Federal and Federally assisted contracts. As stated in Executive Order 11375 (1975) which amended E.O. 11246:

It is the policy of the United States Government to provide equal opportunity in Federal employment and in employment by Federal contractors on the basis of merit and without discrimination because of race, color, religion, sex, or national origin.

E.O. 11246 has three main subdivisions, part I, nondiscrimination in Government employment; part II, nondiscrimination in employment by Goverment contractors; and part III, nondiscrimination provisions in federally assisted construction contracts. This action is initiated under part II. Effectuation of E.O. 11246 in such situations involving Federal construction contracts has been implemented by a series of plans for equal employment opportunity which were promulgated pursuant to E.O. 11246. These plans established procedures and requirements of compliance with E.O. 11246. The Detroit Plan involved in this case is such a plan.

Each Federal agency was assigned responsibility for application and enforcement of E.O. 11246 under procedures and supervision of Labor. On October 1, 1977, the Department was delegated the responsibility for the construction compliance program of HEW. This responsibility included investigation, preliminary determination, voluntary conciliation, and compliance, and administrative adjudication of such cases. All procedures under E.O. 11246 were, of course, to be pursuant to rules promulgated by Labor. The procedures contemplated by the rules

and the consolidation were controlling, and were complied with in this case.

The essential elements and issues of a case under part II of E.O. 11246 are: (1) Whether Respondent is a contractor within the meaning of E.O. 11246; (2) whether Respondent had discriminated in employment or has violated the equal opportunity clause of the contract; (3) whether there has been a good faith effort by the Department to resolve the violation by informal and reasonable conciliation or compliance under 41 CFR § 60.1.24(c)(2); and (4) whether the sanctions authorized by section 209 of E.O. 11246 should be imposed.

Respondent, as subcontractor of Martin on the Sinai Hospital project, was to provide materials and services on painting and wall covering construction work at the hospital. As such, Respondent was a subcontractor within the meaning of 41 CFR § 60.1.3(h). Where the Sinai Hospital project was funded by HEW, Respondent was required to comply with E.O. 11246 and the Detroit Plan. When Respondent: (1) Did not comply with the requirements of the Detroit Plan by failing to meet its minority employment goals; (2) did not take the necessary affirmative action to insure nondiscrimination in employment; and (3) failed to provide HEW with information required to be furnished under E.O. 11246, the Detroit Plan, and Respondent's subcontract; the elements of violations of E.O. 11246, the Detroit Plan and the equal opportunity clause of Respondent's contract were unquestionably established.

HEW engaged in "efforts * * * to secure voluntary compliance by (Respondent) with Executive Order 11246 and the Detroit Plan through conciliation and persuasion. These efforts were unsuccessful." In the absence of any claim or evidence to the contrary, this is deemed sufficient to meet the requirements of § 60.1.24(c)(2), both as to sufficiency of effort and reasonableness and applicability of requirements, sought by conciliation.

In its proposed order, the Department requests an injunction against Respondent's failure and refusal to comply with the requirements of E.O. 11246. Although E.O. 11246 does provide for injunctive relief at section 209(a)(2), the Executive Order requires that injunctive actions be instituted by the Department of Justice in a United States District Court. It is concluded that such relief is not authorized or appropriate in an administrative proceeding. Accordingly, the request is denied.

The administrative proceeding is limited to the imposition of sanctions authorized in section 209(a) (5) and (6) of E.O. 11246. These include cancellation of contracts under (5) and exclusion from further contracts under (6). Neither subsection normally contemplates permanent termination or exclusion where Respondent can establish that compliance has been achieved and will be maintained. Thus, in appropriate cases, it is relevant to consider prospectively the requirements of compliance based on the violations established by litigation. Since the present case is based on default, the requirements of compliance are concluded to be those included in the Conciliation Agreement provided in solicitation of voluntary compliance previously referred to. These are stated generally as compliance with E.O. 11246, the Detroit Plan, and Respondent's subcontracts implementing the Detroit Plan, including achieving and maintaining the minority employment goals, taking the affirmative action plan and complying with the reporting requirements. Since any compliance will be based on adjudicated findings of violations and an order, compliance should contemplate notice to employees and applicants for employment of these facts.

Conclusions of Law

1. This Department has jurisdiction of this action under sections 208 and 209 of 11246, 41 CFR 60-1.26 and 41 CFR 60-30.

2. E.O. 11246 and the Detroit Plan Bid Conditions applied to Respondent's work on the Sinai Hospital project and to its other work in the Detroit Plan area.

3. Respondent violated E.O. 11246 and the provisions of its contract implementing the Detroit Plan Bid Conditions by failing to make adequate good faith efforts to meet its goals for minority employment on the Sinai Hospital Project.

4. Respondent violated the provisions 202 (1) and (4) of 11246 in that it failed to take affirmative action to insure nondiscrimination in the employment of minority workers.

5. Respondent violated the provisions of E.O. 11246 and its contract implementing the Executive Order and the Detroit Plan by failing to provide HEW with validly requested information.

6. The Department and HEW exerted adequate efforts toward achieving Respondent's voluntary compliance with E.O. 11246 and the Detroit Plan Bid Conditions.

Recommended Order

It is ordered that all Federal contracts and subcontracts, or contracts and subcontracts where Federal financial assistance is involved, with Painting Contractors of Detroit, Inc., are canceled, terminated, and suspended. It is further ordered that Painting Contractors of Detroit, Inc. shall be ineligible for any contracts or subcontracts, or extensions or modifications of existing contracts or subcontracts funded in whole or in part by Federal funds from any agency of the United States, until Painting Contractors of Detroit, Inc. has satisfied the Director of the Office of Federal Contract Compliance that it is in compliance with the provisions and requirements of Executive Order 11246, and the rules, regulations, and orders issued thereunder or under any superseding Executive Order.

Issued at Washington, D.C., on February 27, 1978.

James W. Mast,
Chief Administrative Law Judge, Department of Housing and Urban Development, Room 7150, Washington, D.C. 20410.

United States of America, Before the Department of Housing and Urban Development

In the Matter of: Painting Corp., Detroit, Inc., Respondent, docket No. 77-1-CC.

It is ordered that the Recommended Order previously issued in this case is corrected as follows:

In the Recommended Order at page 9, references to *Painting Contractors of Detroit, Inc.* should read *Painting Corp. of Detroit, Inc.*

Issued at Washington, D.C., on April 4, 1978.

James W. Mast,
Chief Administrative Law Judge, U.S. Department of Housing and Urban Development, 451 Seventh Street SW., Room 7150, Washington, D.C. 20410.

[FR Doc. 78-19619 Filed 7-17-78; 8:45 am]

[4510-43]

Mine Safety and Health Administration

[Docket No. M-78-76-C]

FRAILEY COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Frailey Coal Co., 403 South Fourth Street, Tower City, Pa. 17980, has filed a petition to modify the application of 30 CFR 75.301 (air quantity), to its Tracy Slope Mine, located in Schuylkill County, Pa., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) There is no history of harmful quantities of carbon dioxide and other poisonous gases, harmful quantities of methane are non-existent and there has never been an ignition, explosion, or fire at the mine.

(2) Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

(3) High velocities and large air quantities in small cross sectional airways and manways present dangerous flying object hazards to miners and cause extremely uncomfortable damp and cold conditions, thus causing a difficulty in keeping miners on the job.

(4) For the reasons set forth above, the petitioner requests that the requirements of 30 CFR 75.301 be modified for the above mine so that the minimum quantity of air reaching the working face be reduced to 1,500 cubic feet a minute; the minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be reduced to 5,000 cubic feet a minute; and the minimum quantity of air reaching the intake end of a pillar line be reduced to 5,000 cubic feet a minute.

Request for Comments

Persons interested in this petition may furnish written comments on or before August 17, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: July 7, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-19799 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-3159]

AMBASSADOR CLOTHES, INC., NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3159: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 21, 1978 in response to a worker petition received on February 6, 1978, which was filed by the Amalgamated Clothing & Textile Workers Union on behalf of workers and former workers producing men's tailored clothing at Ambassador Clothes, Inc., New York, N.Y. The investigation revealed that men's suits, sportcoats, and slacks are produced.

The notice of investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8864). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ambassador Clothes, Inc., its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's suits increased from 3,106 thousand units in 1975 to 3,562 thousand units in 1976 and to 4,091 thousand units in 1977. Imports of suits relative to domestic production increased from 18.3 percent in 1975 to 20.0 percent in 1976.

U.S. imports of men's and boys' tailored dress coats and sportcoats increased from 5,465 thousand units in 1975 to 6,965 thousand units in 1976 and then declined to 6,269 thousand units in 1977. The ratio of imports to domestic production declined from 28.2 percent in 1975 to 25.3 percent in 1976.

U.S. imports of men's and boys' dress and sport trousers and shorts increased from 55,508 thousand units in 1975 to 73,209 thousand units in 1976 and to 76,419 thousand units in 1977. The ratio of imports of trouser and shorts to domestic production increased from 34.1 percent in 1975 to 41.9 percent in 1976.

A survey of customers of Ambassador Clothes revealed that purchases from Ambassador have decreased, while customer purchases of imported suits and sportcoats have increased.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's suits, sportcoats, and slacks produced at Ambassador Clothes, Inc., New York, N.Y. contributed importantly to the decline in sales and production and to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Ambassador Clothes, Incorporated, New York, N.Y. who became totally or partially separated from employment on or after January 10, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of July 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administrator, and Planning.

[FR Doc. 78-19802 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-2397]

AMERICAN BILTRITE, INC., BOSTON INDUSTRIAL PRODUCTS DIVISION, CAMBRIDGE, MASS.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2397: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on September 29, 1977 in response to a worker petition received on September 26, 1977 which was filed on behalf of workers and former workers producing rubber and plastic products at American Biltrite, Inc., Cambridge, Mass.

The notice of investigation was published in the FEDERAL REGISTER on October 14, 1977 (42 FR 55314). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of American Biltrite Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of rubber and plastic hose and belting increased from 1976 to 1977. The ratios of imports to domestic production and consumption increased from 4.9 percent, for both, in 1976 to 5.8 percent, for both, in 1977.

A survey of customers who purchased industrial rubber products from American Biltrite revealed that most of the customers who increased import purchases also increased purchases from the subject firm.

CONCLUSION

After careful review, I determine that all workers at American Biltrite, Inc., Boston Industrial Products Division, Cambridge, Mass., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of July 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19803 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-3703]

AMERICAN MOTORS CORP., AMTEK, DETROIT, MICH.

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 15, 1978 in response to a worker petition received on May 15, 1978 which was filed by the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America, UAW, on behalf of workers and former workers in technical support activities at American Motors Corp., AMTEK, Detroit, Mich.

The notice of investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27923). No public hearing was requested and none was held.

The investigation has revealed that the workers which are the subject of this investigation are also the subject of an on-going investigation, TA-W-3248; therefore, a new investigation would serve no purpose. Consequently, investigation TA-W-3703 has been terminated.

Signed at Washington, D.C., this 7th day of July 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-19805 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-3704]

AMERICAN MOTORS CORP., KENOSHA MANUFACTURING FACILITIES, KENOSHA, WIS.

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 15, 1978 in response to a worker petition received on May 15, 1978 which was filed by the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America, UAW, on behalf of workers and former workers producing subcompact, compact and intermediate AMC passenger cars and component parts at the Kenosha Manufacturing Facilities of American Motors Corp., Kenosha, Wis.

The notice of investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27923). No public hearing was requested and none was held.

The investigation has revealed that the workers which are the subject of this investigation are also the subject of an on-going investigation, TA-W-3250; therefore a new investigation would serve no purpose. Consequently, investigation TA-W-3704 has been terminated.

Signed at Washington, D.C., this 7th day of July 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-19806 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-3249]

AMERICAN MOTORS CORP., MILWAUKEE BODY PLANT, MILWAUKEE, WIS.

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 27, 1978 in response to a worker petition received on February 14, 1978 which was filed by the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW on behalf of workers and former workers producing passenger car bodies at American Motors Corp.'s Milwaukee Body Plant in Milwaukee, Wis.

The notice of investigation was published in the FEDERAL REGISTER on March 14, 1978 (43 FR 10648). No public hearing was requested and none was held.

On November 17, 1976 the Department certified as eligible to apply for adjustment assistance all workers at the Milwaukee Body Plant of American Motors Corp., Milwaukee, Wis. Workers separated, totally or partially, from employment on or after September 15, 1975, and before November 17, 1978 (expiration date of the certification), are covered by an existing certification. Therefore, continuation of this investigation would serve no purpose. Consequently, investigation TA-W-3249 has been terminated.

Signed at Washington, D.C., this 7th day of July 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-19804 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-3252]

THE ANACONDA CO., BUTTE OPERATIONS, BUTTE, MONT.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3252: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 27, 1978 in response to a worker petition received on January 24, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing copper ore and concentrates, blister copper and refined copper at the Montana Mining Division of the Anaconda Co., Butte, Mont. The investigation revealed that a corporate restructuring of the Anaconda Co. has consolidated all company mining operations into the Mineral Resources Group eliminating the Montana Mining Division which formerly controlled the company's Montana copper producing facilities. The Butte operations produce copper ore, copper concentrates and copper precipitates. The investigation was later expanded to include workers and former workers of the Anaconda Reduction Department of the Anaconda Co., Anaconda, Mont. (TA-W-3252(A)). The Anaconda Co. is a wholly owned subsidiary of Atlantic Richfield Co.

The Notice of Investigation was published in the FEDERAL REGISTER on March 14, 1978 (43 FR 10648). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Anaconda Co. and its customers, the U.S. Department of the Interior, the American Bureau of Metal Statistics, "Metal Bulletin, Metals Week," the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

U.S. imports of refined copper increased 161.2 percent from 147 thousand short tons in 1975 to 384 thousand short tons in 1976, then increased 1.8 percent to 391 thousand short tons of copper in 1977. The ratio of imports to domestic production increased from 8.6 percent in 1975 to 21.0 percent in 1976, then increased to 22.2 percent in 1977.

Imports of copper are affected by the differential between the domestic producers' price for copper and the price for foreign copper established by the London Metals Exchage (LME). When the LME price for copper drops more than the estimated transportation costs of five to eight cents per pound below the domestic producers' price, the demand for imported copper increases. The LME price for copper in 1977 averaged 10 cents per pound below the average annual domestic producers' price. In July and August 1977, the LME price was almost 12 cents below the domestic producers' price.

Another factor affecting the price of copper is that of inventory levels. While U.S. imports of refined copper increased by 161.2 percent in 1976 compared with 1975 and by 1.8 percent in 1977 compared with 1976, domestic demand increased at only a fraction of that rate. Refined copper held in inventories is currently acting to restruct upward movements in the price of refined copper. Inventory levels of domestic and imported copper at domestic refineries in December 1976 were 31.4 percent above December 1975 levels and were 143.2 percent above December 1974 levels.

Reflecting this trend, Anaconda's inventories of refined copper in December 1976 were 43.7 percent above De-

cember 1975 levels. In October 1977, Anaconda's inventories were 43.0 percent above inventories in October 1976. Abundant supplies of copper in the foreseeable future provide no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Anaconda and other domestic producers of copper lost sales in 1977 and 1978 because of excessive inventories of domestic and imported copper.

Price pressure from imported copper has reduced the ability of domestic producers to profitably mine domestic ore and produce refined copper. Comments made by customers purchasing copper from The Anaconda Co. substantiate the influence of increased imports of copper on the price which Anaconda can obtain for its refined copper.

Industry sources stated that the weighted average production costs of the lowest cost domestic copper mines are 63 cents per pound, while the weighted average production costs for the highest cost domestic copper mines approach $1.10 per pound. Thus, at the current market price of approximately 60 cents per pound, domestic producers lose, on the average, from 3 to 50 cents on each pound of copper they choose to sell.

The Anaconda Co.'s decision to continue the curtailed rate of activity at the Butte Operations and to layoff workers is based on an attempt to minimize losses which the company could not avoid if it continued to operate at normal production levels at current market prices for copper.

Workers at the Butte Operations were previously certified eligible to apply for adjustment assistance by the Department on March 31, 1976 (TA-W-531). That certification expired on March 31, 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with copper ore, concentrates and precipitates produced by the Butte Operations of The Anaconda Co., Butte, Mont., contributed importantly to the decline in production and to the total or partial separation of workers of the plant. In accordance with the provisions of the act, I make the following certification:

"All workers of the Butte Operations of The Anaconda Co., Butte, Mont., who became totally or partially separated from employment on or after March 31, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 7th day of July 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-19807 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-3252(A)]

THE ANACONDA CO. ANACONDA REDUCTION DEPARTMENT, ANACONDA, MONT.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3252(A); investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 27, 1978 in response to a worker petition received on January 24, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing copper ore and concentrates, blister copper, and refined copper at the Montana Mining Division of The Anaconda Co., Butte, Mont. The investigation revealed that a corporate restructuring of The Anaconda Co. has consolidated all company mining operations into the Mineral Resources Group eliminating the Montana Mining Division which formerly controlled the company's Montana copper producing facilities. The Butte Operations produce copper ore, copper concentrates, and copper precipitates. The investigation was later expanded to include workers and former workers engaged in the smelting of copper into anode copper at the Anaconda Reduction Department of The Anaconda Co., Anaconda, Mont. (TA-W-3252(A)).

The notice of investigation was published in the FEDERAL REGISTER on March 14, 1978 (43 FR 10648). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of The Anaconda Company and its customers, the U.S. Department of the Interior, the American Bureau of Metal Statistics, "Metal Bulletin, Metals Week," the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

United States imports of refined copper increased 161.2 percent from 147 thousand short tons in 1975 to 384 thousand short tons in 1976, then increased 1.8 percent to 391 thousand short tons in 1977. The ratio of imports to domestic production increased from 8.6 percent in 1975 to 21.0 percent in 1976 and increased to 22.2 percent in 1977.

Imports of copper are affected by the differential between the domestic producers' price for copper and the price for foreign copper established by the London Metals Exchange (LME). When the LME price for copper drops more than the estimated transportation costs of five to eight cents per pound below the domestic producers' price, the demand for imported copper increases. The LME price for copper in 1977 averaged 10 cents a pound below the average annual domestic producers' price. In July and August 1977, the LME price was almost 12 cents below the domestic producers' price.

Another factor affecting the price of copper is that of inventory levels. While U.S. imports of refined copper increased by 161.2 percent in 1976 compared with 1975 and by 1.8 percent in 1977 compared with 1976, domestic demand increased at only a fraction of that rate. Refined copper held in inventories is currently acting to restrict upward movements in the price of refined copper. Inventory levels of domestic and imported copper at domestic refineries in December 1976 were 31.4 percent above December 1976 levels and were 143.2 percent above December 1974 levels.

Reflecting this trend, Anaconda's inventories of refined copper in December 1976 were 43.7 percent above December 1975 levels. In October 1977, Anaconda's inventories were 43.0 percent above inventories in October 1976. Inventories of anode copper at the Anaconda Reduction Department increased 17.8 percent in December 1976 compared to December 1975 and increased 39.5 percent in December 1977 compared to December 1976. Abundant supplies of copper in the forseeable future provide no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Anaconda and other domestic producers of copper lost sales in 1977 and 1978 because of excessive inventories of domestic and imported copper.

Price pressure from imported copper reduced the ability of domestic producers to profitably mine domestic ore and produce refined copper. Comments made by customers purchasing copper from The Anaconda Co. sub-

stantiate the influence of increased imports of copper on the price which Anaconda can obtain for its refined copper.

Industry sources stated that the weighted average production costs of the lowest cost domestic copper mines are 63 cents per pound, while the weighted average costs for the highest cost domestic copper mines approach $1.10 per pound. Thus at the current market price of approximately 60 cents per pound, domestic producers lose, on the average, from 3 to 50 cents on each pound of copper they choose to sell.

The Anaconda Co.'s decision to curtail the rate of activity at the Reduction Department and to layoff workers is based on an attempt to minimize losses which the company could not avoid if it continued to operate at normal production levels at current market prices for copper.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the copper produced by the Anaconda Reduction Department of The Anaconda Co., Anaconda, Mont. contributed importantly to the declines in production and to the total or partial separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

"All workers of the Anaconda Reduction Department of The Anaconda Co., Anaconda, Mont. who became totally or partially separated from employment on or after January 17, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 7th day of July 1978.

JAMES F. TAYLOR,
Director, Office of Managment, Administration, and Planning.

[FR Doc. 78-19808 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-2867]

ANTHRACITE OVERALL MANUFACTURING CO., INC., SCRANTON, PA.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2867: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on Januray 9, 1978 in response to a worker petition received on December 19, 1977, which was filed on behalf of workers formerly producing men's work clothes at Anthracite Overall Manufacturing Co., Inc., Scranton, Pa. During the course of the investigation, it was established that the firm also produced women's casual wear.

The notice of investigation was published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3778). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Anthracite Overall Manufacturing Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations or threat thereof and to absolute decline in sales or production.

A survey of customers purchasing women's casual wear from Anthracite Overall revealed that none of the customers purchased imported women's casual wear from 1975 to 1977.

A survey of customers purchasing men's workclothes from Anthracite revealed that virtually all purchased no imported workclothes. One customer that did purchase imports had decreased its purchases of imported workclothes from 1975 to 1977.

CONCLUSION

After careful review I determine that all workers at Anthracite Overall Manufacturing Co., Inc., Scranton, Pa. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 10th day of July 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19809 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-2426]

ARMCO STEEL CORP., MIDDLETOWN, OHIO

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2426: Investigation regarding certification of eligibility to apply for worker adjustment assistance as pescribed in section 222 of the act.

The investigation was initiated on October 6, 1977 in response to a worker petition received on October 5, 1977 which was filed on behalf of workers and former workers producing hot and cold rolled and coated steel coil and sheet at the Middletown Works of Armco Steel Corp., Middletown, Ohio. The investigation revealed that the workers at this plant produce hot rolled sheet and strip, cold rolled sheet and strip, coated sheets, and steel tubing.

The notice of investigation was published in the FEDERAL REGISTER on October 24, 1977 (42 FR 56375). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the officials of Armco Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Middletown plant of Armco Steel Corp. produces primarily hot and cold rolled sheet and strip and coated sheet. Total plant sales and production increased in quantity in 1976 compared to 1975 and increased in 1977 compared to 1976. Plant sales and production also increased in the first quarter of 1978 compared to the first quarter of 1977.

Total employment of production workers at the Middletown plant increased in 1977 compared to 1976. Employment peaked in July 1977. A cost reduction effort planned by the company resulted in layoffs in October 1977. Subsequent to the October lay-

offs no significant separations occurred in 1977 or the first quarter of 1978.

The Department conducted a survey of some of the customers of the Middletown plant that purchased hot and cold rolled sheet and strip and coated sheet. While overall sales by the Middletown plant increased from 1976 to 1977 some customers decreased purchases from the plant. Generally these customers also decreased purchases of imported steel products.

CONCLUSION

After careful review I determine that all workers at the Middletown Works of Armco Steel Corp., Middletown, Ohio are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of July 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-19810 Filed 7-17-78: 8:45 am]

[4510-28]

[TA-W-2773]

CENTRAL PENN MANUFACTURING CO., INC., CATAWISSA, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2773: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on December 14, 1977 in response to a worker petition received on December 6, 1977, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing ladies' shirts and blouses at Central Penn Manufacturing Co., Inc., in Catawissa, Pa. During the course of the investigation, it was revealed that Central Penn also produced ladies' sportswear sets consisting of shirt, jacket, and skirt.

The notice of investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1556). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Central Penn Manufacturing Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's blouses and shirts increased from 26,113 thousand dozen in 1975 to 30,273 thousand dozen in 1976. For the January through September period, imports totaled 24,036 thousand dozen, slightly above the 24,016 thousand dozen level for the same period in 1976. The ratio of imported blouses and shirts to domestic production increased from 70.4 percent in 1975 to 74.8 percent in 1976.

Regarding women's, misses', and children's coats and jackets, U.S. importation of these items increased from 1,517 thousand dozen in 1975 to 2,252 thousand dozen in 1976 and to 2,723 thousand dozen in 1977. The ratio of imported ladies' coats and jackets to domestic production increased from 38.9 percent in 1975 to 57.5 percent in 1976.

Finally, U.S. imports of women's, misses', and children's skirts increased from 517 thousand dozen in 1975 to 791 thousand dozen in 1976. From January through September in 1977 imported skirts totaled 442 thousand dozen, compared to 690 thousand dozen imported during the same period in 1976.

The ratio of imports of skirts to domestic production increased from 10.8 percent in 1975 to 11.2 percent in 1976.

A survey of manufacturers who contracted work to Central Penn revealed that the manufacturers themselves did not import ladies' blouses or sportswear. However, since a major manufacturer had decreased contract work with Central Penn and since this manufacturer had experienced a substantial decline in orders from retailers, a survey was conducted with the manufacturer's retail customers. Results showed that the retail customers had increased their purchases of imported blouses and sportswear, both directly from foreign sources and indirectly via other domestic sources, while decreasing purchases from the manufacturer from 1976 to 1977. Consequently, the shift to imports by the manufacturer's customers reduced the availability of contract work to Central Penn.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' blouses and shirts and ladies' sportswear sets consisting of shirt, jacket, and skirt produced by the Central Penn Manufacturing Co., Inc., Catawissa, Pa., contributed importantly to the decline in production and to the total or partial separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

"All workers at the Central Penn Manufacturing Co., Inc., Catawissa, Pa., who became totally or partially separated from employment on or after December 2, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 11th day of July 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19811 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-3257]

COLEMAN PRODUCTS CO., IRON RIVER PLANT, IRON RIVER, MICH.

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 27, 1978, in response to a worker petition received on February 16, 1978, which was filed on behalf of workers and former workers producing automobile wire harnesses for AMC passenger vehicles and jeeps at Coleman Products Co. Iron River, Mich. plant.

The notice of investigation was published in the FEDERAL REGISTER on March 14, 1978 (43 FR 10648). No public hearing was requested and none was held.

The investigation has revealed that the workers which are the subject of this investigation are also the subject of an administrative reconsideration of TA-W-1612; therefore, a new investigation would serve no purpose. Consequently, investigation TA-W-3257 has been terminated.

Signed at Washington, D.C., this 7th day of July 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-19812 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-3258]

COLEMAN PRODUCTS CO. COLEMAN, WIS.

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 27, 1978 in response to a worker petition received on February 16, 1978 which was filed on

behalf of workers and former workers producing automobile wire harnesses for AMC passenger vehicles and jeeps at the Coleman Products Co., Coleman, Wis.

The notice of investigation was published in the FEDERAL REGISTER on March 14, 1978 (43 FR 10648). No public hearing was requested and none was held.

The investigation has revealed that the workers which are the subject of this investigation are also the subject of an administrative reconsideration of TA-W-1611; therefore, a new investigation would serve no purpose. Consequently, investigation TA-W-3258 has been terminated.

Signed at Washington, D.C. this 7th day of July 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-19813 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-3259]

EVART PRODUCTS CO. LAUMAN ROAD ASSEMBLY PLANT, EVART, MICH.

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 27, 1978 in response to a worker petition received on February 16, 1978 which was filed on behalf of workers and former workers assembling various plastic components for AMC passenger vehicles at the Evart Products Co.'s Lauman Road Assembly Plant located in Evart, Mich.

The notice of investigation was published in the FEDERAL REGISTER on March 14, 1978 (43 FR 10648). No public hearing was requested and none was held.

The investigation has revealed that the workers which are the subject of this investigation are also the subject of an administrative reconsideration of TA-W-1607; therefore, a new investigation would serve no purpose. Consequently, investigation TA-W-3259 has been terminated.

Signed at Washington, D.C. this 7th day of July 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-19814 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-3260]

EVART PRODUCTS CO., EVART, MICH.

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 27, 1978, in response to a worker petition recieved on February 16, 1978, which was filed on behalf of workers and former workers producing various plastic components for AMC passenger vehicles at the Evart Products Co.'s 601 7th Street location in Evart, Mich.

The Notice of investigation was published in the FEDERAL REGISTER on March 14, 1978 (43 FR 10648). No public hearing was requested and none was held.

The investigation has revealed that the workers which are the subject of this investigation are also the subject of an administrative reconsideration of TA-W-1606; therefore a new investigation would serve no purpose. Consequently, investigation TA-W-3260 has been terminated.

Signed at Washington, D.C., this 7th day of July 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-19815 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-3279]

GERALD LEATHER GOODS CORP., NEWBURGH, N.Y.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordnace with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3279: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 1, 1978, in response to a worker petition received on February 21, 1978, which was filed by the International Leather Goods, Plastic, & Novelty Workers Union on behalf of workers and former workers producing ladies' vinyl handbags at Gerald Leather Goods Corp., Newburgh, N.Y.

The Notice of Investigation was published in the FEDERAL REGISTER on March 14, 1978 (43 FR 10649). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Gerald Leather Goods Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that the following requirement has not been met:

that a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

The average number of workers at Gerald Leather Goods Corp. increased in 1976 compared to 1975 and in 1977 compared to 1976. Average number of hours worked increased in 1977 over 1976. Further, Gerald Leather Goods Corp.'s sales increased in 1976 over 1975 and in 1977 compared to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I determine that increases of imports of articles like or directly competitive with ladies' vinyl handbags produced at Gerald Leather Goods Corp., Newburgh, N.Y., did not contribute importantly to the decline in sales and production and to the separation of workers of that firm and that all workers at Gerald Leather Goods Corp., Newburgh, N.Y., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of July 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19816 Filed 7-17-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive

with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below,

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 6th day of July 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Can Teen Services of Johnstown, Inc. (International Brotherhoood of Electrical Workers).	Johnstown, Pa	July 5, 1978	June 30, 1978	TA-W-3,951	Provides food, drinks, cigarettes for their vending machines.
Freedom Electronic & Engineering Co. (workers).	Dorchester, Mass	do	June 29, 1978	TA-W-3,952	Electronic components.
Foxco Industries, Ltd. (workers)	New York, N.Y	do	do	TA-W-3,953	Single and double knit of natural and synthetic fabrics.
Greco Knit Finishers (workers)	do	do	do	TA-W-3,954	Do.
Kreisler Manufacturing Corp. (workers).	St. Petersburg, Fla	do	do	TA-W-3,955	Leather watch straps, lighters, desk sets, etc.
F/V Petrel (workers)	North Truro, Mass	do	June 23, 1978	TA-W-3,956	The catching and selling of shell fish; ground fishing is also done.
Speer Optical, Inc. (workers)	South Orange, N.J	do	June 27, 1978	TA-W-3,957	Eyeglass frames.

[FR Doc. 78-19800 Filed 7-17-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below,

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 5th day of July 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Andrex Industries Corp. (company)	New York, N.Y	July 5, 1978	June 27, 1978	TA-W-3,923	Sales office of the Andrex Corp.
Do	Asheville, N.C., 180 Deaverview Rd.	do	do	TA-W-3,924	Produce knitted fabrics.
Do	do	do	do	TA-W-3,925	Retail store—sells the knitted fabrics produced at the Andrex Industries Corp.
Do	Knoxville, Tenn., 1209 Merchants Rd.	do	do	TA-W-3,926	Do.
Do	Lexington, Ky	do	do	TA-W-3,927	Do.
Do	Owensboro, Ky	do	do	TA-W-3,928	Do.
Do	Bowling Green, Ky	do	do	TA-W-3,929	Do.
Do	Knoxville, Tenn., 7337 Kingston Pike.	do	do	TA-W-3,930	Do.
Do	Gallipolis, Ohio	do	do	TA-W-3,931	Do.
Do	Marietta, Ohio	do	do	TA-W-3,932	Do.
Do	Nashville, Tenn	do	do	TA-W-3,933	Do.

APPENDIX —Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Do	Hillsboro, Ohio	do	do	TA-W-3,934	Do.
Do	Frankfort, Ky	do	do	TA-W-3,935	Do.
Do	Chillicothe, Ohio	do	do	TA-W-3,936	Do.
Do	Columbus, Ohio	do	do	TA-W-3,937	Do.
Do	Huntington, W. Va	do	do	TA-W-3,938	Do.
Do	Elizabethtown, Ky	do	do	TA-W-3,939	Do.
The Duplan Corp. (company)	New York, N.Y	do	do	TA-W-3,940	Sales office and executive office and the selling of the finished product to the customers.
Do	Dillon, S.C	do	do	TA-W-3,941	Texturing of synthetic bulk yarns that are used throughout the apparel industry.
Duplan Fabrics, Inc., (company)	New York, N.Y	do	do	TA-W-3,942	Sales office and headquarters for Duplan Fabrics and Duplan Corp.
Do	Los Angeles, Calif	do	do	TA-W-3,943	Sales office—selling of the finished product produced by Duplan Fabrics, Inc.
Duplan Fabrics, Inc., Naomi Knitting Mill (company).	Zebulon, N.C	do	do	TA-W-3,944	Knitted fabrics and printed fabrics.
Duplan Fabrics, Inc., Duplan Knits West (company).	Compton, Calif	do	do	TA-W-3,945	Do.
Duplan Fabrics, Inc., DKW Fabrics (company).	Dillon, S.C	do	do	TA-W-3,946	Do.
Wundies, Inc. (company)	New York, N.Y	do	do	TA-W-3,947	Sales office for the Wundies, Inc.
Do	Williamsport, Pa	do	do	TA-W-3,948	Children's underwear, sleepwear and ladies' underwear.
Do	Liberty, Pa	do	do	TA-W-3,949	Do.
Do	Wellsboro, Pa	do	do	TA-W-3,950	Do.

[FR Doc. 78-19801 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-3030]

K & M SPORTSWEAR, INC., BRIDGETON, N.J.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3030: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 6, 1978, in response to a worker petition received on January 30, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's slacks and skirts at K & M Sportswear, Inc., Bridgeton, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7064). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from K & M Sportswear, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met.

Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey of manufacturers who constituted the majority of K & M's contract work in 1977 indicated that they neither purchase imported apparel not contract work overseas. Sales of the surveyed manufacturers increased from 1975 to 1976 and from 1976 to 1977.

CONCLUSION

After careful review, I determine that all workers at K & M Sportswear, Inc., Bridgeton, N.J., are denied eligibility to apply for trade adjustment assistance under title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 7th day of July 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-19817 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-2674]

MAXWELL & ROTHCHILD, INC., CINCINNATI, OHIO

Notice of Negative Determination on Reconsideration

On April 13, 1978, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of Maxwell & Rothchild, Inc., of Cincinnati, Ohio. This determination was published in the FEDERAL REGISTER on April 21, 1978 (43 FR 17083).

The petitioner in this case, the Amalgamated Clothing & Textile Workers Union, raised one basic issue. It claimed that sponging is an essential part of the production process and that workers engaged in sponging are not performing a service but, in effect, are producing an article within the meaning of the Trade Act of 1974.

In its reconsideration, the Department received information from a textile consultant on the sponging process. In addition, the Department contacted three major importers of fabric. Two of them reported that almost all of their imported fabric was unsponged at the time of importation. All sponging was performed at domestic facilities. The third, a manufacturer of expensive men's suits, reported that most of its imported fabric entered the United States already

sponged, but that sometimes even these fabrics must be sponged domestically to better match them to previously cut fabrics.

The Department, thereupon, conducted a survey of seven of Maxwell & Rothchild's customers. Several customers purchased no imported fabric. With one exception, the rest relied on imports for only a small share of their fabric purchases. All but one of those firms which used imported fabric indicated that the imported fabric was unsponged. The other customer indicated that the share of sponged fabric among its purchases of imported fabric was very small.

Whether the sponging operation is considered a service or the production of an "article" within the meaning of the Trade Act of 1974 does not affect the determination of the petition filed on behalf of the Maxwell & Rothchild, Inc.'s workers. Even if there were increased imports of unsponged fabric, such increases could not be found as contributing importantly to the separation of workers engaged in sponging, as they must, to satisfy the certification criterion in section 222(3) of the act.

CONCLUSION

After reconsideration, I reaffirm the original denial of eligibility to apply for adjustment assistance to workers and former workers of Maxwell & Rothchild, Inc., of Cincinnati, Ohio.

Signed at Washington, D.C., this 7th day of July 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-19818 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-2955]

NAPA, CALIFORNIA PLANT OF THE KAISER STEEL CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2955: Investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on January 25, 1978, in response to a worker petition received on January 9, 1978, which was filed on behalf of workers and former workers producing large diameter oil and gas steel pipeline sections and fabricated steel products at the Napa, Calif., plant of the Kaiser Steel Corp.

During the course of the investigation, the Department determined that the Vallejo, Calif., and Oakland, Calif., assembly yards of the Kaiser Steel Corp. are an integrated part of the Napa, Calif., plant's fabricated steel production process. This petition is expanded to cover workers at the Vallejo, Calif., and Oakland, Calif., assembly yards.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7068). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Kaiser Steel Corp., the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation has revealed that all of the requirements have been met.

Imports of fabricated structural steel decreased in absolute terms from 1975 to 1976. Imports increased 83.4 percent from 1976 to 1977. The ratios of imports to domestic production and consumption increased from 2.7 percent and 2.8 percent, respectively, in 1975 to 4.1 percent and 4.1 percent, respectively, in 1976.

Imports of welded line pipe (16 inch and above) increased 20.1 percent from 1976 to 1977. The ratio of imports to domestic shipments increased from 47.4 percent in 1976 to 52.9 percent in 1977.

Kaiser's Napa fabricating mill manufactures fabricated steel products to customer order and specifications. Business is procured through competitive bid contracting. During the period from 1974 to 1977, Kaiser lost an increasing number of bids to foreign fabricators. Additionally, Kaiser refrained from bidding projects for which it may have been competitive with domestic fabricators but uncompetitive with foreign competition. Production and production-related employment in the fabricating mill decreased from 1975 to 1976 and from 1976 to 1977.

Kaiser's Oakland and Vallejo assembly yards are an integrated part of the fabrication mill's production process. The Oakland assembly yard assembles large steel subassemblies fabricated at the NAPA fabricating mill. Production-related employment in the Oakland assembly yard decreased from 1975 to 1976 and from 1976 to 1977. The Vallejo assembly yard performs finishing assembly work on fabricating steel products produced at the Napa fabricating mill. Production-related employment in the Vallejo assembly yard decreased from 1976 to 1977.

Kaiser's Napa pipe mill manufacturers large diameter oil and gas steel line pipe. While there is no specific customer or bid information available, imports of welded line pipe have increased in both absolute and relative terms from 1976 to 1977. The import/domestic shipments ratio indicates substantial penetration of the domestic market by import competition. Employment and production-related employment in the pipe mill decreased from 1975 to 1976 and from 1976 to 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases in imports of articles like or directly competitive with fabricated steel products manufactured at the Napa, Calif. plant of the Kaiser Steel Corp., and assembled at the Vallejo, Calif., and Oakland, Calif., assembly yards of the Kaiser Steel Corp., and with large diameter oil and gas steel line pipe fabricated at the Napa, Calif., plant contributed importantly to the decrease in sales or production and to the total or partial separations of workers at that firm. In accordance with the provisions of the act, I make the following certification:

All workers at the Napa, Calif., plant, Vallejo, Calif., assembly yard and Oakland, Calif., assembly yard of the Kaiser Steel Corp. who became totally or partially separated from employment on or after January 5, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 10th day of July 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19819 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-2636]

NEVADA NORTHERN RAILWAY CO., EAST ELY, NEV.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2636: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on Nov. 21, 1977, in response to a worker petition received on Nov. 11, 1976, which was filed on behalf of workers and former workers transporting blis-

ter copper for the Nevada Northern Railway Co., East Ely, Nev.

The Notice of Investigation was published in the FEDERAL REGISTER on Dec. 6, 1977 (42 FR 61696). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Nevada Northern Railway Co., its customers, the U.S. Department of the Interior, the U.S. Department of Commerce, the U.S. International Trade Commission, The American Metals Market, Metal Bulletin, and Metals Week, industry analysts, Department files.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with blister copper produced by the Nevada Northern Railway Co., East Ely, Nev., contributed importantly to the decline in shipments and to the total or partial separation of the workers of that company. In accordance with the provisions of the Act, I make the following certification:

All workers of the Nevada Northern Railway Co., East Ely, Nev., who became totally or partially separated from employment on or after Dec. 17, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 10th day of July 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19820 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-3297]

NOVELTY FOOTWEAR, INC., PORT JERVIS, N.Y.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3297: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 2, 1978, in response to a worker petition received on February 24, 1978, which was filed on behalf of workers and former workers producing women's nonrubber footwear at Novelty Footwear, Inc., Port Jervis, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on March 1, 1978 (43 FR 11276). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Novelty Footwear, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met.

that increased imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of women's nonrubber footwear, except athletic, increased from 183.5 million pairs in 1975 to 183.8 million pairs in 1976 and then decreased to 171.9 million pairs in 1977. The ratio of imports to domestic production increased from 117.9 percent in 1976 to 122.8 percent in 1977. Customers of Novelty Footwear, Inc., increased their purchases from Novelty in 1977 compared to 1976. Customers representing 80 percent of Novelty's sales increased their purchases from Novelty in the first half of 1978 compared to the first half of 1977. From February to May 1978 these customers decreased their orders of imported shoes compared to the same period in 1977.

CONCLUSION

After careful review, I determine that all workers of Novelty Footwear, Inc., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C. this 10th day of July 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19821 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-2910]

OWENS-ILLINOIS, INC., TELEVISION PRODUCTS DIVISION, PITTSTON, PA.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2910: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 11, 1978, in response to a worker petition received on December 29, 1977, which was filed by the Glass Bottle Blowers Association on behalf of workers and former workers producing glass panels for television picture tubes at the Pittston, Pa., plant of Owens-Illinois, Inc.

The notice of investigation was published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3776). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Owens-Illinois, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of glass panels for television picture tubes increased in value from 1.5 thousand dollars representing 0.003 percent of domestic production in 1975 to 125.8 thousand dollars representing 0.171 percent of domestic production in 1976. Imports then declined to 1.3 thousand dollars representing 0.002 percent of domestic production in 1977.

A survey of customers of Owens-Illinois, Inc., Television Products Division, Pittston, Pa., indicated that none purchased imported glass panels for color television picture tubes in 1977.

Imports of televisions which incorporate glass panels for color television picture tubes are not "like or directly competitive" with glass panels for color television picture tubes within the meaning of section 222 of the Trade Act of 1974.

CONCLUSION

After careful review I determine that all workers at Owens-Illinois, Inc., Television Products Division, Pittston, Pa., are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 7th day of July 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-19822 Filed 7-17-78: 8:45 am]

[4510-28]

[TA-W-2857]

PENN-DIXIE STEEL CORP., KOKOMO, IND.

Notice of Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordnace with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2857: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 5, 1978, in response to a worker petition received on December 19, 1977, which was filed by the United Steelworkers of America on behalf of all workers engaged in employment related to the production of carbon wire and wire products at the Kokomo, Ind., plant of the Penn-Dixie Steel Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on January 20, 1978 (43 FR 2952). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Penn-Dixie, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation revealed that all of the criteria have been met.

Imports of wire and wire products increased 21.7 percent from 795,100 tons in 1976 to 967,300 tons in 1977. The ratio of imports to domestic shipments increased from 33.0 percent in 1976 to 41.2 percent in 1977.

The Department conducted a survey of some of the customers of wire and wire products of the Kokomo plant. Some of the customers increased purchases of imported wire and wire products in 1977 compared to 1976 and reduced purchases from the Kokomo plant in the same period.

Average plant employment increased or remained the same in the first three quarters of 1977 compared to the same period in 1976 before declining in the fourth quarter of 1977 compared to the fourth quarter of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the wire and wire products produced at the Kokomo, Ind., plant of the Penn-Dixie Corp., have contributed importantly to the total or partial separation of workers at the plant as required for certification under section 222 of the Trade Act of 1974. In accordance with the provisions of the Act, I make the following certification:

All Workers of the Kokomo, Ind., plant of the Penn-Dixie Corp. who became totally or partially separated from employment on or after July 17, 1977, are eligible to apply for adjustment assistance benefits under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 7th day of July 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19823 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-2706]

REPUBLIC STEEL CORP., CULVERT DIVISION, CANTON DRAINAGE PLANT, CANTON, OHIO

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2706: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on December 5, 1977, in response to a worker petition received on November 23, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing various steel products at the Canton Drainage Plant, Canton, Ohio, in the Culvert Division of the Republic Steel Corp. The investigation revealed that the plant primarily produces drainage pipe and piling.

In a determination signed on September 12, 1977, all workers at the Canton Drainage Plant were denied eligibility to apply for adjustment assistance. (see TA-W-1495)

The notice of investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63487). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Republic Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Iron & Steel Institute, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Drainage Pipe

Shipments and production of drainage pipe at the Canton drainage plant increased from 1976 to 1977.

Imports of corrugated drainage pipe are not separately identifiable in the official trade statistics of the United States. If such products did enter the country, they would generally enter under TSUSA No. 610.3265, "Pipe and tubes, welded, jointed, or seamed, over 16 inches in outside diameter." Industry sources state that there are no known imports of corrugated drainage pipe. Product bulkiness and the resulting high freight costs inhibit importation of such products.

Piling

Imports of carbon steel piling increased both absolutely and relative to domestic production from 1976 to 1977.

Customers who reduced purchases of piling from Republic Steel were surveyed. The customers are contractors, who bid for various construction jobs. Republic Steel, along with other steel companies, bid to supply the piling to the contractor. The survey revealed that those customers, who did not contract with Republic Steel to supply the piling for 1977 jobs, contracted with other domestic suppliers of piling. No imported piling was used on these jobs.

CONCLUSION

After careful review, I determine that all workers at the Canton Drainage Plant, Canton, Ohio in the Culvert Division of the Republic Steel Corp., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 10th day of July 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19824 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-2624]

RUBBER CORP. OF PENNSYLVANIA, WEST HAZLETON, PA.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2624: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on November 17, 1977, in response to a worker petition received on November 2, 1977, which was filed by the United Shoeworkers of America on behalf of workers and former workers producing bedroom slippers, women's vinyl boots, and leisure shoes at the Rubber Corp. of Pennsylvania, West Hazleton, Pa. During the course of the investigation it was revealed that the firms also produces canvas athletic shoes and sandals.

On March 19, 1976, the Department issued a certification of eligibility to apply for adjustment assistance for all workers of the Rubber Corp. of Pennsylvania (TA-W-533). The certification expired March 19, 1978.

The notice of investigation was published in the FEDERAL REGISTER on December 13, 1977 (42 FR 62557). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Rubber Corp. of Pennsylvania, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each group eligibility requirement of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers firm, or appropriate subdivision thereof, have become totally or partially separated.

The earliest possible impact date should a certification be issued would be March 19, 1978. The Department's investigation revealed that the average number of production workers and the average hours worked per worker increased in the first five months of 1978 compared to the same period of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I determine that all workers of the Rubber Corp. of Pennsylvania, West Hazleton, Pa., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of July 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-19825 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-2912]

SHIRLEY WILLETT CO., DORCHESTER, MASS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2912: investigation regarding certification of eligibility to apply for worker adjustment assistance as presecribed in section 222 of the act.

The investigation was initiated on January 11, 1978 in response to a worker petition received on December 19, 1977, which was filed on behalf of workers and former workers producing ladies leather apparel at the Shirley Willett Co., Dorchester, Mass.

The notice of investigation was published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3776). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Shirley Willett Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

Imports of men's, boys', women's, misses', juniors', and children's leather coats and jackets, have increased absolutely and relatively in each year from 1973 through 1976. Imports of such garments have risen absolutely in the first 10 months of 1977 as compared to the same period of 1976.

In November 1977, the Shirley Willett Co. began to contract a substantial portion of its production with overseas contractors, where previously all production had been done domestically at its own plant in Dorchester, Mass.

Some customers of the Shirley Willett Co. who were surveyed increased purchases of imports in 1977 over 1976. The Shirley Willett Co. was not in operation long enough to make valid determinations as to whether customers who increased import purchases had decreased purchases from the Shirley Willett Co. Some customers who were surveyed indicated that they purchase some imports from domestic sources.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' leather apparel produced at the Shirley Willett Co., Dorchester, Mass., contributed importantly to the decline in sales or production and to the total or partial separations of the workers of that plant. In accordance with the provisions of the act, I make the following certification:

All workers of the Shirley Willett Co., Dorchester, Mass., who became totally or partially separated from employment on or after June 10, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of July 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19826 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-3833]

SOUTHERN ELECTRIC STEEL CO., BIRMINGHAM, ALA.

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 12, 1978, in response to a worker petition received on June 8, 1978, which was filed on behalf of all workers producing concrete reinforcing bar at Southern Electric Steel Co., Birmingham, Ala.

Notice of the Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27925). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers at Southern Electric Steel Co. were previously denied eligibility to apply for adjustment assistance on March

30, 1978 (see TA-W-2678). That investigation was initiated on November 29, 1977, in response to a worker petition which had been signed on November 1, 1977.

The plant in question was shut down on October 28, 1977 and employment of all hourly workers was terminated as of that date.

Since the entire previous investigation was conducted after the plant closed, and since the plant has never since reopened, and since no new evidence has been presented which contradicts the findings of the previous investigation, the findings of the previous investigation are still valid and further investigation would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C., this 30th day of June 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-19827 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-2913]

SUPREME PANTS CO., GARFIELD, N.J.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2913: Investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on December 22, 1977 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing men's trousers at Supreme Pants Co., Garfield, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on January 26, 1978 (43 FR 3776). No public hearng was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Supreme Pants Co., its customers, the U.S. International Trade Commission, U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Results of a customer survey revealed that customer sales increased in 1977 compared to 1976 and in 1976 compared to 1975 and that there were not purchases of imported men's trousers or use of foreign contractors.

CONCLUSION

After careful review, I determine that all workers at Supreme Pants Co., Garfield, N.J., are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 7th day of July 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19828 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-3041]

UNITED STATES STEEL CORP. SUPPLY DIVISION, ST. PAUL, MINNESOTA STEEL SERVICE CENTER

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3041: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 6, 1978 in response to a worker petition received on January 16, 1978 which was filed by the United Steelworkers of America on behalf of all workers selling United States Steel products at the St. Paul, Minnesota Steel Service Center, United States Steel Supply Division.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7064). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of United States Steel Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

Average employment at the St. Paul, Minn. Steel Service Center increased in 1977 compared to 1976 and remained at the same level during the first month of 1978.

The St. Paul, Minn. Steel Service Center does not maintain any production facilities. The center serves as a selling and servicing unit.

CONCLUSION

After careful review I determine that all workers at the St. Paul, Minn. Steel Service Center are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of July 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19830 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-2836]

UNITED STATES STEEL CORP., WAUKEGAN, ILL.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2836: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on January 3, 1978 in response to a worker petition received on December 13, 1977 which was filed by the United Steelworkers of America on behalf of all workers producing stainless steel wire and carbon steel wire at the Waukegan, Ill. plant of United States Steel Corporation. Subsequent investigation revealed that only carbon steel wire is produced at this plant.

The Notice of Investigation was published in the FEDERAL REGISTER on January 17, 1978 (43 FR 2459). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of United States Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade

Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the group eligibility requirements have been met.

U.S. imports of carbon steel wire increased from 349.6 thousand tons in 1975 to 371.8 thousand tons in 1976 and to 470.5 thousand tons in 1977. The ratio of imports to domestic shipments declined from 22.0 percent in 1975 to 19.9 percent in 1976, then increased to 25.5 percent in 1977.

The Department contacted several major customers of the Waukegan plant. All of these customers purchase imported wire. Most indicated that foreign manufacturers are now their largest source of supply for wire. Several customers reduced their purchases from the Waukegan plant in 1977 compared to 1976 and increased their purchases of imported wire.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increase of imports of articles like or directly competitive with the carbon steel wire produced at the Waukegan, Ill. plant of United States Steel Corporation contributed importantly to the declines in sales or production and to the total or partial separation of workers of the plant. In accordance with the provisions of the act, I make the following certification:

"All workers of the Waukegan, Ill. plant of the United States Steel Corp., who became totally or partially separated from employment on or after November 15, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 7th day of July 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-19829 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-3245]

WEATHER WISE RAINCOATS INC., COMMACK, N.Y.

Cerification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3245: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was intitiated on February 23, 1978 in response to a worker petition received on February 8, 1978 which was filed on behalf of all workers producing ladies' coats and raincoats at Weather Wise Raincoats Inc., Commack, N.Y. The investigation revealed that the company produced only ladies' raincoats.

The Notice of Investigation was published in the FEDERAL REGISTER on March 14, 1978 (43 FR 10650). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officals of Weather Wise Raincoats Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's raincoats increased steadily from 1974 to 1976 both absolutely and relative to domestic production. In 1977 imports decreased slightly compared to 1976. Market penetration of imports, however, remained at a significantly high level of 40.9 percent in 1977.

U.S. imports of all-weather coats are included with import statistics for women's, misses' and children's coats and jackets. Imports of coats and jackets increased steadily from 1974 to 1977. Import penetration of the domestic market was over 50 percent in 1977.

The company began importing finished ladies' raincoats in 1977 and continued into 1978.

The Department conducted a survey of some of the customers purchasing raincoats from Weather Wise Raincoats. Several of the customers indicated they reduced their purchases from Weather Wise and increased their purchases from foreign sources from 1975 to 1976 and from 1976 to 1977. Many of the customers also indicated that they purchased, from domestic sources, raincoats which were manufactured offshore in 1976 and 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the ladies' raincoats produced at Weather Wise Raincoats Inc., Commack, N.Y. contributed importantly to the decline in sales and production and to the total or partial separation of the workers of that plant. In accordance with the provisions of the act, I make the following certification:

"All workers of Weather Wise Raincoats Inc., Commack, N.Y. who became totally or partially separated from employment on or after February 3, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 7th day of July 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.78-19831 Filed 7-17-78; 8:45 am]

[4510-28]

[TA-W-3741]

WELD, INC., RURITAN, N.J.

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation regarding certification of eligibility to apply for worker adjustment assistance was initiated on May 18, 1978, in response to a worker petition received on May 15, 1978, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's and boys' outerwear at Weld, Inc., Ruritan, N.J.

The Notice of investigation was published in the FEDERAL REGISTER on June 13, 1978 (43 FR 25498). No public hearing was requested and none was held.

Preliminary inquiry has revealed that an investigation regarding workers employed at Weld, Inc., Ruritan, N.J., is already in progress based upon a petition received by the Department on Apr. 12, 1978 (TA-W-3546). Notice of the ongoing investigation was published in the FEDERAL REGISTER on May 5, 1978 (43 FR 19478).

Since an investigation regarding workers at Weld, Inc., Ruritan, N.J., is already in progress, further investigation under TA-W-3741 would serve no purpose. The investigation is therefore terminated.

Signed at Washington, D.C., this 5th day of July 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-19832 Filed 7-17-78; 8:45 am]

[6740-02]

[Docket No. CP78-386]

UNITED GAS PIPE LINE CO., ET AL.

Joint Pipeline Application

JULY 10, 1978.

In the matter of: United Gas Pipe Line Co., Natural Gas Pipeline Co. of America, Texas Eastern Transmission Corp., Northern Natural Gas Co., and Trunkline Gas Co.

Take notice that June 20, 1978, United Gas Pipe Line Co. (United), P.O. Box 1478, Houston, Tex. 77001, Natural Gas Pipeline Co. and American (Natural), 122 South Michigan Avenue, Chicago, Ill. 60603, Northern Natural Gas Co. (Northern), 2223 Dodge Street, Omaha, Nebr. 68103, Texas Eastern Transmission Corp. (Texas Eastern) P.O. Box 1642, Houston, Tex. 77001, hereinafter referred to collectively as "applicants" filed in docket No. CP78-386 a joint application pursuant to section 7(c) of the Natural Gas Act, as amended, for a certificate of public convenience and necessity authorizing applicants to construct pipelines in varying lengths to connect production in High Island blocks A-480, A-511 and A-532 to the High Island Offshore System (HIOS).

As stated in the application, United and Texas Eastern propose to construct 12.9 miles of 12-inch pipeline and related facilities to connect block A-480 to a 20-inch pipeline in block A-511. As further stated in the application, Northern proposes to construct approximately 8.7 miles of 12-inch pipeline to connect block A-532 to a point on interconnection which will connect A-511 to the 30-inch west leg of the HIOS system located in block A-539. The facilities to be constructed at a total estimated cost of $17,932,900 are required to enable applicants to take into their respective system, volumes of gas purchased in the various above mentioned blocks in the High Island area. Applicants state that their participation, in the cost of constructing such pipelines will be based on their respective purchases of gas, all as more fully described in the application which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application, on or before July 31, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-19757 Filed 7-17-78; 8:45 am]

[6820-35]

LEGAL SERVICES CORPORATION

GRANTS AND CONTRACTS

JULY 12, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

Utah Legal Services in Salt Lake City, Utah, to serve the Native American population on the Skull Valley, Vintah, Ouray, and Washakie reservations.

Idaho Legal Aid Services in Boise, Idaho, to serve the Native American population living on the Fort Hall, Colier d'Alene, Kootenai, and Nez Perce reservations.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Denver Regional Office, 1726 Champa Street, Suite 500, Denver, Colo. 80202.

THOMAS EHRLICH,
President.

[FR Doc. 78-19721 Filed 7-17-78; 8:45 am]

[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (78-31)]

NASA ADVISORY COUNCIL AERONAUTICS ADVISORY COMMITTEE, SUBCOMMITTEE ON AVIATION SAFETY REPORTING SYSTEM (ASRS)

Meeting

The above named Subcommittee will meet August 2-3, 1978, 8:30 a.m.-4:30 p.m. on August 2 and 8:30 a.m.-noon on August 3, at the NASA Ames Research Center, Moffett Field, Calif., in the Committee Room of the Administration Building. The meeting will be open to the public on a first-come, first-served basis up to the seating capacity of the room (about 25 persons). All visitors must report to the Ames Research Center receptionist in the Administration Building.

The Subcommittee, which serves in an advisory capacity only, reviews ASRS operations and NASA actions taken in response to subcommittee recommendations. The Chairman is John J. Winant.

For further information, contact Gene Lyman, (202-755-2380), Executive Secretary of the Subcommittee, NASA Headquarters, Washington, D.C. 20546.

AUGUST 2, 1978

8:30 a.m. Chairman's Opening Remarks
8:45 a.m. Executive Secretary's Report
9 a.m. Status Report (Administrative matters)
10 a.m. Technical Report (Special studies)
1 p.m. Evaluating Planning (Subcommittee formulation of ASRS Evaluation Plan)

AUGUST 3, 1978

8:30 a.m. Continue Evaluation Planning Discussion
11:30 a.m. Discussion and Recommendation on Future ASRS Directions
12 Noon Adjournment.

Dated: July 13, 1978.

ARNOLD FRUTKIN,
Acting Associate Administrator for External Relations.

[FR Doc. 78-19833 Filed 7-17-78; 8:45 am]

[7532-01]

NATIONAL COMMISSION ON NEIGHBORHOODS

FINAL REPORT

Meeting

ACTION: Notice of meeting.

SUMMARY: This notice, required under the Federal Advisory Committee Act (5 U.S.C. appendix I), announces a public meeting.

TIME AND DATE: Tuesday, July 25, 1978; 10 a.m.-5 p.m.

PLACE: 2358 Rayburn House Office Building, Washington, D.C.

AGENDA: Discussion of the work plan for the final report.

STATUS: Open to the public.

CONTACT PERSON:

Mr. Robert Kuttner, Executive Director-designate, telephone No. 202-632-5200.

JONATHAN STEIN,
Administrative Officer.

[FR Doc. 78-19910 Filed 7-17-78; 8:45 am]

[7536-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

HUMANITIES PANEL ADVISORY COMMITTEE

Meeting

JULY 12, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314, from 9 a.m. to 5:30 p.m. on August 5, 1978.

The purpose of the meeting is to review NEH Independent Fellowship applications in American Literature submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 78-19774 Filed 7-17-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON REACTOR OPERATIONS

Meeting

The ACRS Subcommittee on Reactor Operations will hold an open meeting Aug. 2, 1978 in Room 1167, 1717 H Street NW., Washington, D.C. 20555, to define the scope of its activities, including responsibility for recommendations to the full Committee on applications for increase in power, scope and procedures for review of Licenses Event Reports (LERs), scope for review of the Systematic Evaluation Program (SEP), and the relationship of the Reactor Operations Subcommittee to other ACRS generic subcommittees.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977 (42 FR 56972), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: Wednesday, August 2, 1978, 8:30 a.m. until the conclusion of business.

The Subcommittee will meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee may hear presentations by and hold discussions with representatives of the NRC Staff, and their consultants, pertinent to the agenda items. The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and to formulate a report and recommendations to the full Committee.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Robert L. Wright, Jr. (telephone 202-634-1919) between 8:15 a.m. and 5 p.m. EDT.

Dated: July 13, 1978.

JOHN C. HOYLE,
Advisory Committee, Management Officer.

[FR Doc. 78-19864 Filed 7-17-78; 8:45 am]

[7590-01]

APPLICATIONS FOR LICENSES TO EXPORT NUCLEAR

Facilities or Materials

Pursuant to 10 CFR 110.70, "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses during the period of July 3-July 7, 1978. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street NW., Washington, D.C.

Dated this day July 11, 1978 at Bethesda, Md.

For the Nuclear Regulatory Commission.

GERALD G. OPLINGER,
Assistant Director, Export/Import and International Safeguards, Office of International Programs.

Name of applicant, date of application, date received, and application number	Material in kilograms or reactor type and power level	Enrichment (in percent)	End-use	Country of destination
Exxon Nuclear Corp., June 20, 1978, June 26, 1978, ISNM78004.	43,340 uranium	2.90	For fabrication and re-export for Oskarshamn.	West Germany.
General Electric Co., June 27, 1978, July 3, 1978, XSNM01341.	239,000 uranium	4.00	Initial core loadings of Kuosheng reactor.	Republic of China.

[FR Doc. 78-19672 Filed 7-17-78; 8:45 am]

[7590-01]

[Docket No. 50-293]

BOSTON EDISON CO.

Issuance of Amendment To Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 32 to Facility Operating License No. DPR-35, issued to Boston Edison Co., which revised Technical Specifications for operation of the Pilgrim Nuclear Generating Station (the facility) located near Plymouth, Mass. The amendment is effective as of its date of issuance.

The amendment permits a maximum condenser cooling water discharge temperature of 32°F above the temperature of the intake water. This represents a 2°F increase in the ΔT from the previous 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 prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated May 1972.

For further details with respect to this action, see (1) the application for amendment dated February 1, 1978, (2) Amendment No. 32 to License No. DPR-35, and (3) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and a the Plymouth Public Library on North Street, Plymouth, Mass. 02360. A copy of itmes (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 7 day of July 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3 Division of Operating Reactors.

[FR Doc. 78-19671 Filed 7-17-78; 8:45 am]

[7590-01]

[Docket No. 50-10]

COMMONWEALTH EDISON CO.

Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 26 to Facility Operating License No. DPR-2, issued to the Commonwealth Edison Co. (the licensee), which revised Technical Specifications for operation of Unit 1 of Dresden Nuclear Power Station (the facility) located in Grundy County, Ill. The license amendment is effective as of its date of issuance.

This amendment revises the Technical specifications to incorporate changes to the Dresden Unit 1 pressurization heatup and cooldown limitations.

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 the issuance of this amendment.

For further details with respect to this action, see (1) the applicaton for amendment dated November 25, 1978 and supplements thereto dated April 15, 1976, August 19, 1976, September 9, 1977 and October 18, 1977, (2) Amendment No. 26 to License No. DPR-2, 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. 20555 and at the Morris Public Library, 604 Liberty Street, Morris, Ill. 60451. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated At Bethesda, Md., this 10th day of July 1978.

For the Nuclear Regulatory Commission.

DENNIS ZIEMAN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-19670 Filed 7-17-78; 8:45 am]

[7590-01]

[Docket Nos. 50-295 and 50-304]

COMMONWEALTH EDISON CO.

Proposed Issuance of Amendments to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) is considering the issuance of amendments to Facility Operating License Nos. DPR-39 and DPR-48 issued to Commonwealth Edison Co. (the licensee) for operation of the Zion Station, Units 1 and 2 (the facility) located in Zion, Ill.

The amendments as proposed would allow a closer center-to-center spacing of spent fuel assemblies in the station's spent fuel pool with a resultant increase in the storage capacity from 868 to 2,112 fuel assemblies.

Prior to issuance of the proposed license amendments, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the act), and the Commission's rules and regulations.

By August 17, 1978 the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendments to the subject facility operating licenses. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of section 2.714 of 10 CFR part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the

petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL RESISTER notice and section 2.174 or 10 CFR, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to Mr. John W. Rowe, Isham, Lincoln & Beale, One First National Plaze, Chicago, Ill. 60690, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendments dated April 13, 1978, which is available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Zion-Benton Public Library District, 2600 Emmans Avenue, Zion, Ill. 60099.

Dated at Bethesda, Md., this 7th day of July 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-19514 Filed 7-17-78; 8:45 am]

[7590-01]

[Docket No. 50-409 OL]

DAIRYLAND POWER COOPERATIVE

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 §§ 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:

DAIRYLAND POWER COOPERATIVE

(LaCrosse Boiling Water Reactor) Provisional Operating License No. DPR-45.

This action is in reference to a notice published by the Commission on May 25, 1978, in the FEDERAL REGISTER (43 FR 22462) entitled "Proposed Issuance of Amendment to Provisional Operating License."

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:

Dr. George C. Anderson, Department of Oceanography, University of Washington, Seattle, Wash. 98195.

Mr. Lester Kornblith, Jr., Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Md., this 12th day of July 1978.

Atomic Safety and Licensing Board Panel.

JAMES R. YORE,
Chairman.

[FR Doc. 78-19674 File 7-17-78; 8:45 am]

[7590-01]

[Docket Nos. 50-361-OL and 50-362-OL]

SOUTHERN CALIFORNIA EDISON CO., SAN DIEGO GAS AND ELECTRIC CO. (SAN ONOFRE NUCLEAR GENERATING STATION, UNITS 2 AND 3)

Reconstitution of Board

Frederic J. Coufal, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Because he is transferring to the Federal Communications Commission, where he will serve as an Administrative Law Judge, Mr. Coufal is unable to continue his service on this Board.

Accordingly, Ivan W. Smith, Esq., whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with section 2.721 of the Commission's rules of practice, as amended.

Dated at Bethesda, Md., this 12th day of July 1978.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 78-19673 Filed 7-17-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on July 12, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

U.S. INTERNATIONAL TRADE COMMISSION

Purchasers' Questionnaire For Invoice No. AA1921-183, Sorbates, on occasion, 30 purchasers of Sorbates, C. Louis Kincannon, 395-3211.

ACTION

Action Project Application and Reporting Forms Requirements, on occasion, ACTION project sponsors nationally, Reese, B. F., 395-3211.

SMALL BUSINESS ADMINISTRATION

Government Paperwork Reduction Project, 1177, 1177A, single time, 21,600 small business firms, Roye L. Lowry, 395-3772.

VETERANS ADMINISTRATION

Children's Pension Questionnaire and Instructions for Completion, 21-8828 and A (NR), single time, 285,000 children in receipt of death pension, Caywood, D. P. 395-3443.

DEPARTMENT OF COMMERCE

Bureau of Census, Financial Information Supplement, QHS-710A, single time, 100 residential alterations and repairs, Clearance Office, 395-3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration (medicare), Instruction for Completion of Applications for Federal Assistance—Research and Demonstration Grants, HCFA-PG-9, 10 and 11, on occasion, 300 health/welfare Government agency, hospital and private nonprofit residential organization, Budget Review Division, 395-4775.

OFFICE OF EDUCATION

Evaluation of Upward Bound: A Second Followup, OE-607, single time, 4,500 upward bound participants and similar nonparticipants, Human Resources Division, Laverne V. Collins, 395-3532.

DEPARTMENT OF TRANSPORTATION

Departmental and Other:
- National Accident Sampling System—Nonreported Accident, survey, single time, members of a household involved in nonreported vehicle accident, Office of Federal Statistical Policy and Standards, Strasser, A., 673-7956.
- Statement of Materials and Labor Used by Contractors on Highway Construction, PR-47, on occasion, 1200 Highway Construction and FHWA Field Offices or State Highway Office of Federal Statistical Policy and Standard, 673-7956.

REVISIONS

NATIONAL SCIENCE FOUNDATION

Survey of Industrial Research and Development 1977, RD-3, and MA-121, annually, large industrial corporations, 9,850 responses, 25,150 hours, Office of Federal Statistical Policy and Standard, 673-7956.

DEPARTMENT OF ENERGY

Domestic Crude Oil Entitlements Program Refiners Monthly Report, ERA-49, monthly, refiners of crude oil and eligible firms, 2,040 responses, 16,320 hours, C. Louis Kincannon, 395-3211.

Retail Motor Gasoline Service Station Survey, EIA-79, monthly, selected service stations, 180,000 responses, 135,000 hours, C. Louis Kincannon, 395-3211.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service:
- Report of Cargo Over, Short and/or Damaged, KC-269A, on occasion, food handlers and processors, 75,000 responses, 150,000 hours, Ellett, C. A., 395-6132.
- Peanut Marketing Card, MQ-76, on occasion, peanut farmers, 125,000 responses, 25,000 hours, Ellett, C. A., 395-6132.
- Economics, Statistics, and Cooperatives Service, Multiframe Hog and Cattle Survey, quarterly, hog and cattle farmers, 184,000 responses, 45,580 hours, Office of Federal Statistical Policy and Standard, 673-7956.
- Rural Electrification Administration, Checklist for Review of Supplemental Loan Proposal or Area Coverage Design, REA-567, on occasion, telephone companies serving rural areas, 200 responses, 200 hours, Ellett, C. A., 395-6132.

DEPARTMENT OF COMMERCE

Industry and Trade Administration Reports on Requests for Restrictive Trade Practices or Boycott-Single and Multiple Transaction, EAR 369; ITA 621P, 6051-P & 6051P-A, quarterly, U.S. exporters, banks, freight forwarders, carriers, 16,000 responses, 2,666 hours, C. Louis Kincannon, 395-3211.

DEPARTMENT OF DEFENSE

Departmental and Other Application for Frequency Allocation, DD-1494, on occasion, DOD agencies and installations, 400 responses, 200 hours, Marasha Traynham, 395-3773.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health, NIH Inventory of Clinical Trails, NIH-2242, annually, scientists conducting clinical trails, 1,500 responses, 3,000 hours, Richard Eisinger, 395-3214.

Social Security Administration, Application for Retirement Insurance Benefits, SSA-1 F6, on occasion, Application for Retirement Insurance Benefits Under the Social Security Act, 1,500,000 responses, 250,000 hours, Caywood, D. P., 395-3443.

Health Care Financing Administration (Medicare), Nationwide Survey of Independent Prepaid and Self-Insured Health Plans, HCFA-L-1807, 1807, 1807A, annually, plans in operation during 1977 in U.S. with 100 or more enrollees, 60 responses, 30 hours, Richard Eisinger, 395-3214.

EXTENSIONS

DEPARTMENT OF ENERGY

Personnel Security Questionnaire, DOE-1 (Pt. 1), DOE-1 (Pt. 11), on occasion, applicants and employees, 8,400 responses, 8,400 hours, C. Louis Kincannon, 395-3211.

Underground Gas Storage Report, FPC 8, monthly, natural gas companies, 560 responses, 2,240 hours, C. Louis Kincannon, 395-3211.

DEPARTMENT OF AGRICULTURE

Economics, Statistics, and Cooperatives Service Land Ownership Survey, single time, land owners, 46,400 responses, 9,280 hours, Office of Federal Statistical Policy and Standard, 673-7956.

DEPARTMENT OF DEFENSE

Department of the Army, Information on Applicants for U.S. Army Nurse Corps, USAREC 195, on occasion, U.S. Army Nurse Corps, 5,000 responses, 830 hours, Clearance Office, 395-3772.

Departmental and Other Parents Dependency Affidavit, DD137-3, on occasion, dependents assistance, 12,720 responses, 38,160 hours, Marsha Traynham, 395-3773.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Application for Federal Assistance (short form)—Instructions for Arts Education Projects, OE 449, annually, Lea's and Sea's, 250 responses, 3,750 hours, Laverne V. Collins, 395-3214.

Food and Drug Administration, Report of Assembly of a Diagnostic X-ray System or Subsystem (regulations and report form), on occasion, 25212 assemblers of diagnostic X-ray equipment, 75 responses, 1,200 hours, Richard Eisinger, 395-3214.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration, material safety data sheet, OSHA-20, other (see SF-83), shipbuilders and repairers, 2,500 responses, 5,000 hours, Strasser, A., 395-6132.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration, FSS Airport Condition Inquiry, 5010-4, other (see SF-83), civil airport owner or operator, Clearance Office, 395-3772.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-19887 Filed 7-17-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 10319; 812-4290]

ASA LTD. AND SOUTH AFRICAN INVESTMENT ADVISER (PROPRIETARY) LTD.

Filing of Application of the Act for an Order Exempting Proposed Transaction

JULY 11, 1978.

Notice is hereby given that ASA Ltd. ("ASA"), a closed-end, nondiversified management investment company registered under the Investment Company Act of 1940 ("Act"), and South African Investment Adviser (Proprietary) Ltd. ("SAIA"), the investment adviser to ASA (collectively, the "Applicants"), 54 Marshall Street, Johannesburg, South Africa, filed an application on April 7, 1978, and an amendment thereto on June 8, 1978, for an order pursuant to section 17(b) of the Act exempting from the provisions of section 17(a) of the Act a proposed sale by SAIA to ASA of certain property owned by SAIA. 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 state that the only business of SAIA since its incorporation in 1958 has been to act as investment adviser to ASA, a South African corporation. Dillon, Read & Co., Inc. owns 50.1 percent of the outstanding shares of SAIA and Samuel P. Reed owns 49.9 percent of the outstanding shares of SAIA. Peter M. Flanigan and John H.

F. Haskell, Jr. who are managing directors and stockholders of Dillon, Read & Co. Inc. are directors of ASA and of SAIA. Samuel P. Reed is a director of ASA and of SAIA. Ian G. MacPherson is managing director of ASA and managing director of SAIA. The application states that, by reason of the foregoing relationships, SAIA is an "affiliated person" of an "affiliated person" of ASA as such term is defined in the Act pursuant to the definition in section 2(a)(3) of the Act.

The shareholders of ASA at its annual meeting on April 29, 1977, approved an Investment Advisory Agreement ("Agreement") with SAIA which provided that it would continue in effect (unless terminated sooner in accordance with its provisions) from each annual meeting of ASA shareholders to the next such meeting provided that such continuance was specifically approved by a vote of the majority of ASA's outstanding shares and a vote of a majority of ASA's directors who are not "interested persons" as defined in section 2(a)(19) of the act of either applicant. On February 10, 1978, after extended consideration, ASA's management and Board of Directors decided that they did not want to continue the agreement and, therefore, that they would not ask ASA's shareholders to vote to continue it at ASA's annual meeting on April 28, 1978.

The application states that ASA intends to employ directly the operating personnel of SAIA so that ASA can provide for itself, at what is expected to be a relatively small saving, those services previously performed for it by SAIA. ASA will become liable for operating expenses of the kind of formerly paid for by SAIA.

ASA desires to purchase from SAIA at book value certain assets previously used by SAIA in the performance of its services under the agreement. The assets consist of two vehicles, office equipment, and certain furniture and fittings. The aggregate purchase price will be less than $25,000.

Section 17(a)(1) of the Act, with certain exceptions not here relevant, prohibits an affiliated person or an affiliated person of such person, acting as principal, knowingly to sell to a registered company any security or other property. Section 17(b) of the Act provides that the Commission upon application, may exempt a transaction from the provisions of section 17(a) of the Act if the evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investment company concerned and the general purposes of the Act.

The applicants contend that the book value price is fair, since if the assets had to be purchased new the price would be substantially higher. The applicants also indicate that the purchase price is below the secondhand value of the assets to be acquired. On this basis, the applicants state their belief that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned. Applicants represent that the proposed transaction is consistent with the policy of ASA as recited in its registration statements and reports filed under the Act and is consistent with the general purposes of the Act.

Notice is further given that any interested person may, not later than August 4, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-19783 Filed 7-17-78; 8:45 am]

[8010-01]

[Release No. 10315; 812-3541]

CENTURY SHARES TRUST, ET AL.

Application for Exemption

JULY 7, 1978.

In the matter of Century Shares Trust (CST) Distributors, Inc., 111 Devonshire Street, Boston, Mass. 02109; F. L. Putnam & Co., Inc., 50 Congress Street, Boston, Mass. 02109. Massachusetts Capital Development Fund, Inc., Massachusetts Financial Development Fund, Inc., Massachusetts Income Development Fund, Inc., Massachusetts Investors Growth Stock Fund, Inc., Massachusetts Investors Trust, Massachusetts Financial Services, Inc., Massachusetts Financial Services Co., 200 Berkeley Street, Boston, Mass. 02116; and Vance, Sanders Common Stock Fund, Inc., Vance, Sanders Income Fund, Inc., Vance, Sanders Investors Fund, Inc., Vance, Sanders Special Fund, Inc., Vance, Sanders & Co., Inc., One Beacon Street, Boston, Mass. 02108.

Notice is hereby given that (1) Century Shares Trust ("CST"); (2) Massachusetts Capital Development Fund, Inc., Massachusetts Financial Development Fund, Inc., Massachusetts Income Development Fund, Inc., Massachusetts Investors Growth Stock Fund, Inc., Massachusetts Investors Trust, Inc. (collectively, "MFS Funds"); (3) Vance, Sanders Common Stock Fund, Inc., Vance, Sanders Income Fund, Inc., Vance, Sanders Investors Fund, Inc., Vance, Sanders Special Fund, Inc. (collectively, "VS Funds"; referred to collectively with MFS Funds and CST as "Funds"); and (4) F. L. Putnam & Co., Inc. ("FLP"), CST Distributors, Inc. ("CST Distributors"), Massachusetts Financial Services, Inc. ("MFS"), Massachusetts Financial Services Co., ("MFSCO"), and Vance, Sanders & Co., Inc. ("VS"), (collectively, "Principal Underwriters"), have filed and application on December 7, 1973, and an amendment thereto on June 26, 1978, pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act") for an order of exemption from the provisions of section 22(d) of the Act and rule 22d-1 thereunder in connection with an accumulation privilege for certain tax-exempt organizations. 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.

Each Fund is an open-end, diversified, management investment company registered under the Act. Applicants represent that prior to July 1, 1973, the Funds, pursuant to rule 22d-1(f) under the Act, offered tax-exempt organizations described in sections 401

and 501(c)(3) and (13) of the Internal Revenue Code of 1954 an accumulation privilege which permitted them to determine the applicable sales charge for new investments in any of the Funds by adding (1) the aggregate public offering price of the shares to be purchased, and (2) the total cost of shares purchased subsequent to October 1, 1965 and still held in shares of the Fund or in shares received upon exercise of an exchange privilege. Shares acquired through an exchange privilege could be included only if the shares given up were those of one of the Funds and if the shares acquired were those of an investment company for which VS acted as principal underwriter. During the time that accumulation privilege was being offered, VS was principal underwriter for the Funds.

According to the application, on July 1, 1973, the Funds separated into three groups, each having its own principal underwriter: FLP, registered as a broker/dealer under the Securities Exchange Act of 1934 ("Exchange Act"), became CST's principal underwriter; MFS, registered as (1) an investment adviser under the Investment Advisers Act of 1940 (the "Advisers Act"); and (2) a broker/dealer under the Exchange Act, became the principal underwriter for the MFS Funds; and VS, registered as (1) an investment adviser under the Advisers Act and (2) a broker/dealer under the Exchange Act, remained the principal underwriter for the VS Funds. Upon such separation, the Funds discontinued the aforementioned accumulation privilege.

Applicants state that (1) as of February 28, 1977, MFSCO succeeded MFS as principal underwriter for the MFS Funds, and (2) as of July 31, 1976, CST Distributors succeeded FLP as principal underwriter for CST.

Applicants request an order of the Commission with respect to a modified version of the above-described accumulation privilege. This modified privilege (hereinafter referred to as the "Accumulation Privilege"), allows tax-exempt organizations (hereinafter "Qualifying Tax Exempt Organizations") which on July 1, 1973, owned shares in more than one Fund group (such groups being (1) CST, (2) MFS Funds, and (3) VS Funds) to aggregate the value of their holdings in the Funds, at the public offering price, together with the cost of new purchases of Fund shares for the purpose of determining the applicable sales charge on such new purchases. However, when counting the number of shares issued by a Fund having a different principal underwriter than that of the Fund whose shares are currently being purchased, credit will be given only for the number of shares held at the end of the preceding month or on July 1, 1973, whichever is less. Applicants assert that (1) pursuant to a staff "no-action" position, sales to Qualified Tax Exempt Organizations are currently being made in accordance with the Accumulation Privilege; (2) the Accumulation Privilege described in the application conforms in all respects with the accumulation privilege with respect to which the "no-action" position was taken; (3) there are approximately 70 accounts currently eligible for the Accumulation Privilege; and (4) it is not intended that the offering of the Accumulation Privilege would in any way limit the Funds and the Principal Underwriters from offering any other accumulation privileges pursuant to Rule 22d-1 promulgated under the Act.

Section 22(d) of the Act provides, in part, that no registered investment company, or principal underwriter therefor, shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus. Rule 22d-1 promulgated under the Act provides an exemption from section 22(d) for certain variations in sales loads none of which is applicable to the Accumulation Privilege. Applicants request an order pursuant to section 6(c) of the Act exempting their use of the Accumulation Privilege from the provisions of section 22(d) of the Act and rule 22d-1 thereunder.

In support of their request, Applicants assert that sales made pursuant to the Accumulation Privilege would be permitted by rule 22d-1(f) if not for the fact that the privilege excludes tax-exempt organizations which are not Qualifying Tax-Exempt Organizations. Further, Applicants argue that exclusion of these tax-exempt organizations from the Accumulation Privilege does not present problems of irrational discrimination since the Qualifying Tax-Exempt Organizations purchased shares in more than one Fund group prior to July 1, 1973, in reliance upon the representation that they would be permitted to purchase additional Fund shares in accordance with an accumulation privilege.

Applicants submit that the exemption they seek is narrowly limited, in that the number of shares (of Funds which do not have the same principal underwriter as the Fund whose shares are currently being purchased) to which the Accumulation Privilege will apply cannot be increased above the July 1, 1973, figure or the figure at the end of the month preceding the new purchase whichever is less.

Applicants assert that granting the requested exemption 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 6(c) of the Act provides that the Commission by order, upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or rules thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than August 1, 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 addresses stated above. Proof of such service (by affidavit or, in the cases of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-19784 Filed 7-17-78; 8:45 am]

[8010-01]

[Release No. 34-14951; File No. SR-DTC-78-10]

DEPOSITORY TRUST CO.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 5, 1978,

the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed Participant Operating Procedures and amendment to rule 9 set out in Exhibits 2A and 2B to File No. SR-DTC-78-10 provide that when two Participants have agreed on a sum payable between them in connection with a securities transaction through DTC, either the payor or the payee may initiate payment through The Depository Trust Company (DTC) by submitting an instruction called a "payment order" to DTC. A payor would have notice of an instruction submitted by a payee and an opportunity to "reclaim" (return) it before payment. The proposed rule change gives DTC the opportunity not to act on a payment order for specific reasons.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of the proposed rule change is to provide a mechanism enabling Participants to settle amounts of money through DTC which are related to separate securities transactions through DTC. Many DTC Participants now follow inconvenient procedures to make money payments outside DTC for transactions in which the securities movements occur within DTC. In such transactions money is usually settled with a check, often hand-delivered from one Participant to another. Participants would benefit if those money movements could be brought into DTC's daily settlement system.

Two prominent examples in which securities movement and money movement are separate involve securities "pledged" to the Options Clearing Corporation (OCC) in connection with options trades and cash collateral adjustments (marks-to-the-market) for day-to-day variations in the market value of securities which have been loaned.

Under the proposed procedures (Exhibit 2A to File No. SR-DTC-78-10), for example, DTC would make an option-writing bank Participant's pledge to OCC per instruction as it does now and accept a payment order from the bank instructing DTC to debit the broker-dealer which effected the option transaction for the contract premium money while crediting the bank for that money. The system would work in reverse for closing transactions—for example, an option purchase by the bank to close out a previously written option—so that a book-entry release of securities would be made by OCC, the securities would be returned to the bank's DTC account, and contract premium money would be debited from the bank and credited to the broker-dealer which effected the option transaction in their respective DTC settlement accounts upon receipt by DTC of a payment order from the broker-dealer.

Payment orders also will aid Participants in connection with securities loans. Securities are loaned to broker-dealer Participants by both other broker-dealer and bank Participants in return for collateral, usually money. During the period a loan is outstanding the market value of the securities may rise or fall appreciably. On upward swings, the lender will "mark-to-the-market" the loan and request additional cash collateral from the borrower. On downward swings the borrower will request that some cash collateral be returned by the lender. Members of a clearing corporation may pay such funds through its money settlement system. However, many DTC Participants are not members of a clearing corporation and must use other, cumbersome procedures, including hand-delivered checks, to obtain funds from the other party.

In order to minimize the risk of financial loss to DTC and its Participants, the Board has approved amendments to DTC Rule 9 (Exhibit 2B to File No. SR-DTC-78-10) and its procedures which give DTC discretion to not act on a payment order for certain reasons.

The proposed rule change relates to prompt and accurate clearance and settlement of securities transactions and fostering of cooperation and coordination with persons engaged in the clearance and settlement of securities transactions by simplifying the payment of funds required in connection with certain securities transactions.

The payment order proposal has been discussed in detail with many Participants including representatives of the Securities Industry Association Operations Division, the New York Clearing House Securities Committee, and several bank Participants located outside New York. The proposal and its status were described in several editions of the monthly DTC Newsletter. Many Participants plan to use this service for option premiums, while Participants not located in New York believe the availability of payment orders for mark-to-the-market payments would give them better control over their stock loans and increase their ability to participate in the stock loan business. Some Participants have stated they would not intend to use the service because they deem existing mechanisms to be satisfactory and one has indicated that it would find it difficult to meet the time requirements with regard to reclamations.

One written comment was received and is attached as Exhibit 3 to File No. SR-DTC-78-10.

DTC believes that no burden will be placed on competition by the proposed rule change.

On or before August 22, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 8, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-19797 Filed 7-17-78; 8:45 am]

[8010-01]

[File No. 81-355]

HOME SAVINGS AND LOAN ASSOCIATION

Application Pursuant to Section 12(h) of the Securities Exchange Act of 1934 and Opportunity for Hearing

JULY 12, 1978.

Notice is hereby given that Home Savings and Loan Association ("Applicant"), Originator and Servicer, 3731 Wilshire Boulevard, Los Angeles, Calif. 90010, has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended ("1934 Act") for exemption from certain reporting requirements under

section 13 and the operation of section 16 of the 1934 Act.

The Applicant states in part:

In the absence of an exemption, the Applicant would be required to file reports adhering to all the item requirements of the forms 10-K, 10-Q, 8-K as well as reports pursuant to section 16 of the 1934 Act.

Accordingly, Applicant believes that the exemptive order requested by it is appropriate in view of the fact that form 10-Q and certain items of the forms 10-K and 8-K, as well as reports required pursuant to section 16 of the 1934 Act are inapplicable to the pass-through mortgage pool arrangement.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the office of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than August 7, 1978, may submit to the Commission in writing his views on any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SERVICE LIST

R. Bryce Shirley, Esq., McKenna & Fitting, Twenty-Eighth Floor, 3435 Wilshire Boulevard, Los Angeles, Calif. 90010.

Frederick H. Tillmannshefer, Treasurer, Home Savings & Loan Association, 3731 Wilshire Boulevard, Los Angeles, Calif. 90010.

[FR Doc. 78-19786 File 7-17-78; 8:45 am]

[8010-01]

[File No. 1-5898]

JAMESWAY CORP.

Application To Withdraw from Listing and Registration

JULY 10, 1978.

The above-named issuer has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 and rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of Jamesway Corp. (the "Company") has been listed for trading on the Amex since April 2, 1969. On March 21, 1978 the stock was also listed for trading on the New York Stock Exchange, Inc. ("NYSE"). The Company does not see any particular advantage in the dual trading of its stock and believes that the direct and indirect costs of maintaining two listings is not warranted.

The application relates solely to the withdrawal from listing and registration on the Amex and shall have no effect upon the continued listing of such common stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before August 4, 1978, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-19785 Filed 7-17-78; 8:45 am]

[8010-01]

[Rel. No. 10318; 812-4181]

JOHN NUVEEN & CO. INC. AND PETER A. LEONARD

Filing of Application for Exemption of the Investment Compnay Act of 1940 and Order of Temporary Exemption Pending Determination of the Application

JULY 11, 1978.

Notice is hereby given that John Nuveen & Co. Inc. ("Nuveen") and Peter A. Leonard ("Leonard") (Collectively referred to as "Applicants"), 209 South LaSalle Street, Chicago, Ill. 60604, have filed an application and an amendment thereto pursuant to section 9(c) of the Investment Company Act of 1940 (the "Act") for an order exempting applicants, and any other company of which any of them presently is or in the future may become an affiliated person, from the provisions of section 9(a) of the act and for an order of temporary exemption from section 9(a) pending the Commission's determination of the application on file with the Commission for a statement of the representations which are summarized below.

Nuveen is a broker-dealer registered under the Securities Exchange Act of 1934 (the "Exchange Act") and is the depositor and principal underwriter of multiple series of Nuveen Tax-Exempt Bond fund (the "Tax Exempt Fund"), Nuveen Tax-Exempt Bond Fund-Medium Term (the "Medium Term Fund") and Nuveen Income Fund (the "Income Fund"), unit investment trusts registered under the act. Nuveen is also the principal underwriter of shares of Nuveen Municipal Bond Fund, Inc. (the "Municipal Fund"), an open-end management investment company registered under the act. Nuveen Advisory Corp. ("NAC"), a wholly owned subsidiary of Nuveen, is registered as an investment adviser under the Investment Advisers Act of 1940. NAC is the investment adviser of the Municipal Fund. Nuveen Government Securities, Inc. ("NGSI"), a wholly-owned subsidiary of Nuveen, is a dealer in Federal Government securities. Leonard is a vice president of NGAI. He is not an employee or officer of Nuveen or NAC.

On February 13, 1969, the Commission commenced a civil action in the U.S. District Court for the Southern District of New York entitled *Securities and Exchange Commission* v. *Dott, et al.*, against some 20 defendants, including Leonard, to enjoin alleged violations of section 17(a) of the Securities Act of 1933 (the "Securities Act") and section 10(b) of the Exchange Act and rule 10b-5 thereunder by engaging in and aiding and abetting the secret personal trading of Govern-

ment securities by certain of the defendants including Leonard. On February 14, 1969, Leonard, without admitting or denying any of the allegations of the Commission's complaint, consented to the entry of a Final Judgment of Permanent Injunction (the "Consent Judgment") which enjoined him from purchasing, offering to purchase, selling or offering to sell bills, certificate, notes, bonds and other securities issued by the U.S. Treasury Department and other Federal agencies in violation of section 17(a) of the Securities Act and section 10(b) of the Exchange Act and rule 10b-5 thereunder.

On May 1, 1969, the Commission, pursuant to an offer of settlement, suspended Leonard from association with any broker, dealer or investment adviser for 30 days (see Exchange Act Rel. No. 8596).

Section 9(a) of the act, insofar as is pertinent here, makes it unlawful for any person, or any company with which such person is affiliated, to serve or act in the capacity of employee, officer, director, member of advisory board, investment adviser or depositor of any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust, or registered face-amount certificate company, if such person is, by reason of any misconduct, permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security.

Section 9(c) provides that upon application the Commission by order shall grant an exemption from the provisions of section 9(a), either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of section 9(a), as applied to such person, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

Notwithstanding the filing of the application, Nuveen disclaims that Leonard is an "affiliate," as that term is generally applied under the Federal Securities laws, or an "affiliated person" as that term is defined by the act. However, applicants assert that were Leonard deemed to be an "affiliated person" of Nuveen by virtue of section 2(a)(3) of the act, the entry of a permanent injunction against him may nevertheless be deemed to impose upon applicants the prohibition which would, among other things, make it unlawful for Nuveen to continue to act as a depositor and principal underwriter of the Tax-Exempt Fund, the Medium Term Fund and the Income Fund and as principal underwriter of the Municipal Bond Fund and for NAC to continue to act as investment adviser of the Municipal Bond Fund.

Applicants submit that, for the following reasons, the prohibitions of section 9(a), to the extent applicable by virtue of the Consent Judgment, would be unduly and disproportionately severe as applied to applicants and the conduct of applicants has been such as not to make it against the public interest or protection of the investors for the Commission, pursuant to section 9(c), to enter an order granting applicants, and any company or person of which either applicant is or may become an affiliated person, a temporary exemption from the provisions of this application and thereupon to enter an order granting applicants, and any company or person of which either applicant is or may become an affiliated person, the requested permanent exemption from the provisions of section 9(a):

(a) The Consent Judgment does not constitute an adjudication of any liability or wrongdoing by Leonard and was entered with his consent for purposes of that action only, without admitting or denying the allegations of the complaint;

(b) The prohibitions of section 9(a) of the act would deprive the Tax-Exempt Fund, the Medium Term Fund, the Income Fund, the Municipal Fund and other registered investment companies of the continuity of services rendered by Nuveen as depositor and underwriter and NAC as investment adviser, which are important to those registered investment companies;

(c) Neither Nuveen, NAC nor any of the registered investment companies for which Nuveen or NAC act as depositor, principal underwriter or investment adviser participated in the alleged acts or transactions set forth in the complaint;

(d) Applicants have never before applied for an exemption from the provisions of section 9(a) of the act.

Moreover, Leonard submits that during the course of his employment with NGSI he has not, and in the future he will not, personally solicit business from or with registered investment companies.

Accordingly, it is ordered, Pursuant to section 9(c) of the act that applicants, and any company of which either of them presently is an affiliated person, be and they are hereby temporarily exempted from the provisions of section 9(a) of the act, operative as a result of the entry of the injunction against Leonard in *Securities and Exchange Commission* v. *Dott, et al.,* pending determination by the Commission of applicants' application for an order unconditionally exempting them from the provisions of section 9(a) operative as a result of the entry of such injunction.

Notice is further given that any interested person may, not later than August 11, 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 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 (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicants at the address set forth above. Proof of such service (by affidavit or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided in rule 0-5 of the rules and regulations promulgated under the act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-19787 Filed 7-17-78; 8:45 am]

[8010-01]

[File No. 81-330]

LORAIN TELEPHONE CO.

Application and Opportunity for Hearing

JULY 11, 1978.

Notice is hereby given that The Lorain Telephone Co. ("applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for exemption from the reporting requirements of section 13 of the 1934 act.

The Application states, in part:

1. The applicant is an operating public utility engaged in furnishing local and long distance telephone service in Lorain, Ohio and adjacent communities.

2. The applicant is a wholly owned subsidiary of Central Telephone & Utilities Corp.

In the absence of an exemption, applicant is required to file an annual report on form 10-K for the fiscal year ended December 31, 1977.

The applicant argues that no useful purpose would be served in filing the required report.

For a more detailed statement of the information presented, all persons are referred said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C. 20549.

Notice is further given that any interested person not later than August 7, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SERVICE LIST

Karl Berolzheimer, Esq., Vice President and General Counsel, Lorain Telephone and Utilities Corp., O'Hare Plaza, 5725 East River Road, Chicago, Ill. 60631.

[FR Doc. 78-19788 Filed 7-17-78; 8:45 am]

[8010-01]

[Release No. 34-14944; File No. SR-MSRB-77-9]

MUNICIPAL SECURITIES RULEMAKING BOARD

Self-Regulatory Organizations; Proposed Rule Changes

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 30, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The proposed rule changes filed by the Municipal Securities Rulemaking Board (the "Board") amend the Board's proposed rule G-11 (hereafter sometimes referred to as the "proposed").[1] The test of the proposed rule changes appears below.

Proposed rule G-11 established certain terms and conditions for sales of new issue municipal securities during the underwriting period. On January 17, 1978, the Board filed amendments to proposed G-11 with the Securities and Exchange Commission (the "Commission") which would require the disclosure to a syndicate of the identity of the person for whom a group order, as defined in the proposed rule, is submitted to the syndicate, as well as certain other information concerning such order. The senior syndicate manager would, in turn, be required to disclose such information to other members of the syndicate promptly upon request. However, under the January 17, 1978 amendments, the requirement to disclose information relating to group orders would not have applied to group orders for related portfolios, municipal securities investment trusts, and accumulation accounts, as defined in the proposed rule. The proposed rule changes would require the same disclosure to be made with respect to all group orders, whether for affiliated or nonaffiliated accounts.

The proposed rule changes also include changes of a technical or clarifying nature.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes is as follows:

PURPOSE OF PROPOSED RULE CHANGES

Proposed rule G-11 is designed to meet the Board's statutory mandate in section 15B(b)(2)(K) of the Securities Exchange Act of 1934, as amended (the "act"), by increasing the scope of information available to syndicate managers and members, other municipal securities professionals and the investing public, in connection with the distribution of new issue municipal securities. The Board has adopted the proposed rule changes in furtherance of these purposes and as a result of its review of the proposed rule and its consideration of comments sent to the Commission and the Board subsequent to the filing with the Commission of the proposed rule and the January 17, 1978 amendments.

[1] Proposed rule G-11 was filed with the Securities and Exchange Commission on August 17, 1977 (File No. SR-MSRB-77-9) and amended on January 17, 1978. Proposed rule G-11 is not yet in effect.

As indicated by the Board in connection with the filing of the January 1, 1978 amendments to proposed rule G-11, group orders belong to all members of the syndicate on a pro rata basis in proportion to their respective participations in the syndicate. The Board therefore believes it appropriate to require disclosure of the identity of persons for whom group orders are submitted, and to require the senior syndicate manager to give access to such information to the other members of the account. The Board notes that many syndicate managers requires that the identity of group orders be disclosed and voluntarily follow the procedure of disclosing the identity of group orders to all members of the syndicate. The Board believes this procedure is salutary and properly recognizes the interests of all syndicate members in the information thus provided.

Consistent with the foregoing views, the Board has reconsidered its approach in the January 17, 1978 amendments and believes that it is inappropriate to differentiate between affiliated and nonaffiliated customers with respect to the group order disclosure requirements. Accordingly, the Board proposes to require the same types of disclosures to be made with respect to all group orders, whether for affiliated or nonaffiliated accounts.

The other changes effected by the proposed rule changes are of a clarifying or technical nature.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGES

The Board adopted proposed rule G-11 pursuant to sections 15B(b)(2)(C) and 15B(b)(2)(K) of the act. Section 15B(b)(2)(C) provides that the Board's rules must.

> be designed * * * to promote just and equitable principles of trade * * * to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest; and [must] not be designed to permit unfair discrimination between customers * * *.

Section 15B(b)(2)(K) authorizes and directs the Board to adopt rules to

> * * * establish the terms and conditions under which any municipal securities dealer may sell, or prohibit any municipal securities dealer from selling, any part of a new issue of municipal securities to a municipal securities investment portfolio during the underwriting period.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGES

The Commission published the proposed rule as originally filed and the January 17, 1978 amendments in the FEDERAL REGISTER for public comment. In addition, on May 18, 1978 the Board

published an exposure draft relating to the proposed rule changes. A limited number of comments were received on the exposure draft. The Federal Deposit Insurance Corporation and the Public Securities Association endorsed the proposed rule changes. The Dealer Bank Association and The First National Bank of Chicago (the "FNBC") opposed the disclosure requirements reflected in proposed rule changes. In addition, the FNBC urged that if the Board determined to require the disclosure of information concerning group orders, such disclosure not be required until the sixtieth day after all syndicate securities have been sold. For the reasons set forth elsewhere in this filing, the Board is of the opinion that the disclosure requirements in the proposed rule changes are necessary and appropriate.

BURDEN ON COMPETITION

The Board is of the opinion that the proposed rule changes will not impose any burden on competition but, to the contrary, will promote competition by increasing the information available in the marketplace regarding the distribution on new issue municipal securities.

On or before August 22, 1978, or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 8, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

JULY 7, 1978.

Text of Proposed Rule Changes [2]

RULE G-11. SALES OF NEW ISSUE MUNICIPAL SECURITIES DURING THE UNDERWRITING PERIOD

(a) No change.

(b) Disclosure of Capacity. Every municipal securities dealer that submits an order to a syndicate or to a member of a syndicate for the purchase of municipal securities held by the syndicate shall disclose at the time of submission of such order if the securities are being purchased for its dealer account, for the account of a related portfolio of such municipal securities dealer, for a municipal securities investment trust sponsored by such municipal securities dealer, or for an accumulation account established in connection with such a municipal securities investment trust. The senior syndicate manager shall promptly disclose to the other members of the syndicate, upon request made prior to final settlement of the syndicate account, each order submitted for such a related portfolio, municipal securities investment trust, or accumulation account, indicating the identity of the [municipal securities dealer submitting the order] *related portfolio, municipal securities investment trust, or accumulation account,* [whether it is for a related portfolio or for a municipal securities investment trust or for an accumulation account, and] the aggregate face amount of each maturity and the maturity dates of the securities which are the subject of the order.

(c) No change.

(d) Disclosure of Group Orders.[3] Every municipal securities dealer that submits a group order to a syndicate or to a member of a syndicate, shall disclose at the time of submission of such order the identity of the person [on whose behalf] *for whom* the order is submitted [except as otherwise provided in section (b) of this rule]. The senior syndicate manager shall promptly disclose to the other members of the syndicate, upon request made prior to final settlement of the syndicate account, each group order, indicating the identity of the person [on whose behalf] *for whom* the order is submitted [(except as otherwise provided in section (b) of this rule)], the aggregate face amount of the each maturity and the maturity dates of the securities which are the subject of the order.

(e)-(g) No change.

[FR Doc. 78-19795 Filed 7-17-78; 8:45 am]

[2] Marked to show changes from proposed rule G-11 as currently filed with the Commission. Italics indicate new language; [brackets] indicate deletions.

[3] The term "group order" is defined in paragraph (a)(ii) of proposed rule G-11 to mean: an order for securities held in syndicate, which order is for the account of all members of the syndicate on a prorata basis in proportion to their respective participations in the syndicate. Any such order submitted directly to the senior syndicate manager will, for purposes of this rule, be deemed to be the submission of such order by such manager to the syndicate.

[8010-01]

[Release No. 10316; 812-4298]

NARRAGANSETT CAPITAL CORP. ET AL

Filing of Application for Order

JULY 7, 1978.

Notice is hereby given that Narragansett Capital Corp. ("Narragansett"), 40 Westminster Street, Providence, R.I. 02903, registered under the Investment Company Act of 1940 ("Act"), as a closed-end, non-diversified management investment company, American Television & Communications Corp. ("ATC"), 20 Inverness Place East, Englewood, Colo. 80110, and Time Inc., Time & Life Building, Rockefeller Center, New York, N.Y. 10020 ("Time;" collectively, the "Applicants"), have filed an application on April 27, 1978, and amendments thereto on June 22, 1978, and July 6, 1978, pursuant to sections 17(b) and 17(d) of the Act and rule 17d-1 thereunder, for an order of the Commission (1) exempting from the provisions of section 17(a) of the Act a proposed merger (the "Merger"), of ATC into Time Television & Communications, Inc. ("Time Subsidiary"), a wholly-owned subsidiary of Time, and (2) permitting participation in the Merger by certain of Narragansett's directors. 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 assert that Narragansett, a federally licensed small business investment company, has authorized 2,000,000 shares of common stock, par value $1. As of May 15, 1978, 934,452 shares of that stock were issued and outstanding. Applicants state that those shares are publicly traded in the over-the-counter market and are held by approximately 1,450 shareholders.

Time, a New York corporation, is primarily engaged in the publication of magazines, books, records, and related products, production of pulp, paper board, and building materials, television broadcasting, film production and distribution, operation of cable and pay television systems, marketing of information relating to the

movement of supermarket products, newspaper publishing, sale of equipment and services to the graphic arts industry, furniture and beverage case manufacturing, commercial and industrial contracting, land development and mortgage banking.

According to the application, Time has authorized 12,500,000 shares of preferred stock, par value $1. As of March 15, 1978, there were 1,089,608 shares of Time's series A $1.575 cumulative convertible preferred stock issued and outstanding. Those shares are publicly traded on the New York Stock Exchange and are held by approximately 2,500 shareholders.

In addition to its preferred stock, Time has authorized 35,000,000 shares of common stock, par value $1. As of March 15, 1978, there were 20,425,909 shares of that stock issued and outstanding. Those shares are publicly traded on the New York Stock Exchange and, as of March 1, 1978, were held by approximately 9,263 shareholders.

Applicants state that ATC, a Delaware corporation, is principally engaged in the cable television business, including pay television programing, and in the common carrier microwave business. The cable television business includes the distribution of television signals and special information programs to subscribers by means of a coaxial cable network. Users of cable television pay a fixed monthly charge for this service. ATC's pay television programing consists of programs obtained by ATC from others and distributed to subscribers, primarily through ATC's cable network. ATC's microwave business consists largely of microwave transmission of audio and video signals between communities.

ATC has authorized 5,000,000 shares of common stock, par value $.75, of which 3,913,121 shares were issued and outstanding as of April 20, 1978. In addition to its common stock, ATC has authorized 500,000 shares of preferred stock, none of which was outstanding as of the date of the filing of the application.

According to the application, the ATC common stock is publicly traded in the over-the-counter market and is held by approximately 1,710 shareholders. As of March 31, 1978, Time owned 1,028,303 shares, or approximately 26.3 percent, of the ATC common stock and held warrants to purchase an additional 19,038 shares of that stock.

Prior to June 27, 1978, Narragansett owned 263,067 shares, or approximately 6.7 percent of the ATC common stock. On that date, Narragansett distributed to its shareholders, on the basis of one share of ATC common stock for each 10 shares of Narragansett stock held by its stockholders, 93,048 shares of its ATC common stock, thereby reducing its ownership in that stock to 170,019 shares, or approximately 4.4 percent.

In addition, Applicants assert that certain directors and/or officers of Narragansett are also shareholders of ATC. Those shareholders, their positions, and the number of ATC shares they own are as follows: James E. Robison ("Robison"), chairman of the board and director, 5,500 shares; Harvey J. Sarles, ("Sarles"), Chairman of Executive Committee and Director, 2,267 shares; Arthur D. Little, president and director, 17,435 shares; Henry A. Loeb, director, 12,193 shares; Norman E. McCulloch, Jr., director, 3,002 shares; H. Lynn Pierson, director, 2,800 shares; and Albert H. Rubenstein, director, 215 shares (collectively, "Narragansett Directors").

Applicants assert that (1) Robison and Sarles are directors also of ATC, and (2) Robison, in his capacity as an ATC director, participated in the negotiation of the merger terms.

Applicants state that on April 20, 1978, Time, Time subsidiary, and ATC entered into an agreement and plan of merger pursuant to which ATC entered into an agreement and plan of merger pursuant to which ATC will be merged into Time subsidiary. An ATC shareholder meeting has been scheduled for August 2, 1978, for the purpose, among other things, of voting on the merger. Applicants assert that (1) Time intends to vote its shares for and against the merger in the same proportion as the votes cast by all other ATC stockholders, and (2) Narragansett expects to vote in favor of the merger. If the erger is consummated, ATC shareholders, other than Time, will receive 1.55 shares of Time's series B $1.575 cumulative convertible preferred stock ("Time Preferred Stock") for each share of ATC stock held by them, and cash in lieu of fractional shares. Each share of Time preferred Stock will be initially convertible into 0.72 of a share of Time common stock.

Applicants assert that ATC shareholders may elect to receive, in lieu of Time preferred stock, $50 in cash for each share of ATC common stock owned by them; provided, however, that there will be a maximum number of ATC shares which may be so exchanged. Applicants state that such number will be computed by deducting from 49 percent of the ATC stock outstanding at the effective time of the merger the sum of (1) the number of ATC shares held by Time, (2) the number of ATC shares held by dissenting ATC shareholders, and (3) the aggregate number of fractional shares of Time preferred stock in lieu of which cash will be paid, divided by 1.55. Based upon the number of shares of ATC stock outstanding on April 20, 1978, Applicants assert that the maximum number of ATC shares which could be exchanged in the merger for cash is approximately 885,000, or 22.6 percent of the outstanding ATC common stock.

According to the application, a form of election will be distributed to all holders of ATC stock pursuant to which such holders can elect conditionally to receive cash, if all of their shares are to be converted into cash, or unconditionally to receive cash, even if they receive some shares of Time preferred stock in the exchange.

Applicant assert the following about Time common stock, Time preferred stock and ATC common stock.

The annual dividend rates for Time common stock, for the Time preferred stock to be issued in the merger, and for ATC common stock, are, respectively, $1.50 per share, $1.575 per share and $0.20 per share.

The involuntary liquidation value of Time preferred stock will be $30.00 per share. The book value of Time common stock was $25.41 per share as of December 31, 1977. The book value of ATC common stock was $13.60 per share as of December 31, 1977.

On December 21, 1977, the last trading day before the proposed merger was first publicly announced, the closing prices of Time common stock and Time series A convertible preferred (which, Applicants assert, is substantially identical to the Time preferred stock to be issued in the merger) on the New York Stock Exchange were $37¼ and $31½, respectively, and the closing bid and asked prices of ATC common stock as reported on NASDAQ were $31¾ and $32¾, respectively.

For the year ended December 31, 1977, the earnings per share of Time common stock were $4.44. For the twelve months ended December 31, 1977, the earnings per share of ATC common stock were $2.01.

Applicants assert that since, inter alia, Narragansett and the directors of ATC may be deemed affiliates of ATC within the meaning of Rule 145 promulgated under the Securities Act of 1933 ("Securities Act"), the transferability of Time preferred stock received by them in connection with the merger will be restricted. Consequently, Applicants submit, the merger agreement provides that Time, upon the request of such affiliates, at any time prior to November 1, 1983, will use all reasonable efforts to register under the Securities Act shares of Time preferred stock held by such affiliates, or shares of Time common stock into which such Time preferred stock may have been converted. Applicants state, however, that those registered rights are limited to one registration per year, and not more than

three registrations altogether, except for the right of one additional registration at any time covering a minimum of 100,000 shares of Time preferred stock upon payment of $75,000 to Time.

Applicants state that outstanding stock options and warrants to purchase ATC common stock will be converted into options and warrants to purchase Time preferred stock on the basis of the exchange ratio of 1.55 shares of Time preferred stock for each ATC share.

ATC shareholders who do not vote in favor of the merger and who file a written demand for appraisal of their ATC shares prior to the ATC shareholder vote will be entitled to appraisal rights in accordance with Delaware law.

After the merger, Time Subsidiary, as the successor corporation, will be operated as a wholly-owned subsidiary of Time under the name American Television and Communication Corporation ("ATC Corp."). Applicants state that ATC Corp. will be managed by the present management of ATC and that those managers will be under the supervision of a board of directors, a majority of whom will be officers, directors, and employees of Time. In addition, Monroe M. Rifkin ("Rifkin"), Chairman of the Board and President of ATC, and M. Colyer Crum, presently a director of ATC, will serve as directors of ATC Corp.

Section 17(a) of the Act provides, in part, that it shall be unlawful for any affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, knowingly to purchase from, or sell to, such registered company any security or other property. Section 17(b) of the Act provides that the Commission, upon application shall exempt a proposed transaction from the provisions of section 17(a) of the Act if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Applicants submit that the proposed merger might be viewed as a proposal by Time, which at the time the merger was agreed upon was an affiliated person of an affiliated person (ATC) of Narragansett, to sell a security (Time preferred stock) to, or purchase a security (ATC common stock) from Narragansett. Accordingly, Applicants request an order exempting the merger from the provisions of section 17(a) of the Act.

Section 17(d) of the Act and rule 17d-1 thereunder, taken together, provide, in part, that it is unlawful for an affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, to effect any transaction in which such investment company or a company controlled by such investment company is a joint participant, without the permission of the Commission. Rule 17d-1 provides, in part, that in passing upon applications for orders granting such permission, the Commission will consider (1) whether the participation of the registered or controlled company in such transaction on the basis proposed is consistent with the provisions, policies, and purposes of the Act, and (2) the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Narrangasett and the Narragansett Directors, to the extent they do not elect to receive cash for their ATC shares, will receive, in connection with the merger, shares of Time preferred tock, such stock being convertible into Time common stock. Applicants assert that Narragansett and the Narragansett Directors may be deemed to be participants in a joint arrangement or profit sharing plan solely as a result of their receiving Time preferred stock in the merger. Accordingly, Applicants request an order pursuant to section 17(d) of the Act and rule 17d-1 thereunder permitting, if and to the extent necessary, that participation of the Narragansett Directors in the merger.

Applicants assert that (1) the terms of the merger, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person, and (2) the proposed transaction is consistent with the policy of Narragansett, as reflected in its registration statement and reports filed under the Act, and with the general purposes of the Act.

In support of their position, Applicants submit that the proposed merger is advantageous to ATC shareholders since (1) they will receive, in exchange for their ATC common stock, a preferred stock with a higher annual dividend rate and book value, convertible into Time common stock with a historically higher earnings per share and dividend record, and (2) the ATC stockholders will have the right to receive cash in lieu of shares of Time preferred stock. In addition, the aggregate market value of shares of Time preferred stock to be received by ATC shareholders electing to receive shares of Time preferred stock for their shares of ATC will exceed the aggregate market value (prior to the announcement of the agreement in principle on the merger) of the shares of ATC common stock exchanged by those shareholders.

According to the application, the management of Narragansett believes that the same factors which make the merger attractive to ATC make it desirable for Narragansett. In addition, Applicants assert that the liquidity of Narragansett's investment in ATC will be somewhat improved as a result of (1) the listing of Time preferred shares on a national stock exchange and (2) the registration rights which Narragansett will acquire pursuant to the merger.

On December 21, 1977, the day before the announcement of the agreement in principle on the merger, Time series A preferred stock, which, applicants assert, has terms similar to the Time preferred stock, closed at $31.50 per share on the New York Stock Exchange. At this price the Time preferred stock to be received by Narragansett for its 170,019 shares of ATC common stock would have a market value of approximately $8,301,178 as compared with an acquisition cost to Narragansett of $301,681 and Narragansett's valuation at September 30, 1977, of $4,820,071.

Further, each share of Time preferred stock will pay an annual dividend of $1.575. If Narragansett does not elect to take cash for any of its ATC common stock, it would be entitled to receive an aggregate of $415,059 in dividends from the Time preferred stock received by it in the merger. In contrast, for the twelve months ended March 31, 1978, Narragansett received a total of $52,613.40, or $0.20 per share, for the 263,067 shares of ATC common stock owned by Narragansett at that time.

According to the application, Time believes that ATC is a well-managed company with a solid earnings base of a noncyclical nature which will complement Time's existing video operations which, Applicants state, may be more subject to earnings fluctuations. Thus, Time believes that the merger will enable its video operations to compete more effectively with other larger companies in the communications and entertainment industry. Time also believes that ATC's management will augment the management of Time's video operations.

Applicants assert that the participation of Narragansett in the merger is (1) consistent with the provisions, policies, and purposes of the Act, and (2) not on a basis different from or less advantageous than that of any other participant. Applicants state that since the exchange of ATC shares for Time preferred stock will be made on a pro-rata basis, no stockholder of ATC will be preferred over another. According to the application, the only distinction among shareholders will be that stock-

holders of ATC who inter alia, are not "affiliates" of ATC within the meaning of Rule 145 of the Securities Act will be free to sell their shares of Time preferred stock without restriction following the merger while the transferability of Time preferred stock received by shareholders of ATC who may be deemed to be "affiliates" of ATC within the meaning of that rule, e.g., Narragansett, will be restricted. Applicants assert that the purpose of granting registration rights to such "affiliates" is to afford them a degree of liquidity which nonaffiliated ATC shareholders already have.

Notice is further given that any interested person may, not later than July 31, 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 shalld be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit or, in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-19789 Filed 7-17-78; 8:45 am]

[8010-01]

[Release No. 34-14953; File No. SR-NASD-78-7]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on June 23, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

NASD STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The following is the full text of the proposed amendment to section 5 of the Association's Uniform Practice Code. (New language is indicated by italics.)

TRANSACTIONS IN SECURITIES "EX-DIVIDEND," "EX-RIGHTS," OR "EX-WARRANTS"

SEC. 5

Ex-date designated by the Committee

(a) All transactions in securities, except cash transactions, shall be "ex-dividend," "ex-rights" or "ex-warrants" on the day specifically designated by the Committee after definitive information concerning the declaration and payment of a dividend or the issuance of rights or warrants has been received at the office of the Committee.

Normal ex-dividend dates

(b)(1) In respect to cash or stock dividends, *except as noted below,* if definitive information is received sufficiently in advance of the record date, the date designated as the "ex-dividend date" shall be the fourth business day preceding the record date if the record date falls on a business day, or the fifth business day preceding the record date if the record date falls on a day designated by the Committee as a non-delivery date.

In respect to stock dividends and/or splits which are 25 percent or greater, the ex-dividend date shall be the first business day following the payable date. In respect to stock dividends and/or splits relating to American Depositary Receipts (ADR's) and foreign securities, the ex-dividend date shall be designated by the Committee.

NASD Statement of Purpose of Proposed Rule Change

The proposed amendment to Section 5 of the Association's Uniform Practice Code establishes the ex-dividend date for large stock dividends or stock splits as the first business day after the payable date. Large stock dividends or stock splits are defined as those 25 percent or greater. The proposed amendment also provides that ex-dividend dates for stock dividends and stock splits for American Depositary Receipts and foreign securities will be designated by the Association's Uniform Practice Committee.

Section 5 presently establishes the ex-dividend date as four business days prior to the record date. Under current practice, a large stock dividend or stock split often results in deficiencies in customers' margin accounts between the ex-dividend date, when the market price of the issue is reduced, and the payable date, when the customer is credited with the additional shares. The period between the ex-dividend date and the payable date is approximately three to four weeks.

Under the proposed amendment, the ex-dividend date for large stock dividends or stock splits is established as the first business day after the payable date. The proposal would permit a customer's account to be made whole immediately, without creating a temporary margin deficiency in the account during the period between the ex-dividend date and the payable date. The proposal also provides that ex-dividend dates for American Depositary Receipts and foreign securities will be established by the Uniform Practice Committee, since these issues are subject to foreign regulation and require special coordination of dates.

The proposed amendment applies only to large stock dividends or stock splits and American Depositary Receipts and foreign securities. Ex-dividend dates for cash dividends and stock dividends or stock splits under 25 percent will continue to be determined under the current method of establishing ex-dividend dates.

NASD Statement of Basis Under the Act for Proposed Rule Change

Section 15A(b)(6) provides that the rules of a national securities association shall be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The proposed amendment to Section 5 of the Uniform Practice Code was approved by the Board of Governors under the authority granted to it by Article XIV, Section 1 of the Association's By-Laws as a means of carrying out the purposes of the Act.

NASD Statement on Comments Received From Members, Participants or Others on Proposed Rule Change

Article XIV of the Association's By-Laws provides that the Board of Governors may amend the Uniform Prac-

tice Code without recourse to the membership.

Comments of the membership were not solicited or received.

NASD Statement on Burden on Competition

The Association believes that no burden on competition is imposed by the proposed amendment to Section 5 of the Uniform Practice Code.

On or before August 22, 1978, or within such longer period (i) as the Commission may designated up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 7, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JULY 12, 1978.

[FR Doc. 78-19794 Filed 7-17-78; 8:45 am]

[8010-01]

[Release No. 20623; 70-6180]

NATIONAL FUEL GAS CO. AND NATIONAL FUEL GAS DISTRIBUTION CORP.

Proposal To Initiate Home Insulation Financing Program Mandated by State Law

JULY 11, 1978.

Notice is hereby given that National Fuel Gas Co. ("National"), 30 Rockefeller Plaza, New York N.Y. 10020, a registered holding company, and National Fuel Gas Distribution Corp. ("Distribution"), 10 Lafayette Square, Buffalo, N.Y. 14203, a wholly owned subsidiary of National, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, 9(a), and 10 of the Act and rule 40 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Distribution proposes to participate in a residential insulation financing program mandated by the State of New York under which Distribution will guarantee installment promissory notes of its residential customers in a maximum aggregate principal amount of $1,314,000 and, in the event of default on any of such notes, will cause it to acquire such defaulted notes.

On August 12, 1977, the New York Home Insulation and Energy Conservation Act ("Insulation Act") was signed into law. The Insulation Act mandates a program whereby distribution, together with other New York gas and electric utilities having gross revenues in excess of $100,000,000 is required to offer arrangements for loans to its residential customers to facilitate the financing of certain conservation measures approved by the New York State Public Service Commission ("PSC"). The Insulation Act will cease to be effective September 1, 1982.

Distribution's plan ("Plan") has been submitted to the PSC in accordance with that Commission's order of April 28, 1978, requiring utilities affected by the Insulation Act to submit Home Energy Conservation Plans to the PSC for approval, and is scheduled to take effect on June 15, 1978.

The following requirements are mandated by the Insulation Act, the PSC's Orders, and the Plan.

Distribution is required to conduct energy audits of one-, two-, or three-family residences when requested by a customer in its New York service territory in order to determine which of the administratively authorized conservation measures will qualify for financing. Energy conservation measures are deemed to qualify for financing if the estimated cost of such measures can be recovered within eight years from the savings generated by reduced energy consumption resulting from the employment of such energy conservation measures. The Plan also provides for customer audits which, upon submission to Distribution, will be used to determine the payback calculation.

Distribution will arrange for financing of the purchase price of materials used by eligible customers who will participate in the program on a "do-it-yourself" basis. Distribution will arrange for financing of the purchase price of materials, and installation costs, of eligible customers who choose to have conservation measures installed. Such arrangements may be made either by Distributions' making loans directly to eligible customers or by Distribution's guaranteeing loans made to eligible customers by participating banks. Distribution, pursuant to its Plan, has chosen to guarantee bank loans.

The minimum amount eligible for financing under the program is $200. The maximum amounts eligible for financing under the program are $1,500 is the case of a single-family home, $2,500 in the case of a two-family home and $3,000 in the case of a three-family home.

The interest rate to be charged any eligible customer may not exceed Distribution's overall rate of return last awarded by the PSC in a general rate case. At the present time, that rate is 9.79 percent. In the event an eligible customer chooses a bank whose interest charge for home insulation loans exceeds Distribution's rate of return, Distribution will pay such bank the difference between the two rates.

Seven years is required to be the maximum repayment period of any loan. A $10 minimum monthly payment is also required.

Distribution is prohibited at this time from directly lending, or guaranteeing, an amount in excess of 1 percent its annual gross revenues derived from its New York operations less applicable fuel costs, or $1,314,000. Distribution is required by the PSC to apply for a waiver of the 1 percent limitation in the event the amount that it shall guarantee shall exceed $985,500. In such event, Distribution will simultaneously file an amendment to this application-declaration requesting further authorization by the Commission. Distribution states that it is unable to forecast with precision the amounts to be guaranteed by it pursuant to the program. It is anticipated, however, that $1,314,000 will be guaranteed by Distribution in the first year of the program.

Distribution may not impose any credit criteria on owners of residences who otherwise qualify for a loan. Tenant-customers of Distribution may qualify for a loan if the owner of the residence consents and if such tenant-customer would not be required to post a security deposit for gas service pursuant to regulations of the PSC.

Distribution has entered into an agreement with Marine Midland Bank ("Marine") and expects to enter into an agreement with The First Federal Savings & Loan Association of Rochester, Homestead Savings Division ("First Federal"), wherein those banks agree to offer eligible customers insulation loans pursuant to the Plan at

annual percentage rates of interest of 10.5 percent and 9.5 percent, respectively. Except for the interest to be charged on a loan to an eligible customer, the Marine loan application form, note and agreement contain substantially the same terms and conditions as Distribution's proposed agreement with First Federal.

Distribution intends to solicit the participation of two or three other banks on substantially the same terms and conditions as its agreement with Marine and its proposed agreement with First Federal. The participation of other banks in the program will not result in any increase in the aggregate principal amount for which Distribution may become liable.

Because the Plan is scheduled to go into effect on June 15, 1978, and because Distribution's agreement with Marine and proposed agreement with First Federal, by their respective terms, constitute a guarantee of loans made pursuant to the program, Distribution is requiring each of the participating banks to release Distribution from any liability under the agreements until after the Securities and Exchange Commission has authorized Distribution's participation in the transaction. It is not anticipated that payments on any loan will be due prior to the time such authorization is given.

The Insulation Act requires that all installation work be performed by parties unaffiliated with Distribution. Distribution is permitted to approve contractors on the basis of certain objective criteria authorized by the PSC, including favorable credit ratings, good standing with the Better Business Bureau, and experience requirements. Approved contractors are also required to carry certain amounts of insurance, to be licensed where necessary, to furnish eligible customers a one-year warranty as to workmanship and materials, and to use materials complying with insulation criteria established by the PSC.

Distribution is required to inform all of its New Youk customers of the program by bill inserts within six months after the commencement of the program. In addition, Distribution will promote the program through the media throughout its New York service territory.

Most aspects of the program are being handled by existing personnel. Because, however, of the nature of on-site audits and the calculation of project paybacks, Distribution has found it necessary to hire seven additional employees. Additional costs will also be incurred to the extent that eligible customers choose a bank, such as Marine, whose interest rate exceeds Distribution's New York rate of return. Pursuant to section 135-i of the New York Public Service Law, Distribution is required to "employ reasonable efforts to collect amounts due" on defaulted loans.

Pursuant to section 135-n of the New York Public Service Law, Distribution is entitled to recover as normal operating expenses the "just and reasonable" expenses of carrying out its responsibilities under the Insulation Act. The PSC has determined that participating utilities may recover such costs in their next rate proceedings.

The fees, commissions and expenses to be incurred in connection with the proposed transaction are estimated at $2,000. The New York Public Service Commission has authorized the proposed transaction. It is stated that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than August 4, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-19790 Filed 7-17-78; 8:45 am]

[8010-01]

[Release No. 34-14946; file No. SR-PSE-78-13]

PACIFIC STOCK EXCHANGE INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 3, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange Incorporated ("PSE") hereby requests to amend Rule VI, Section 49 and delete Commentary .02 (italics indicate additions):

RULE VI—EXCHANGE OPTIONS TRADING

PRIORITY OF BIDS AND OFFERS

Sec. 49

(a) No change.

(b) No change.

(c) No change.

(d) Not withstanding anything in paragraphs (a) and (b) to the contrary, when a member holding a spread order or a straddle order and bidding or offering on the basis of a total credit or debit for the order has determined that the order may not be executed by a combination of transactions with or within the bids and offers displayed by the Order Book Official, then the order may be executed as a spread or straddle at the total credit or debit with one other member without giving priority to bids or offers of the Order Book Official that are no better than the bids or offers comprising such total credit or debit.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to add a further exception to the priority rules specified therein for spread and straddle orders. Such an exception will be applicable only in those circumstances when a spread or straddle order could not be executed by accepting the bid and offer or either of them displayed.

The statutory basis for the proposed rule change is contained in those provisions of Section 6(b)(5) of the Securities Exchange Act of 1934, as amended, which provides for "the protection of investors and the public interest."

Comments were neither solicited nor received from members, participants or others on the proposed rule change.

The proposed rule change will not impose any burden on competition.

On or before August 22, 1978, or within such longer period (i) as the commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange commission, Washington, D.C. 20549. copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 8, 1978.

For the Commission by the division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

JULY 7, 1978.

[FR Doc. 78-19796 Filed 7-17-78; 8:45 am]

[8010-01]

[Securities Investor Protection Act Release No. SIPC-70; File No. SIPC-78-1]

SECURITIES INVESTOR PROTECTION CORP

Proposed Rule Change

Pursuant to section 3(e)(2)(A) of the Securities Investor Protection Act of 1970, 15 U.S.C. 78ccc(e)(2)(A), as amended by Pub. L. 95-283, 92 Stat. 249 (1978), notice is hereby given that on June 26, 1978, the Securities Investor Protection Corporation ("SIPC") filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change sets forth rules for determining what accounts held by a person with a member of SIPC will be deemed to be accounts held in a capacity other than the person's individual capacity. The proposed rule change covers individual accounts joint accounts, trust accounts, and accounts held by executors, administrators, guardians, corporations, partnerships or unincorporated associations.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of the proposed rule change is to set forth the circumstances under which securities accounts which are held by the same individual in different capacities shall be treated as the accounts of "separate" customers. The effect of this treatment is to entitle each such account to the maximum protection available.

The proposed rule change relates to the protection of investors and the need for clarification of terms in sections 9(a)(2) and 16(12) of the Securities Investor Protection Act of 1970, *as amended* ("SIPA").

On or before August 22, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which SIPC consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of SIPC, suite 800, 900 17th Street NW., Washington, D.C.

All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 8, 1978.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

JULY 10, 1978.

[FR Doc. 19793 Filed 7-17-78; 8:45 am]

[8010-01]

[Securities Investor Protection Act Release No. SIPC-71; File No. SIPC-78-2]

SECURITIES INVESTOR PROTECTION CORP.

Proposed Rule Change

Pursuant to section 3(e)(2)(A) of the Securities Investor Protection Act of 1970, 15 U.S.C. 78ccc(e)(2)(A), *as amended by* Pub. L. No. 95-283, 92 Stat. 249 (1978), notice is hereby given that on June 26, 1978, the Securities Investor Protection Corporation filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF PROPOSED RULE CHANGE

SERIES 200 RULES

Accounts Introduced By Other Brokers Or Dealers Rule 200—General:

A person having one or more accounts cleared by the member on a fully disclosed basis for one or more introducing brokers or dealers is a customer of the member and shall be protected with respect to such account or accounts without regard to the protection available for any other account or accounts he may have with the member.

Rule 201—Accounts Introduced by Same or Different Broker or Dealer:

All accounts of a person which are introduced by the same broker or dealer shall be combined and protected as the single account of a separate customer, unless such accounts are maintained in different capacities as specified in the Series 100 Rules; accounts introduced by different brokers or dealers shall be protected separately.

Statement Of Basis And Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to set forth standards under which securities accounts cleared on a fully disclosed basis by a debtor firm undergoing liquidation under the Securities Investor Protection Act of 1970, as amended, ("SIPA") will be protected separately from other accounts maintained by the same individual. The effect of this treatment is to entitle separately maintained accounts to the maximum protection under SIPA.

The proposed rule change relates to the protection of investors and is both necessary and appropriate for carrying out the purposes of SIPA in that regard, including meeting customers' reasonable expectations as to the degree of protection afforded to them.

No comments on the proposed rule change have been solicited or received.

On or before August 22, 1978, or within such longer period: (i) As the

Commission may designate up to 90 days such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which SIPC consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of SIPC, Suite 800, 900 17th Street NW., Washington, D.C.

All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 8, 1978.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

JULY 10, 1978.

[FR Doc. 78-19791 Filed 7-17-78; 8:45 am]

[8010-01]

[Securities Investor Protection Act Release No. SIPC-72; File No. SIPC-78-3]

SECURITIES INVESTOR PROTECTION CORP.

Proposed Rule Change

Pursuant to section 3(e)(2)(A) of the Securities Investor Protection Act of 1970, 15 U.S.C. 78ccc(e)(2)(A), as amended by Pub. L. No. 95-283, 92 Stat. 249 (1978), notice is hereby given that on June 26, 1978, the Securities Investor Protection Corporation filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change would govern the actions of a trustee of a debtor in liquidation under the Securities Investor Protection Act of 1970, as amended (SIPA), in regard to the close-out or completion of those "open contractual commitments," as defined in Rule 300(c), of the debtor in which a customer had an interest. The proposed rule change places certain limitations on what open contractual commitments of a debtor shall be eligible for completion or for payment of close-out differences. The proposed rule change generally requires the trustee to pay commitments of the debtor consisting of close-out losses suffered by another broker on contractual fails to receive and fails to deliver, as defined in rule 300 (a) and (b), open on the filing date, as defined in section 16(8) of SIPA, if such fails were promptly bought-in or sold-out by the other broker or dealer and certain reports are made to the trustee in accordance with the provisions of Rule 303.

To be current, a failed to receive or a failed to deliver, as defined in Rule 300 (a) and (b) must have a settlement date not more than 30 calendar days prior to or five business days subsequent to the filing date and have a related trade date not more than five business days prior to such settlement date.

The net money difference payable to the other broker or dealer in regard to the buy-in or sell-out of transactions is limited to $40,000 with regard to open contractual commitments for any separate customer account.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to set standards for the close-out or, in some instances, the completion of contracts for the purchase or sale of securities made by debtors in liquidation under the Securities Investor Protection Act of their business with other brokers or dealers.

Section 8(e) of the Act requires SIPC to adopt rules with respect to close-out of contracts.

On or before August 22, 1978, or within such longer period (i) as the Commission may designate up to 90 days after such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which SIPC consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the offices of SIPC, 900 17th Street NW., Washington, D.C.

All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 8, 1978.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

JULY 10, 1978.

[FR Doc. 78-19792 Filed 7-17-78; 8:45 am]

[4710-07]

DEPARTMENT OF STATE

[Public Notice CM-8/75]

ADVISORY COMMITTEE ON TRANSNATIONAL ENTERPRISES

Cancellation of Meeting

The Advisory Committee on Transnational Enterprises will be unable to meet in closed session as scheduled on July 20 to discuss the draft text of a proposed bilateral investment treaty. Notice of the meeting was published in the June 23 FEDERAL REGISTER.

If additional information is needed, contact Richard Kauzlarich, Office of Investment Affairs, Department of State, Washington, D.C. 20520. Mr. Kauzlarich can be reached by telephone on (area code 202) 632-2728.

Dated: July 6, 1978.

MICHAEL P. BOERNER,
Acting Executive Secretary.

[FR Doc. 78-19697 Filed 7-17-78; 8:45 am]

[4710-07]

[Public Notice CM-8/76]

STUDY GROUP 2 OF THE U.S. ORGANIZATION FOR THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Meeting

The Department of State announces that study group 2 of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on August 2, 1978, at 10:30 a.m. in room 1408, Department of State, 2201 C Street NW., Washington, D.C.

Study group 2 is responsible for considering U.S. Government and industry views, and preparing contributions as appropriate, for meetings of those international CCITT study groups examining nonregulatory aspects of telegraph and telephone operations.

The purpose of the meeting on August 2 will be to discuss six proposed U.S. contributions to CCITT study group XIV (facsimile equipment).

Members of the general public may attend the meeting and join in the discussion subject to instructions of the chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is therefore requested that prior to August 2, 1978, members of the general public who plan to attend the meeting inform Mr. Arthur L. Freeman, Office of International Communications Policy, Department of State, telephone 202-632-1007, of their intention. All non-Government attendees must use the C Street entrance to the building.

Dated: July 10, 1978.

RUTH H. PHILLIPS,
Director, Office of International Communications Policy.

[FR Doc. 78-19698 Filed 7-17-78; 8:45 am]

[4810-31]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 78-10; Reference: ATF O 1100.77A]

AUTHORITY TO AFFIX THE SEAL OF THE DEPARTMENT OF THE TREASURY

Delegation Order

1. *Purpose.* This order sets forth delegation of authority to affix the seal of the Department of the Treasury.

2. *Cancellation.* ATF O 1100.77, delegation order—authority to affix the seal of the Department of the Treasury (42 FR 13891), is canceled.

3. *Delegation.* a. Pursuant to the authority delegated to the Director, Bureau of Alcohol, Tobacco and Firearms by Treasury Department Order 107 (Revision 20), dated December 21, 1976 (41 FR 56739, December 29, 1976), those officials listed below are hereby redelegated authority to affix the seal of the Department of the Treasury in the authentication of originals and copies of books, records, papers, writings, and documents of the Bureau, for all purposes, including the purposes authorized by 28 U.S.C. 1733(b):

(1) Regional regulatory administrators.
(2) Regional administrative officers.
(3) Assistant Director (Technical and Scientific Services).
(4) Assistant Director (Administration).
(5) Chief, Technical Services Division.
(6) Chief, Information Management Division.
(7) Chief, Investigations Division.
(8) Chief, National Firearms Act Branch.

b. This authority may not be redelegated.

Effective date: This order becomes effective on June 21, 1978.

Signed: June 21, 1978.

JOHN G. KROGMAN,
Acting Director.

[FR Doc. 78-19850 Filed 7-17-78; 8:45 am]

[4810-31]

[Notice No. 78-11; Reference: ATF O 1100.91]

DELEGATION TO THE ASSISTANT DIRECTOR (REGULATORY ENFORCEMENT) OF AUTHORITIES OF THE DIRECTOR IN 27 CFR PART 211, DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM

Delegation Order

1. *Purpose.* This order delegates certain authorities, now vested in the Director by regulations in 27 CFR Part 211, to the Assistant Director (regulatory enforcement), and permits redelegation to regulatory enforcement personnel, headquarters and field.

2. *Background.* Under current regulations, the Director has authority to take final action on matters relating to denatured distilled spirits and the procurement, use, disposition, and recovery of denatured alcohol, specially denatured rum, and articles containing denatured spirits. It has been administratively determined that certain authorities now vested in the Director by regulations in 27 CFR Part 211, Distribution and Use of Denatured Alcohol and Rum, belong at and should be delegated to a lower organizational level.

3. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, there is hereby delegated to the Assistant Director (regulatory enforcement) the authority to take final action on the following matters relating to 27 CFR Part 211, Distribution and Use of Denatured Alcohol and Rum:

a. To prescribe all forms required by regulations, under 27 CFR 211.21.

b. To approve, pursuant to written applications:

(1) Alternate methods or procedures in lieu of methods or procedures specifically prescribed in regulations, under 27 CFR 211.22(a).

(2) Emergency variations from specified requirements in regulations for construction, equipment, and methods of operations, under 27 CFR 211.22(b).

c. To withdraw authorization of any alternate method or procedure or of any variation whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such authorization or variation, under 27 CFR 211.22.

d. To issue permits, pursuant to 27 CFR 211.231, to cover the use of specially denatured alcohol by the United States or a governmental agency, under 27 CFR 211.25.

e. To authorize other marks to be placed on the Government head or side of a package or container, under 27 CFR 211.142.

f. To approve applications and grant permits on ATF F 1486, Specially Denatured Spirits for Use of United States, for the procurement and withdrawal of specially denatured spirits for use by the United States or any governmental agency, and to receive evidence of authority to sign for the head of a department or independent bureau or agency, under 27 CFR 211.231.

g. To cancel permits issued on ATF F 1486, under 27 CFR 211.236.

h. To authorize the disposition of excess specially denatured spirits in the possession of a governmental agency, under 27 CFR 211.237.

i. To approve processes for reproducing records and the types of records to be reproduced, under 27 CFR 211.274.

j. To prescribe the format of ATF F 133 (5150.29), Manufacturing Record of Products Containing Specially Denatured Alcohol, which is provided by users at their own expense, under 27 CFR 211.275.

4. *Redelegation.* a. The authorities in paragraphs 3a and 3j above, may be redelegated to regulatory enforcement personnel in Bureau Headquarters not lower than the position of branch chief.

b. The authorities in paragraphs 3b through 3i above, may be redelegated to regulatory enforcement personnel in Bureau Headquarters not lower than the position of ATF specialist.

c. The authority in paragraph 3b(2) above to approve emergency variations and the authorities in paragraphs 3e and 3h above, may be redelegated to regional regulatory administrators, who may redelegate these authorities to regional regulatory enforcement personnel not lower than the position of chief, technical services, or area supervisor.

d. The authorities in paragraphs 3b(1) and 3i above may be redelegated to regional regulatory administrators to approve, without submission to headquarters, subsequent applications for alternate methods or procedures or processes and records which are identical to those previously approved by Bureau Headquarters. The authority in paragraph 3c above may be redelegated to regional regulatory administrators and, where an alternate method or procedure or variation is withdrawn, the regional regulatory administrator will notify the Assistant Director (regulatory enforcement) of such withdrawal. Regional regulatory

administrators may redelegate these authorities to regional regulatory enforcement personnel not lower than the position of chief, technical services, or area supervisor.

Effective date: This order becomes effective on July 11, 1978.

Signed: July 11, 1978.

JOHN G. KROGMAN,
Acting Director.

[FR Doc. 78-19856 Filed 7-17-78; 8:45 am]

[4810-22]

Office of the Secretary

AUDIBLE SIGNAL ALARMS FROM JAPAN

Antidumping; Determination of Sales at Not Less Than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Determination of sales at not less than fair value.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a determination that imports of audible signal alarms from Japan are not being, nor are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries.

EFFECTIVE DATE: July 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Steve Garment, Operations Officer, Duty Assessment Division, U.S. customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: Information was received on October 11, 1977, from counsel acting on behalf of the Delta Electric Division of Halle Industries, Inc., Marion, Ind., alleging that audible signal alarms from Japan were being sold in the United States at less than fair value, thereby causing injury to, or the likelihood of injury to, an industry in the United States, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of November 16, 1977 (42 FR 59343). A "Notice of Tentative Determination of Sales at Not Less Than Fair Value" was published in the FEDERAL REGISTER of May 22, 1978 (43 FR 21962). A statement of reasons was published in the above-mentioned notice and interested persons were afforded an opportunity to make written submissions and present oral views. None of the interested parties made written submissions or requested an opportunity to present oral views.

For purposes of this notice, the term "audible signal alarms" means electromechanical audible signal alarms having a signal of a least 85 decibels at 10 feet, and suitable for use as a component of smoke detectors.

DETERMINATION OF SALES AT NOT LESS THAN FAIR VALUE

On the basis of the information developed in Customs' investigation and for the reasons noted below, pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), I hereby determine that the purchase price of audible signal alarms from Japan is not less, nor is likely to be less, than the fair value of similar merchandise.

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above determination are as follows:

a. *Scope of the Investigation.* It appears that 81 percent of all units of the subject merchandise imported from Japan were manufactured by the Kobishi Electric Co., Ltd., therefore, the investigation was limited to this manufacturer.

b. *Basis of Comparison.* For purposes of determining whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between purchase price and the home market price of similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since 99 percent of all export sales were made to unrelated purchasers in the United States. Home market price, as defined in section 153.2, Customs Regulations (19 CFR 153.2), was used since similar merchandise was sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes.

In accordance with section 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning imports of audible signal alarms from Japan during the period July 1, 1977, through November 30, 1977.

c. *Purchase Price.* For the purposes of this determination, since virtually all merchandise was purchased, or agreed to be purchased, prior to the time of exportation by the persons by whom or for whose account it was imported, within the meaning of section 203 of the Act, purchase price has been calculated on the basis of f.o.b. port price to the United States, with deductions for export clearance charges, inland freight and shipping charges, as appropriate.

d. *Home Market Price.* For the purposes of this determination, the home market price was calculated on the basis of the weighted-average delivered price to the purchaser, with deductions for inland freight and interest charges. Additions were made for differences in merchandise and differences in packing, as appropriate.

The adjustment for differences in merchandise made pursuant to section 153.11 of the Customs Regulations (19 CFR 153.11) is based on differences in the cost of manufacturing gas buzzer signal alarms sold in the home market and the smoke detector signal alarms exported to the United States (since the latter are not sold in the home market). Such costs differences relate to direct labor and material costs; since no evidence has been presented with respect to direct factory overhead costs, no adjustments for such costs have been made.

Adjustments for packing expenses relate to the difference in those costs between home market packing and the packing for export models to the United States.

e. *Results of Fair Value Comparisons.* Using the above criteria, purchase price was found to be not less than the home market price of similar merchandise. Comparisons were made on approximately 100 percent of audible signal alarms from Japan sold to the United States by Kobishi during the period of investigation.

This determination and statement of reasons therefore are published pursuant to section 153.34(c), Customs Regulations (19 CFR 153.34(c)).

Dated: July 12, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc. 78-19769 Filed 7-17-78; 8:45 am]

[4810-22]

Office of the Secretary

CARBON STEEL WIRE ROD FROM FRANCE AND THE UNITED KINGDOM

Terminations of Antidumping Investigations

AGENCY: U.S. Treasury Department.

ACTION: Terminations of antidumping investigations.

SUMMARY: This notice is to advise the public that the antidumping investigations concerning carbon steel wire rod from France and the United Kingdom are being terminated. The terminations are based on the withdrawal of the original antidumping petitions, as

detailed in the body of this notice and appendices hereto.

EFFECTIVE DATE: July 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Linda F. Potts, Assistant to the Director, Office of Tariff Affairs, U.S. Treasury Department, 15th and Pennsylvania Avenue NW., Washington, D.C. 20220, 202-566-2951.

SUPPLEMENTARY INFORMATION: On September 12, 1977, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from Georgetown Steel Corp., and Georgetown Texas Steel Corp., divisions of Korf Industries, alleging that carbon steel wire rod from France 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.).

This information was the subject of an "antidumping proceeding notice" which was published in the FEDERAL REGISTER of October 19, 1977 (42 FR 55858). On November 11, 1977, similar information was received from Georgetown Steel Corp., and Georgetown Texas Steel Corp. alleging that carbon steel wire rod from the United Kingdom 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.). This information was the subject of an "antidumping proceeding notice" which was published in the FEDERAL REGISTER of December 22, 1977 (42 FR 64173).

Korf Industries submitted a letter dated July 11, 1978, indicating a willingness to withdraw its petitions if the Treasury agreed with certain understandings concerning Korf Industries' right to refile those petitions. On July 12, 1978, the Treasury Department confirmed these understandings in a letter and on that date Korf Industries submitted a letter formally withdrawing its petitions. These letters are reproduced as appendices to this notice.

Carbon steel wire rod is a product covered by the trigger price mechanism. In the Findings of the Department of the Treasury With Regard to the Coverage of Wire Rod, Wire and Wire Products Under the Trigger Price Mechanism, released April 13, 1978, Treasury, after considering whether carbon steel wire rod should continue to be covered, concluded that it should. Treasury has been monitoring and will continue carefully to monitor entries of carbon steel wire rod under the trigger price mechanism and to take appropriate action to ensure the effective enforcement of the Antidumping Act with respect to that product. In this connection, it should be noted, as indicated in the notice of proposed rulemaking regarding the special summary steel invoice (42 FR 65214), that Treasury views its authority to withhold appraisement retroactively in appropriate cases as an important tool for providing effective enforcement of the Antidumping Act.

Accordingly, I hereby conclude that based upon the withdrawal of the antidumping petitions and in view of the fact that carbon steel wire rod is subject to the "trigger price mechanism" administered by this Department, it is appropriate to terminate these investigations. These terminations are without prejudice to the filing of one or more subsequent antidumping petitions concerning the same products.

Dated: July 12, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

JULY 11, 1978.

DEAR MR. MUNDHEIM: On September 12, 1977, our Georgetown Steel and Georgetown Texas Steel divisions filed complaints with the U.S. Customs Service, Department of the Treasury, pursuant to the Antidumping Act of 1921, as amended, against certain French producers of carbon steel wire rod (the "French Antidumping Complaint"). On November 11, 1977, a similar complaint was filed in respect of British producers (the "British Antidumping Complaint").

Subsequent to the filing of the foregoing complaints, the Department of the Treasury established a mechanism pursuant to which listed steel products, including wire rod, might trigger a dumping investigation at the initiative of Treasury if it appeared that such products were entering the United States at prices which fall below an established "trigger price."

We understand that the system described above, commonly known as the "Trigger Price Mechanism" (or "TPM"), requires a substantial allocation of manpower and resources by the Treasury Department. We understand further that the continuation of antidumping complaints brought before the TPM became effective could adversely affect the administration of the TPM. We believe that rigorous and systematic enforcement of the Antidumping Act by Treasury pursuant to the TPM can be a desirable and efficient method of assuring that imported steel products will be sold in the United States at fair value.

In support of the TPM program, we will withdraw the French Antidumping Complaint and the British Antidumping Complaint, based on your acceptance and acknowledgment of the following:

(a) Withdrawal of the foregoing complaints will be without prejudice to reinstitution of the French Antidumping Complaint and/or the British Antidumping Complaint.

(b) Treasury will retain its files in respect of the French Antidumping Complaint and the British Antidumping Complaint for at least 5 years from the date on which the complaints were withdrawn. In the event either of the antidumping complaints are refiled, relevant evidence heretofore submitted or developed in connection with these complaints will be used. Treasury will expeditiously conclude its disposition of the complaints, utilizing all the relevant information contained in its files, including information obtained in updating and implementing the trigger price mechanism.

Upon receipt of your acceptance and acknowledgment of the foregoing understandings, we will provide you with written confirmation of the withdrawal of our complaints.

Very truly yours,

SCOTT R. LOWDEN,
Vice President and General Counsel, Korf Industries, Inc.

CHARLES OWEN VERRILL, JR.,
Patton, Boggs & Blow, Counsel for Korf Industries, Inc.

JULY 12, 1978.

DEAR MR. LOWDEN: Thank you for your letter of July 11, 1978, in which you indicate that based on certain understandings, Korf Industries would withdraw its antidumping petitions relating to steel wire rod imported from France and the United Kingdom.

I want to confirm to you that Korf Industries' withdrawal of its petition will be without prejudice to its right to refile antidumping petitions against French and British wire rod at any time in the future. Moreover, I want to confirm that if Korf Industries should refile an antidumping petition against British or French steel wire rod, relevant evidence submitted or developed in connection with Dorf's previous complaints will be used. As you may know, Treasury normally maintains its files for more than 5 years and would make no exception to that practice in this case. Finally, Treasury will expeditiously conclude its disposition of any refiled complaints on these products, utilizing all the relevant information contained in its files, including information obtained in updating and implementing the trigger price mechanism.

Please be assured that the Treasury Department will continue carefully to monitor wire rod under the trigger price mechanism and will take appropriate action to ensure the effective enforcement of the Antidumping Act with respect to that product.

We will act on your withdrawal as soon as you give me formal notification that Korf Industries is withdrawing its antidumping petitions on French and British wire rod.

Sincerely,

ROBERT H. MUNDHEIM.
SCOTT R. LOWDEN,
Vice President and General Counsel, Korf Industries, Inc.

JULY 12, 1978.

DEAR MR. MUNDHEIM: Thank you for your letter of July 12, 1978, in which you confirmed the understandings set forth in our letter of July 11, 1978.

This will constitute our official notification to you that Georgetown Steel Corp. and Georgetown Texas Steel Corp. hereby withdraw their antidumping complaints against certain French and British producers of carbon steel wire rod which were filed with the Treasury Department on Septem-

ber 12, 1977, and November 11, 1977, respectively.

Yours very truly,

SCOTT R. LOWDEN,
Vice President and General Counsel, Korf Industries, Inc.

CHARLES OWEN VERRILL, Jr.,
Patton, Boggs & Blow, Counsel for Korf Industries, Inc.

[FR Doc. 78-19720 Filed 7-17-78; 8:45 am]

[4810-10]

Office of the Secretary

[Public Debt Series—No. 16-78]

SERIES R-1980

Treasury Notes of July 31, 1980

JULY 13, 1978.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $3,250,000,000 of U.S. securities, designated Treasury Notes of July 31, 1980, Series R-1980 (CUSIP No. 912827 HW 5). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated July 31, 1978, and will bear interest from that date, payable on a semiannual basis on January 31, 1979, and each subsequent 6 months on July 31 and January 31, until the principal becomes payable. They will mature July 31, 1980, and will not be subject to call for redemption prior to maturity.

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

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

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

2.5. The Department of the Treasury's general regulations governing U.S. securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., e.d.t., Thursday, July 20, 1978. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, July 19, 1978.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; federally insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a one-eighth of 1 percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per 100, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Monday, July 31, 1978, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing U.S. securities; or by check drawn to the order of the institution to which the tender was submitted, which must be recieved at such institution no later than: (a) Thursday, July 27, 1978, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or (b) Wednesday, July 26, 1978, if the check is drawn on a bank in another Federal Reserve District. Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

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

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

ROBERT CARSWELL,
Acting Secretary of the Treasury.

[FR Doc. 78-19762 Filed 7-17-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 679]

ASSIGNMENT OF HEARINGS

JULY 13, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 3062 (Sub-41), Inman Freight System, Inc., now being assigned October 30, 1978 (9 days), at Paducah, Ky., in a hearing room to be later designated.

MC 116004 (Sub-45), Texas Oklahoma Express, Inc., now being assigned October 11, 1978, at Dallas, Tex. (8 days), in a hearing room to be later designated.

MC 120181 (Sub-8), Main Line Hauling Co., Inc., now being assigned September 12, 1978, at Jefferson City, Mo. (2 days) in a hearing room to be later designated.

MC 144009, Allstates Transworld Van Lines, Inc., is now assigned for hearing October 2, 1978 (1 week), at St. Louis, Mo., at a location to be later designated, and will continue October 23, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.; and on December 4, 1978 (2 weeks), at Los Angeles, Calif., at a location to be later designated.

MC 82007 (Sub-8F), Samuel Cooper Gregg, is now assigned for hearing October 3, 1978 (3 days), at Wilmington, Del., at a location to be later designated.

MC 143874, Columbiana County Motor Club, Inc., is now assigned for hearing October 11, 1978 (3 days), at Columbus, Ohio, at a location to be later designated.

MC 111422 (Sub-9), O. D. Anderson, Inc., is now assigned for hearing October 16, 1978 (1 week), at Pittsburgh, Pa., at a location to be later designated.

MC 36944, *Iowa Power & Light Co.* v. *Burlington Northern, Inc.*, now being assigned prehearing conference August 16, 1978, at Washington, D.C., at the office of the Interstate Commerce Commission.

MC-F-12895, Central Transport, Inc.—Purchase (Portion)—Associated Transport, Inc.; MC-F-12909, Duff Truck Line, Inc.—Purchase (Portion)—Associated Transport, Inc., Thomas J. Cahill, trustee in bankruptcy; MC 14314 (Sub-24), Duff Truck Line, Inc.; MC-F-12912, United Trucking service, Inc.—Purchase (Portion)—Associated Transport, Inc., Thomas J. Cahill, trustee in bankruptcy and MC 70151 (Sub-50), United Trucking Service, Inc., now assigned for continued hearings August 7, 1978, at Cleveland, Ohio, will be held in room 1455, Federal Office Building, 1240 East Ninth Street and August 14, 1978 at Dayton, Ohio, will be held in

courtroom 2, 9th floor, Federal Building and Courthouse, 200 West Second Street.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-19836 Filed 7-17-78; 8:45 am]

[7035-01]

[Docket No. AB-11]

CHICAGO & EASTERN ILLINOIS RAILROAD CO. ABANDONMENT BETWEEN JOPPA JUNCTION AND FAYVILLE JUNCTION, ILL.[1]

Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision entered March 24, 1978, a finding, which is administratively final, was made by the Commission, Division 1, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 354 I.C.C. 584 (1978), the present and future public convenience and necessity permit the abandonment by the Missouri Pacific Railroad Co. (successor-in-interest to Chicago & Eastern Illinois Railroad) of its line between Joppa Junction and Fayville Junction, Ill.

A certificate of abandonment will not be issued to the Missouri Pacific Railroad Co. based on the above-described finding of abandonment until final determination of the proceeding by the U.S. Court of Appeals. During the interim, however, the procedures specified in section 1a (6) and (7) of the Act will otherwise be followed. Thus, the Commission will be in a position to issue a certificate of abandonment, August 17, 1978, unless on or before August 17, 1978, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment), to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would: (a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or (b) cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect.

However as previously indicated no such certificate will be issued until the pending court proceeding has been finally resolved. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-19843 Filed 7-17-78; 8:45 am]

[7035-01]

Office of Proceedings

[Decisions Volume No. 10]

DECISION-NOTICE

Decided: July 3, 1978.

The following applications are governed by Special Rule 247 of the Commission's Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rule of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority. Also, where authority has been sought within a single State, authority to provide such service has been deleted where there has been no showing that such service would be other than intrastate in nature.

We find preliminarily that, with the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) to authorization, each applicant has demonstrated that its proposed service should be authorized. This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

It is ordered: In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

By the Commission, Review Board Number 1, Members Carleton, Joyce,

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[1] This proceeding is pending review in the U.S. Court of Appeals for the Seventh Circuit, entitled *People of the State of Illinois* v. *United States of America and Interstate Commerce Commission*, No. 78-1710.

and Jones (Review Board Member Jones not participating).

NANCY L. WILSON,
Acting Secretary.

MC 2900 (Sub-333F), filed May 19, 1978. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: John C. Bradley, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. Authority granted as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Wichita, KS, as an off-route point in connection with the carriers presently authorized regular-route operations, for the purpose of interlining shipments or interchanging equipment only with Pacific Intermountain Express Co. (Hearing site: Washington, D.C.)

MC 2900 (Sub-334F), filed May 22, 1978. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and thoses requiring special equipment), serving the facilities of the Tennessee Valley Authority, Yellow Creek Nuclear Plant, at or near Iuka, MS, as an off-route point in connection with carrier's presently authorized regular-route operations. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 8600 (Sub-37), filed May 19, 1978. Applicant: WERNER CONTINENTAL, INC., 2500 West County Road, C, Roseville, MN 55113. Representative: John E. Fullerton, 407 North Front Street, Harrisburg, PA 17101. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Jones & Laughlin Steel Corp., at Aliquippa and Pittsburgh, PA, to points in AR, IN, KY, MO, and TN, restricted to the transportation of traffic originating at the named origin. (Hearing site: Washington, DC.)

MC 11207 (Sub-433F), filed May 30, 1978. Applicant: DEATON, INC., 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Representative: Kin D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, (except commodities in bulk), between Natchez, MS, on the one hand, and, on the other, points in TX. (Hearing site: Jackson, MS or Birmingham, AL.)

MC 13087 (Sub-45F), filed May 30, 1978. Applicant: STOCKBERGER TRANSFER & STORAGE, INC., 524 Second Street SW., Mason City, IA 50401. Representative: William H. Fairbanks, 1980 Financial Center, Des Moines, IA 50309. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tree and weed killing compounds*, (except in bulk), from Clinton and Mason City, IA, to points in MN. (Hearing site: St. Paul, MN or Chicago, IL.)

MC 25869 (Sub-140F), filed May 30, 1978. Applicant: NOLTE BROS. TRUCK LINE, INC., P.O. Box 7184, South Omaha Station, Omaha, NE 68107. Representative: Donald L. Stern, Suite 530, Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale, retail, or chain business houses, (except commodities in bulk, in tank vehicles), from Chicago, IL, to points in CO and NE. (Hearing site: Kansas City, MO or Omaha, NE.)

MC 25869 (Sub-141F), filed May 30, 1978. Applicant: NOLTE BROS. TRUCK LINE, INC., P.O. Box 7184, South Omaha Station, Omaha, NE 68107. Representative: Donald L. Stern, Suite 530, Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wall and floor tile*, and (2) *materials and supplies* used in the installation of tile, (except commodities in bulk, in tank vehicles), from Chicago, IL, to points in CO, IA, and NE. (Hearing site: Chicago, IL or Omaha, NE.)

MC 25869 (Sub-142F), filed June 5, 1978. Applicant: NOLTE BROS. TRUCK LINE, INC., P.O. Box 7184, South Omaha Station, Omaha, NE 68107. Representative: Donald L. Stern, Suite 530, Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by grocery and food business houses (except commodities in bulk, in tank vehicles), from Chicago, IL, to points in CO; and (2) *confectionery, gumball machines and stands*, and *display stands*, (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of Leaf Confectionery at Chicago, IL, to points in CO, IA, MO, NE, UT, and WY. (Hearing site: Chicago, IL.)

MC 52704 (Sub-172F), filed May 26, 1978. Applicant: GLENN McCLENDON TRUCKING CO., INC., P.O. Drawer H, LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Containers, container components and closures* for containers, (except commodities in bulk), from the facilities of Sonoco Products Co., at or near Alpha, OH, Charleston, SC, Chicago, IL, Hanover, PA, Henderson, KY, Henderson, TN, Houston, TX, Philadelphia, PA, and St. Louis, MO, to points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, TX, and VA; and (2) *Materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), in the reverse direction. (Hearing site: Atlanta, GA.)

MC 59150 (Sub-130F), filed May 19, 1978. Applicant: PLOOF TRUCK LINES, INC., P.O. Box 3277, Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cast iron pipe*, (2) *fittings, valves, hydrants, and castings* for cast iron pipe, and (3) *accessories and parts* for the commodities in (1) and (2) above, from the facilities of the United States Pipe and Foundry Co., at Bessemer and North Birmingham, AL, to points in FL, GA, NC, SC, and TN. (Hearing site: Birmingham, AL.)

MC 59640 (Sub-64F), filed May 15, 1978. Applicant: PAULS TRUCKING CORP., Three Commerce Drive, Cranford, NJ 07106. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by supermarket, catalogue showroom stores, and homes center stores, and *equipment, materials, and supplies* used in the conduct of such businesses (except commodities in bulk), between Baltimore, MD, White Plains, NY, North Berwick, ME, and points in NJ, on the one hand, and, on the other, points in FL, IN, KY, NC, OH, RI, SC, TN, and VA, under a continuing contract, or contracts, with Supermarkets General Corporation, of Woodbridge, NJ. (Hearing site: New York, NY.)

MC 66140 (Sub-6F), filed May 24, 1978. Applicant: FYOCK MOTOR LINES, INC., 3040 Waterview Avenue,

Baltimore, MD 21230. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar* (except liquid sugar), from Baltimore, MD, to points in OH, MI, IN, IL, and KY. (Hearing site: Washington, DC or Baltimore, MD.)

MC 75320 (Sub-196F), filed April 24, 1978 Applicant: CAMBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Representative: John A. Crawford, 1700 Deposit Guaranty Plasa, P.O. Box 22567, Jackson, MS 39205. Authority granted to operate as a *Common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Houston, TX, and Hammond, LA, from Houston over U.S. Hwy 90 to junction TX Hwy 12, then over TX Hwy 12 to junction LA Hwy 12, then over LA Hwy 12, to Ragley, LA, then over U.S. Hwy 190 to Hammod, LA, and return over the same route, serving no intermediate points and serving Hammond and Baton Rouge, LA, for purposes of joinder only, restricted against the transportation of traffic originating at, destined to, or interlined with connecting carriers at points in LA. (Hearing site: Houston, TX or Jackson, MS.)

MC 80430 (Sub-168F), filed May 12, 1978. Applicant: GATEWAY TRANSPORTATION CO. INC., 455 Park Plaza Drive, La Crosse, WI 54601. Representative: John C. Bradley, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. Authority granted to operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual valus, classes A and B Explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Jacuzzi Bros., Inc., at or near Lonoke, AR, as an off-route point in connection with applicant's presently authorized regular route operations. (Hearing site: Washington, DC or Little Rock, AR.)

NOTE.—The carrier must satisfy the Commission that its common control possibilities are either approved by the Commission or do not require Commission approval.

MC 83539 (Sub-498F), filed June 5, 1978. Applicant: C. & H. TRANSPORTATION CO., INC., P.O. Box 270535, Dallas, TX 75227. Representative: Thomas E. James (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Molded rubber and plastic products*, from points in Dallas County, TX, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above, in the reverse direction restricted in (1) and (2) above to the transportation of shipments originating at or destined to the facilities of ENTEK Corporation of America, in Dallas County, TX.

MC 94350 (Sub-408F), filed May 15, 1978. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, SC 19602. Representative: Mitchell King, Jr. (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *buildings in sections, mounted on wheeled undercarriages*, from points in Marion County, FL, to those points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary Line between the United States and Canada (except FL). (Hearing site: Atlanta, GA.) Condition: The certificate to be issued herein shall be limited in point of time to a period expiring 3 years from its date of issue, unless, prior to its expiration (but not less than 2.5 years or more than 2.75 years prior to the expiration) applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable rules and regulations.

MC 103d798 (Sub-16F), filed May 26, 1978. Applicant: MARTEN TRANSPORT, LTD., Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *inedible tallow*, from Whitehall, WI, to Hammond, IN, and Morris, IL. (Hearing site: St Paul, MN.)

NOTE.—The carrier must satisfy the Commission that its operations will not result in objectionable dual operations because of its authority under MC 139853.

MC 106400 (Sub-113F), filed May 25, 1978. Applicant: KAW TRANSPORT CO., a corporation, P.O. Box 12628, North Kansas City, MO 64116. Representative: James C. Swearengen, P.O. Box 456, Jefferson City, MO 65102. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude oil*, in bulk, in tank vehicles, from points in Richardson County, NE, to points in Johnson and Wyandotte Counties, KS. (Hearing site: Kansas City, MO.)

MC 109326 (Sub-113F), filed June 7, 1978. Applicant: C & D TRANSPORTATION CO., INC., P.O. Box 10506, New Orleans, LA 70121. Representative: Robert E. Keene (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of Chef Pierre, Inc., at or near Forest, MS, to points in AL, AR, FL, GA, KS, KY, LA, MO, NC, OK, SC, TN, and TX. (Hearing site: New Orleans, LA, or Washington, DC.)

MC 109633 (Sub-35F), filed May 24, 1978. Applicant: ARBET TRUCK LINES, INC., 222 East 135th Place, Chicago, IL 60627. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *cereals*, from Battle Creek, MI, to Lancaster, OH, Davenport and Clinton, IA. (Hearing site: Chicago, IL.)

MC 111231 (Sub-235F), filed May 3, 1978. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Ft. Smith, AR 72902. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Roofing* and *roofing materials* (except commodities in bulk), from Memphis, TN, to points in OK, AR, KS, IL, MO, IN, OH, KY, and IA, restricted to the transportation of traffic originating at the named origin. (Hearing site: Washington, DC.)

MC 111729 (Sub-739F), filed June 5, 1978. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Elizabeth L. Henoch (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Laboratory supplies* and *business records*, between Birmingham, AL, on the one hand, and, on the other, points in LA. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved in these proceedings.

MC 113362 (Sub-332F), filed May 25, 1978. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, 1105½ Eighth Avenue NE., P.O. Box 429, Austin, MN 55912. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture, furniture parts, and materials, equipment and supplies*, used in the manufacture

of furniture, from Archbold, and Stryker, OH, to points in AL, AR, CO, CT, DE, GA, IA, KS, KY, LA, ME, MD, MA, MS, MO, NE, NH, NJ, NY, NC, OK, PA, RI, SC, TN, VT, VA, WV, and DC. (Hearing site: Washington, DC.)

MC 113855 (Sub-429F), filed June 1, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SG., Rochester, MN 55901. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58102. Authority granted to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment*, and (2) *attachments* and *parts* for material handling equipment, from New Bremen, OH, to points in the United States (including AK but excluding HI). (Hearing site: Chicago, IL.)

MC 114273 (Sub-371F), filed May 15, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Authority granted to operater as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from Worcester, MA, to New Ulm, MN; (2) *toilet preparations and cleaning compounds*, from Holyoke, MA, to Chicago, IL; and (3) *hand tools, drapery hardware, door operating equipment, and box and steel strappings*, from Farmington, New Britain, and Wallingford, CT, to points in CO, IL, IA, KS, MN, MO, and NE. (Hearing site: Chicago, IL, or Washington, DC.) Condition: In view of the findings in MC 114273 (Subs-147 and 252), of which official notice is taken, the certificate to be issued herein shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to the expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable rules and regulations.

MC 114273 (Sub-380F), filed May 19, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Medicines*, from West Caldwell, NJ, to Niles, IL. (Hearing site: Chicago, IL, or Washington, DC.) Condition: In view of the findings in MC 114273 (Subs-147 and 252), of which official notice is taken, the certificate to be issued herein shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable rules and regulations.

NOTE.—Applicant states the purpose of this filing is to substitute single-line service for existing joint-line service.

MC 114273 (Sub-390F), filed May 23, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *China and Cast Iron Plumbingware*, from Ford City, PA, and Salem, OH, to points in MO, KS, and IA. (Hearing site: Chicago, IL, or Washington, DC.) Condition: In view of the findings in MC 114273 (Subs-147 and 252), of which official notice is taken, the certificate to be issued herein shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable rules and regulations.

MC 114273 (Sub-391F), Filed May 23, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rubber and rubber products*, from Findlay, OH, to Davenport, Iowa City, Pella, Oelwein, and Waverly, IA. (Hearing site: Chicago, IL, or Washington, DC.) Condition: In view of the findings in MC 114273 (Subs-147 and 252), of which official notice is taken, the certificate to be issued herein shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to the expiration) applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable rules and regulations.

NOTE.—Applicant states the purpose of this filing is to substitute single-line service for existing joint-line service.

MC 114896 (Sub-66F), filed June 6, 1978. Applicant: PUROLATOR SECURITY, INC., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Elizabeth L. Henoch (same address as applicant). Authority granted to operate as a *contact carrier*, by motor vehicle, over irregular routes, transporting: *Currency*, from Baltimore, MD, to New York, NY, under a continuing contract, or contracts, with I.C., INC., of Towson, MD. (Hearing site: Washington, DC.)

NOTE.—The carrier must satisfy the Commission that its common control possibilities are either approved by the Commission or do not required Commission approval.

Dual operations may be involved in these proceedings.

MC 114969 (Sub-79F), filed June 2, 1978. Applicant: PROPANE TRANSPORT, INC., P.O. Box 232, Milford, OH 45150. Representative: James R. Stiverson, 1396 West Fifth Avenue, Columbus, OH 43212. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from Milford, IN, to points in IL, IN, MI, and OH. (Hearing site: Washington, DC or Columbus, OH.)

NOTE.—Certificate shall be limited, in point of time, to a period expiring 5 years from the date of issuance of the Certificate.

MC 115162 (Sub-417F), filed May 30, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in containers, from Port Arthur, TX, to Charleston, SC. (Hearing site: Atlanta, GA or Charleston, SC.)

MC 115215 (Sub-29F), filed May 25, 1978. Applicant: NEW TRUCK LINES, INC., P.O. Box 639, Perry, FL 32347. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber handling machinery, dry kiln outfits*, and (2) *materials and supplies* used in the installation of the commodities in (1) above, from Jacksonville, FL, to points in FL, GA, NC, SC, and TN. (Hearing site: Jacksonville or Tallahassee, FL.)

MC 115826 (Sub-317F), filed June 1, 1978. Applicant: W. J. DIGSBY, INC., 1960 31st Street, Denver, CO 80217. Representative: Howard Gore (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat-packing houses* as defined in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Wilson Foods Corp., at or near Marshall, MO, to points in CA, restricted to the transportation of shipments originating at the named origin and destined to the indicated destinations. (Hearing site: Dallas, TX or Kansas City, MO.)

MC 115826 (Sub-319F), filed June 5, 1978. Applicant: W. J. DIGBY, INC., 1960 31st Street, Denver, CO 80217.

Representative: Howard Gore (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and chemical products* (except commodities in bulk, in tank vehicles), from points in CA, to points in CO. (Hearing site: Denver, CO.)

MC 115931 (Sub-63F), filed May 8, 1978. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe* and (2) *materials, equipment, and supplies* used in the installation of plastic pipe from Janesville, WI, to points in IL, IN, IA, MI, MN, MO, ND, OH, and SD. (Hearing site: Chicago, IL or Minneapolis, MN.)

MC 117786 (Sub-21F), filed June 6, 1978. Applicant: RILEY WHITTLE, INC., Box 19038, Phoenix, AZ 85005. Representative: A. Michael Bernstein, 1441 East Thomas Road, Phoenix, AZ 85014. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *pet foods, cereals, and bakery goods, and commodities* used in the manufacture and distribution of pet foods, cereals, and bakery goods, from the facilities of Ralston Purina Company, at Flagstaff, AZ, to the facilities of Ralston Purina Co., at Sparks, NV. (Hearing site: Phoenix, AZ.)

MC 119443 (Sub-39F), filed May 24, 1978. Applicant: P. E. KRAMME, INC., Main Street, Monroeville, NJ 08343. Representative: James W. Patterson, 1200 Wester Savings Bank Building, Philadelphia, PA 19107. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chocolate, Chocolate Liquor, Chocolate products, Confectionery products and Cocoa Butter*, in bulk, in tank vehicles equipped with in-transit heating devices, from New York, NY, and Lititz and Philadelphia, PA, to points in CT, ME, MA, NH, RI, and VT. (Hearing site: Philadelphia, PA).

MC 119726 (Sub-133F), filed June 2, 1978. Applicant: N. A. B. TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, 130 East Washington Street, Suite 1000, Indianapolis, IN 46204. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, between points in Duval County, FL, on the one hand, and, on the other, Fitzgerald and Griffin, GA. (Hearing site: Atlanta, GA or Jacksonville, FL.)

MC 119789 (Sub-476F), filed June 5, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC. P.O. Box 226188, Dallas, TX 75266. Representative: Lewis Coffey (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, composition board*, and *hardboard*, from Jacksonville, FL, to those points in the United States in and east of MN, IA, NE, KS, OK, and TX. (Hearing Site: Jacksonville, FL.)

MC 119894 (Sub-6F), filed May 24, 1978. Applicant: BOWARD TRUCK LINES, INC., 104 Azar Building, Glen Burnie, MD 21061. Representative: M. Bruce Morgan (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* and *paper products, wood pulp*, and *activated carbon* (except commodities in bulk), from the facilities of Westvaco, at or near Covington, VA, to Buena Vista, VA. Tacking is authorized at Buena Vista, VA, with carrier's authority in MC 119894 issued February 5, 1971, to provided a through service to points in NC. (Hearing site: Covington, VA.)

MC 120618 (Sub-13F), filed May 30, 1978. Applicant: SCHALLER TRUCKING CORP., 5700 West Minnesota Street, Indianapolis, IN 46241. Representative: William C. Pate, 5700 West Minnesota Street, Indianapolis, IN 46241. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum extrusions, aluminum pipe, aluminum scrap, and flux*, from the facilities of the Aluminum Company of America, at or near Lafayette, IN, to points in CT, GA, IL, KY, MA, MI, MO, NH, NJ, OH, PA, TN, TX, and VA. (Hearing site: Indianapolis, IN or Terre Haute, IN.)

MC 123156 (Sub-5F), filed June 7, 1978. Applicant: RAND'S TRANSPORT, INC., 11 North Hammonds Ferry Road, Linthicum, MD 21090. Representative: Walter T. Evans, 7401 Wisconsin Avenue, Washington, DC 20014. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk (except asphalt, asphalt products, and petrochemicals), from Baltimore, MD, to points in Adams, Dauphin, Franklin, Huntingdon, Lebanon, Mifflin, and York Counties, PA (except Chambersburg, Gettysburg, Harrisburg, Huntingdon, Lebanon, Lewistown, and York), under a continuing contract, or contracts, with Amerada Hess Corp., of Woodbridge, NJ, Royal Oil Corp., of Baltimore, MD, and Waller Petroleum Co., Inc., of Towson, MD. (Hearing site: Baltimore, MD.)

MC 123157 (Sub-42F), filed May 30, 1978. Applicant: CTI, a corporation, P.O. Box 397, Rillito, AZ 85246. Representative: A. Michael Bernstein, 1441 East Thomas Road, Phoenix, AZ 85014. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, from Hurley, NM, to points in AZ. (Hearing site: Phoenix, AZ.)

MC 124078 (Sub-812F), filed May 29, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry anhydrous sodium sulphate*, in bulk, in tank vehicles, from Kings Mountain, NC, to points in the United States in and east of WI, IL, KY, TN, and MS (except NC). (Hearing site: New York, NY.)

MC 124078 (Sub-813F), filed May 26, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible lemon extract* in bulk, in tank vehicles, from points in Hillsborough, Lake, Manatee, Orange Pasco, and Polk Counties, FL, to Brunswick, GA. (Hearing site: Atlanta, GA.)

MC 124078 (Sub-814F), filed May 26, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, WI 53201. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53215. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Magnetite*, from the facilities of Reiss Viking Corp., at or near Tazewell, VA, to points in AL, IL, OH, PA, and WV; and (2) *iron ore dust compound*, from the facilities of Reiss Viking Corp., at or near Monongah, WV, to points in IL. (Hearing site: Chicago, IL.)

MC 124078 (Sub-815F), filed May 25, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, from Lima, OH, to points in IA, MD, MO, NJ, NY, NC, VA, WV, and DC. (Hearing site: Cleveland, OH.)

MC 124117 (Sub-18F), filed May 5, 1978. Applicant: EARL FREEMAN and MARIE FREEMAN, a partnership, d.b.a. MID-TENN EXPRESS, P.O. Box 101, Eagleville, TN 37060. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, between the facilities of Midland Glass Co., Inc., at or near Terre Haute, IN, on the one hand, and, on the other, points in IL, KY, MI, OH, WI, those in Alamance, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Guilford, Orange, Person, Randolph, Rockingham, Stokes, Surry, and Yadkin Counties, NC, and those in Bedford, Campbell, Carroll, Floyd, Franklin, Halifax, Henry, Montgomery, Patrick, Pittsylvania, Pulaski, and Roanoke Counties, VA. (Hearing site: Terre Haute, IN or New York, NY.)

MC 124141 (Sub-3F), filed May 10, 1978. Applicant: JULIAN MARTIN, INC., Highway 25 West, P.O. Box 3348, Batesville, AR 72501. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk) in vehicles equipped with mechanical refrigeration, from the facilities of Kraft Inc., at Dunkirk, NY, and Erie, PA, to the facilities of Kraft Inc., at Atlanta, GA, and Dallas, TX. (Hearing site: Chicago, IL.)

NOTE.—The carrier must satisfy the Commission that its operations will not result in objectionable dual operations because of its authority under MC 140717.

MC 124236 (Sub-89F), filed June 7, 1978. Applicant: CHEMICAL EXPRESS CARRIERS, INC., 1200 Simons Building, Dallas, TX 75201. Representative: Sam Hallman, 4555 First National Bank Building, Dallas, TX 75202. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Barite*, in bulk, from National, AR, to points in OK. (Hearing site: Dallas, TX.)

NOTE.—The carrier must satisfy the Commission that its common control possibilities are either approved by the Commission or do not require Commission approval.

MC 125335 (Sub-18F), filed May 31, 1978. Applicant: GOOD-WAY, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the facilities of Commercial Distribution Center, at or near Kansas City, MO, to points in AL, FL, GA, NC, SC, and TN. (Hearing site: Independence, MO, or Harrisburg, PA.)

NOTE.—The carrier must satisfy the Commission that its common control possibilities are either approved by the Commission and consummated, or do not require Commission approval.

MC 125335 (Sub-19F), filed May 31, 1978. Applicant: GOOD-WAY, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from Napoleon, OH, to points in NY, PA, WV, NJ, IN, MI, and IL, restricted to the transportation of traffic originating at the facilities of Campbell Soup Co., at or near Napoleon, OH, and destined to the indicated destinations. (Hearing site: Toledo, OH, or Harrisburg, PA.)

NOTE.—The carrier must satisfy the Commission that its common control possibilities are either approved by the Commission and consummated, or do not require Commission approval.

MC 125335 (Sub-20F), filed June 1, 1978. Applicant: GOOD-WAY, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by wholesale and retail discount stores*, (except commodities in bulk), from points in Broome and Chemung Counties, NY, and those in Lackawanna, Lehigh, Luzerne, Northampton, and Wayne Counties, PA, to Chicago, Decatur, East Moline, and Morton IL, Detroit, MI, St. Louis, MO, and Dallas and Houston, TX, restricted to the transportation of shipments originating at the named origins and destined to the indicated destinations. (Hearing site: Scranton or Harrisburg, PA.)

NOTE.—The carrier must satisfy the Commission that its common control possibilities are either approved by the Commission and consumated, or do not require Commission approval.

MC 125777 (Sub-222F), filed May 30, 1978. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, IN 46403. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys*, in dump vehicles, from Baltimore, MD, to points in CT, MA, NJ, NY, OH, PA, and WV. (Hearing site: New York, NY, or Washington, DC.)

MC 125996 (Sub-61F), filed June 7, 1978. Applicant: ROAD RUNNER TRUCKING, INC., 13080 Renfro Circle, P.O. Box 37491, Omaha, NE 68137. Representative: Floyd F. Knutson, (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by grocery and food business houses*, (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, (1) from the facilities of Kraft, Inc., at or near Pocatello, ID, to points in WA, OR, CA, NV, UT, AZ, ND, NE, KS, MO, IA, MN, WI, SD, and IL, and (2) from points in WA, CA, MT, UT, AZ, ND, SD, NE, KS, MO, MN, WI, and IL, to the facilites of Kraft, Inc, at or near Pocatello, ID, restricted to the transportation of shipments originating at the named origin and destined to the indicated destinations. (Hearing site: Boise, ID, or Salt Lake City, UT.)

MC 126706 (Sub-6F), filed June 7, 1978. Applicant: KLEYSEN TRANSPORT, LTD., 2100 McGillivary Boulevard., Winnipeg, MB, Canada R3T 3N5. Representative: Gene P. Johnson, P.O. Box 2471, Pargo, ND 58102. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboards, and materials and supplies* used in the installation of gypsum wallboards, from ports of entry on the International Boundary Line between the United States and Canada, at points in MN and ND, to points in MN, ND, SD, and WI, restricted to the transportation of shipments having an immediately prior movement in foreign commerce and originating at Winnipeg, MB, Canada, under a continuing contract, or contracts, with Westroc Industries, Ltd., of Winnipeg, MB, Canada, and Domtar, Inc., of Winnipeg, MB, Canada. (Hearing site: Fargo, ND, or Minneapolis-St. Paul, MN.)

CONDITION.—Prior receipt from applicant of an affidavit setting forth its appropriate complementary authority or explaining why no such Canadian authority is necessary.

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from Points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should by modified, and is in communication with appropriate officials of the Provinces of Alberta, Saskatchewan, and Manitoba regarding this issue. If the policy statement is change, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions of conditions which were imposed pursuant to

the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 133119 (Sub-134F), filed June 2, 1978. Applicant: HEYL TRUCK LINES, INC., P.O. Box 206, Akron, IA 51001. Representative: A. J. Swanson, P.O. Box 81849, Lincoln, NE 68501. Authority granted to operate as a *common carrier,* by motore vehicle, over irregular routes, transporting: *frozen meat, meat products, meat by product, and articles distributed by meat packinghouses,* From points in IA, KS, NE, MO, MN, and those in SD east of the Missouri River, to Gulfport, MS, and New Orleans, LA. (Hearing site: Omaha, NE, or Dallas, TX.)

MC 133591 (Sub-41F), filed May 10, 1978. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, 58 South Main Street, Winchester, KY 40391. Authority granted to operate as *common carrier,* by motor vehicle over irregular routes, transporting: (1) *Steel heating and cooling systems insulation, insulation materials, electric motors, blowers* and *paint,* (2) materials, supplies, and *equipment* used in production and installation of heating and cooling systems; and (3) *parts and accessories* of heating and cooling (except commodities in bulk and commodities which, require use of special equipment), from Mount Vernon, MO, to points in MN, WI, MI, IA, TN, KY, IL, AR, LA, MS, TX, OK, KS, NE, ND, SD, MT, WY, CO, NM, AX, UT, ID, WA, IR, CA, and NV. (Hearing site: Kansas City or St. Louis, MO.)

NOTE.—The carrier must satisfy the Commission that its operations will not result in objectionable dual operations because of its authority under MC 134494.

MC 133655 (Sub-112F), filed June, 1 1978. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren L. Troupe, 2480 E. Commercial Boulevard, Fort Lauderdale, FL 33308. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Citrus products, juices, and beverages,* from points in Hidalgo, Nueces, amd Cameron Counties, TX, to point in AL, AR, AZ, CA, CO, ID, IL, IN, IA, KS, KY, LA, MI. MS, MO, MT, MN, NE, NV, NM, ND, OH, OK, OR, SD, TN, UT, WA, WI, and WY. (Hearing site: Chicago, IL.)

MC 134286 (Sub-60F), filed June 7, 1978. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen onion rings, frozen fish, and frozen bakery products* (except commodities in bulk), from the facilities for Boston Bonnie, Inc., and Boston Bakeries, Inc., at or near Boston, MA, to points in IN, OH, IL, KY, MO, KS, NE, MI, PA, TN, IA, MN, CO, and AR. (Hearing site: Boston, MA, or Sioux City, IA.)

NOTE.—The carrier must satisfy the Commission that its common control possibilities are either approved by the Commission or do not require Commission approval.

MC 135283 (Sub-38F), filed May 23, 1978. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., 432 Sough Stuhr Road, P.O. Box 2122, Grand Island, NE 68801. Representative: Lloyd A. Mettenbrink (same address as applicant). Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Air, oil, coolant and fuel filters,* and *articles used in the manufacture, packaging and distribution of air, oil, coolant and fuel filters* (except commodities in bulk or those requiring special equipment), from Chicago and Crystal Lake, IL, New York, NY, and Milwaukee, WI, to the facilities of J.A. Baldwin Mfg. Co., at or near Kearney, NE. (Hearing site: Grand Island, or Kearney, NE.)

MC 136077 (Sub-9F), filed May 30, 1978. Applicant: REBER CORP., 2216 Old Arch Road, Norristown, PA 19401. Representative: Sheri B. Friedman, 1600 Land Title Building, 100 South Broad Street, Philadelphia, PA 19110. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lime, in bulk,* from Kutztown, PA, to points in NJ. (Hearing site: Philadelphia, PA.)

MC 136246 (Sub-16F), filed June 1, 1978. Applicant: GEORGE BROS., INC., P.O. Box 492, Sutton, NE 68979. Representative: Arlyn L. Westergren, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Nitrogen fertilizer solution,* in bulk, in tank vehicles, from Culbertson, NE, to points in KS and CO. (Hearing site: Omaha, NE.)

NOTE.—Dual operations may be involved in these proceedings.

MC 136285 (Sub-33F), filed May 31, 1978. Applicant: SOUTHERN INTERMODAL LOGISTICS, INC., P.O. Box 1375, Thomasville, GA 31792. Representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *clay* (except in bulk, in tank vehicles), from the facilities of the Floridin Company, at or near Quincy and Havana, FL, and Ochlochnee, GA, to points in AL, GA, MD, NC, SC, TN, VA, and DC. (Hearing site: Atlanta, GA.)

MC 136540 (Sub-2F), filed May 15, 1978. Applicant: REFINERS TRANSPORT SERVICES, INC., 4850 Bloomfield St., Jefferson, LA 70121. Representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, LA 70130. Authority granted to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *fiberboard boxes, pulpboard, and flat sheets,* in bundles, from the facilities of Owens-Illinois, Inc., at or near Minden, LA, to points in TX, AR, and OK, and (2) materials and supplies used in the manufacture of the commodities in (1) above (except commodities in bulk) in the reverse direction, under a continuing contract, with Owens-Illinois, Inc., of Toledo, OH. (Hearing site: New Orleans, LA.)

MC 138157 (Sub-75F), filed May 17, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. Southwest Motor Freight, 2931 South Market Street, Chattanooga, TN 37412. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Parts, tools, and accessories for motor vehicles,* (except commodities in bulk, in tank vehicles, and those which require the use of special equipment), from the facilities of The Allen Group, Inc., at or near Los Angeles, CA, to points in ND, SD, KS, IA, MN, WI, IL, KY, IN, MI, OH, WV, VA, MO, DE, MD, PA, NY, CT, RI, MA, VT, NH, ME, NJ, and DC; and (2) *commodities* named in (1) above, and *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk, in tank vehicles, and those which require the use of special equipment), from Chicago, IL, Philadelphia, PA, and Houston, TX, to the facilities of the Allen Group, Inc., at or near Los Angels, CA, restricted in (1) above to the transportation of traffic originating at the named origin and in (2) above to traffic destined to the indicated destination. (Hearing site: Los Angeles or San Francisco, CA.)

NOTE: The carrier must satisfy the Commission that its operations will not result in objectional dual operations because of its authority under MC 134150.

MC 138157 (Sub-76F), filed May 22, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. Southwest Motor Freight, 2931 South Market Street, Chattanooga, TN

37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Packaging machinery, ink, adhesives, store display racks and stands, and plastic film*, (except commodities in bulk, in tank vehicles, and those which require the use of special equipment), from points in Fulton and Cobb Counties, GA, to points in AZ, NM, and CA; and (2) *pulpboard and fiberboard products*, (except commodities in bulk, in tank vehicles, and those which require the use of special equipment), from points in Fulton and Cobb Counties, GA, to points in AZ and NM. (Hearing site: Atlanta, GA.)

NOTE.—The carrier must satisfy the Commission that its operations will not result in objectionable dual operations because of its authority under MC 134150 and subs thereunder.

MC 138328 (Sub-66F), filed May 7, 1978. Applicant: CLARENCE L. WERNER, d.b.a. Werner Enterprises, I-80 and Highway 50, P.O. Box 37308, Omaha, NE 68137. Representative: Donna Ehrlich (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in appendix V to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, from the facilities of Northwestern Steel & Wire Co., at or near Sterling, IL, to points in AZ, AR, CA, CO, ID, IA, KS, LA, MO, MT, NE, NV, NM, OK, OR, TX, UT, WA, and WY. (Hearing site: Chicago, IL, or Omaha, NE.)

NOTE.—The carrier must satisfy the Commission that its operations will not result in objectionable dual operations because of its authority under MC 133233.

MC 138328 (Sub-67F), filed May 22, 1978. Applicant: CLARENCE L. WERNER, d.b.a. Werner Enterprises, I-80 and Highway 50, P.O. Box 37308, Omaha, NE 68137. Representative: Donna Ehrlich (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic knit fabric*, from Fort Payne, AL, and points in NC, to Pawnee City, NE. (Hearing site: Omaha, NE.)

NOTE.—The carrier must satisfy the Commission that its operations will not result in objectionable dual operations because of its authority under MC 133233.

MC 138835 (Sub-29F), filed May 30, 1978. Applicant: EASTERN REFRIGERATED TRANSPORT, INC., P.O. Box 113, Crozet, VA 22932. Representative: Harry J. Jordan, 1000-16th Street NW., Washington, DC 20036. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, (except in bulk), from the facilities of Ore-Ida Foods, Inc., at or near Plover, WI, to Kansas City, KS, and points in AR, CT, DE, GA, IN, MA, MI, MO, NJ, MD, NY, OH, PA, RI, VA, WV, NC, SC, TN, KY, and DC, restricted to the transportation of shipments originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 138835 (Sub-30F), filed May 30, 1978. Applicant: EASTERN REFRIGERATED TRANSPORT, INC., P.O. Box 113, Crozet, VA 22932. Representative: Harry J. Jordan, 1000-16th Street NW., Washington, DC 20036. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, (except in bulk), from the facilities of Terminal Ice and Cold Storage Co., at or near Plover, WI, to Kansas City, KS, and points in AR, CT, DE, GA, IN, MA, MI, MD, MO, NJ, NY, OH, PA, RI, VA, WV, NC, SC, TN, KY, and DC, restricted to the transportation of shipments originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 138869 (Sub-12F), filed June 5, 1978. Applicant: W. T. MYLES TRANSPORTATION CO., P.O. Box 321, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plumbing equipment and supplies*, from Ferguson, KY, to points in AL, AR, AZ, CT, DE FL, GA, IL, IN, IA, KS, LA, MA, MD, ME, MI, MN, MS, MO, NC, NM, ND, NH, NJ, NY, NE, OH, OK, PA, RI, SC, SD, TN, TX, WI, VA, VT, WV, and DC, under a continuing contract, or contracts, with Crane Co., of New York, NY. (Hearing site: Atlanta, GA.)

NOTE.—Dual operations may be involved in these proceedings.

MC 139482 (Sub-58F), filed May 22, 1978. Applicant: NEW ULM FREIGHT LINES, INC., County Road 29 West, New Ulm, MN 56073. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Deodorants, disinfectants, breath fresheners, cleaning compounds, swimming pool treatment compounds, insecticides, and materials, supplies, and equipment* used by deodorant and cleaning compound manufacturers (except commodities in bulk, in tank vehicles), between points in CA, FL, GA, IL, IN, MI, MN, MO, NC, NE, NY, NJ, OH, RI, TX, and WI, restricted to shipments moving from, to, or between facilities of Airwick Industries, Inc. (Hearing site: Minneapolis or St. Paul, MN.)

NOTE.—The carrier must satisfy the Commission that its operations will not result in objectionable dual operations because of its authority under MC 133882 Sub-1.

MC 139482 (Sub-57F), filed May 18, 1978. Applicant: NEW ULM FREIGHT LINES, INC., County Road 29 West, New Ulm, MN 56073. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in packages, from the facilities of Atlanta Corp., at Jersey City, NJ, New York, NY, and Philadelphia, PA, to Burlington, IA, Chicago, IL, Lawrence, KS, and Los Angeles, CA, and points in IN, MI, MN, OH, and WI. (Hearing site: Minneapolis or St. Paul, MN.)

NOTE.—The carrier must satisfy the Commission that its operations will not result in objectionable dual operations because of its authority under MC 133882 Sub-1.

MC 139495 (Sub-358F), filed May 31, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rubber and plastic articles* (except commodities in bulk, in tank vehicles), from Irving, TX, to points in the United States (except AK, HI, and TX). (Hearing site: Washington, DC.)

MC 140829 (Sub-104F), filed June 2, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* and *plastic materials* (except commodities in bulk, in tank vehicles), from the facilities of Reichhold Chemicals, at Elizabeth, Carteret, Hackettstown, and Rockort, NJ, and Andover and Mansfield, MA, to points in AR, IL, IN, KS, KY, MI, MO, OH, TX, and WI, restricted to the transportation of shipments originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved in these proceedings.

MC 141450 (Sub-5F), filed May 24, 1978. Applicant: OLIN WOOTEN, d.b.a. Wooten Transport Co., P.O. Box 713, Hazelhurst, GA 31539. Represent-

ative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority granted to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Malt beverages* from Pabst, GA, to points in DE, IL, IN, MD, MI, NJ, OH, and PA, under a continuing contract with Pabst Brewing Co., of Milwaukee, WI. (Hearing site: Atlanta, GA, or Jacksonville, FL.)

MC 141774 (Sub-12F), filed May 24, 1978. Applicant: R & L TRUCKING CO., INC., 105 Rocket Avenue, Opelika, AL 36801. Representative: Robert E. Tate P.O. Box 517, Evergreen, AL 36401. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Malt beverages,* in containers, from Memphis, TN, and points in Hillsborough and Duval Counties, FL, to points in AL. (Hearing site: Montgomery, AL, or Mobile, AL.)

NOTE.—The carrier must satisfy the Commission that its operations will not result in objectionable dual operations because of its authority under MC-136378.

MC 142559 (Sub-27F), filed June 2, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Paper, paper products,* and *woodpulp,* (1) from Mobile, AL, to points in CT, DE, IL, IN, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT VA, WV, WI, and DC; (2) from Westbrook, ME, to points in AL, GA, IL, IN, MD, MI, NC, OH, VA, and DC; (3) from Chester, PA, to points in AL, FL, GA, IL, IN, KY, MI, NC, OH, SC, TN, and WI; (4) from Ft. Edward and Albany, NY, to points in AL, FL, GA, IL, IN, KY, MD, MI, NC, OH, PA, SC, TN, VA, WI, and DC; (5) from Marinette and Oconto Falls, WI, to points in IL, IN, KS, MI, MO, OH, and PA; (6) from Columbus, OH, to points in IL, IN, KS, KY, and MO. (Hearing site: Columbus, OH.)

NOTE.—Dual operations may be involved in these proceedings.

MC 142686 (Sub-7F), filed June 7, 1978. Applicant: MID-WESTERN TRANSPORT, INC., 10506 S. Schumacher, Sante Fe Springs, CA 90670. Representative: Daniel C. Sullivan, 10 South La Salle Street, Suite 1600, Chicago, IL 60603. Authority granted to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities,* as are dealt in by, manufacturers and distributors of crusher, breaker, and grinding parts, between the facilities of the Frog, Switch and Manufacturing Co., at Carlisle, PA, on the one hand, and, on the other, points in OR and WA, under a continuing contract, or contracts, with Frog, Switch and Manufacturing Co., of Carlisle, PA. (Oral Hearing site: Chicago, IL.)

MC 142686 (Sub-8F), filed June 7, 1978. Applicant: MID-WESTERN TRANSPORT, INC., 10506 S. Schumacher, Sante Fe Springs, CA 90670. Representative: Daniel C. Sullivan, 10 South La Salle Street, Suite 1600, Chicago, IL 60603. Authority granted to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Steel products,* (1) from Bridgeport, CT, to Beaumont, Dallas, and Houston, TX, Verdi, NV, and Belmont, Fresno, and Mountain View, CA, and points in Orange and Los Angeles Counties, CA; and (2) from Reading, PA, to Verdi, NV, Fresno, CA, and points in Orange County, CA, under a continuing contract, or contracts, with Carpenter Technology Corp., of Reading, PA. (Hearing site: Chicago, IL.)

MC 142805 (Sub-1F), filed May 30, 1978. Applicant: RAY BURRIS TRUCK LINE, INC., P.O. Box 414, Altoona, IA 50009. Representative: Steven C. Schoenebaum, 1200 Register and Tribune Building, Des Moines, IA 50309. Authority granted to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Soybean meal* (except in tank vehicles, and liquid commodities in bulk), from points in Polk County, IA, to Freeport, Rockford, Dixon, Mendota, Bushnell, Monmouth, Beardstown, and Rock Island, IL, under a continuing contract or contracts, with A. E. Staley Manufacturing Co., of Des Moines, IA; and (2) *defluorinated phosphate* (except in tank vehicles, and liquid commodities in bulk), from Rock Island, IL, to Baxter, IA, under a continuing contract, or contracts, with Gooch Feed Mill Corp., of Baxter, IA. (Hearing site: Des Moines, IA.)

MC 143378 (Sub-8F), filed June 2, 1978. Applicant: WESTERN PROVISIONERS, INC., P.O. Box 15861, Salt Lake City, UT 84115. Representative: Chester A. Zyblut, 366 Executive Building, 1030 15th Street NW., Washington, DC 20005. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Copper wire,* from Linden and Hillside, NJ, to points in CA, WA, OR, ID, UT, WY, MT, NV, CO, NM, and AZ. (Hearing site: Washington, DC.)

MC 144122 (Sub-8F), filed May 31, 1978. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Steel products,* (1) between Allentown, PA, on the one hand, and, on the other, points in LA and TX, and (2) from points in LA and TX, to points in IL, IN, MI, OH, PA, NY, NJ, VA, DE, CT, RI, and MA, restricted in (1) above to the transportation of shipments originating at or destined to facilities of George Woloch Co., Inc. (Hearing Site: New York, NY.)

NOTE.—The carrier must satisfy the Commission that its operations will not result in objectionable dual operations because of its authority under MC 129455 and subnumbers thereunder.

MC 144122 (Sub-9F), filed May 31, 1978. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Scrap plastic, plastic flakes, plastic powder, plastic granules, and plastic pellets* (except in bulk), from Orange, Houston, Beaumont, and Port Arthur, TX, to points in CT, DE, AM, NJ, NY, PA, RI, and VA. (Hearing site: New York, NY.)

NOTE.—The carrier must satisfy the Commission that its operations will not result in objectionable dual operations because of its authority under MC 129455 and subnumbers thereunder.

MC 144122 (Sub-10F), filed May 31, 1978. Applicant: CARRETTA TRUCKING INC., South 160, Route Route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Electric wire* from Linden and Hillside, NJ, to points in CO, IL and TX. (Hearing site: Newark, NJ, or New York, NY.)

NOTE.—The carrier must satisfy the Commission that its operations will not result in objectionable dual operations because of its authority under MC 129455 and subnumbers thereunder.

MC 144122 (Sub-7F), filed May 19, 1978. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Books and printed matter,* (1) from Poughkeepsie, NY, to Schaumburg, IL, and Coffeyville, KS, and (2) from Pine Brook, NJ, to Schaumburg, IL. (Hearing site: New York, NY.)

NOTE.—The carrier must satisfy the Commission that its operations will not result in objectionable dual operations because of its authority under MC 129455 and subnumbers thereunder.

MC 144140 (Sub-15F), filed May 24, 1978. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 374, Eustis, FL 32726. Representative: John L. Dickerson (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except in bulk), from the facilities of Rich Products Corp., at or near Murfreesboro, TN, to points in AL, FL, and GA. (Hearing site: Buffalo, NY, or Washington, DC.)

NOTE.—The carrier must satisfy the Commission that its operations will not result in objectionable dual operations because of its authority under MC 104589.

MC 144416 (Sub-1F), filed May 12, 1978. Applicant: C. F. McGRAW, P.O Box 498, Garden City, KS 67846. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat-packing houses* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, in vehicles equipped with mechanical refrigeration, from the facilities of National Beef Packing Co., at or near Liberal, KS, to points in CO, restricted to the transportation of shipments originating at the above named origin and destined to the indicated destination. (Hearing site: Wichita or Kansas City, KS.)

MC 144160 (Sub-2F), filed May 15, 1978. Applicant: DONALD A HALVORSEN, 19000 S. W. Wright Court, Aloha, OR 97005. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. Authority granted to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Greases, motor and lubricating oils, tires, and batteries* (except commodities in bulk in tank vehicles), between Portland, OR, on the one hand, and, on the other, Hoquiam, Elma, Centralia, Winlock, Toppenish, Cle Elum, Naches, Wenatchee, Chelan, Moses Lake, Ephrata, Pasco, Connell, Spokane, and Colville, WA, and Coeur d'Alene, Kellogg, Sand Point, and St. Maries, ID, under a continuing contract, or contracts, with Pettit Oil Co., of Hoquiam, WA, R. H. Bowles Co., Inc., of Toppenish, WA, Gott Oil Co., Inc., of Shelton, WA, Budget Oil Co., Inc., of Spokane, WA, Cummings Oil Co., of Centralia, WA, Budget Fuel and Service, Inc., of Wenatchee, WA, and Desert Oil Co., Inc., of Pasaco, WA. (Hearing site: Portland, OR.)

MC 144600 (Sub-1F), filed May 19, 1978. Applicant: RAMCO TRANSPORTATION, INC. P.O. Box 175, 1875 South River Road, West Sacramento, CA 95691. Representative: Jonathan M. Lindeke, 100 Bush Street, 21st Floor, San Francisco, CA 94104. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum oil and greases*, (except commodities in bulk, in tank vehicles), between Richmond, CA, and points in OR and WA. (Hearing site: San Francisco, CA.)

MC 144667 (Sub-2F), filed May 19, 1978. Applicant: ARTHUR E. SMITH & SON TRUCKING, INC., P.O. Box 1054, Scottsbluff, NE 69361. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Cellulose insulation*, and (b) *materials, equipment, and supplies used in the sales and installation of cellulose insulation*, from Scottsbluff, NE, to points in SD, ND, WY, MT, CO, ID, UT, IL, MN, KS, IA, and MO; (2) *materials, equipment, and supplies used in the manufacture, sales, and distribution of commodities named in (1) above*, in the reverse direction; (3) *fire retardant products*, from Torrington, WY, to points in the United States (except AK, HI, and WY); and (4) *materials, equipment, and supplies used in the manufacture, sales, and distribution of commodities named in (3) above*, in the reverse direction, restricted in (1), (2), (3), and (4) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Denver, CO.)

MC 144750 (Sub-1F), filed May 22, 1978. Applicant: MOAB TRUCK CENTER, INC., 90 North 2nd East, P.O. Box 116, Moab, UT 84532. Representatives: Raymond M. Kelley, 450 Capitol Life Center, Denver, CO 80203. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Uranium, vanadium, and copper bearing ores*, in bulk, (2) *coal, sand, gravel, and road building materials*, in bulk, in dump vehicles, (3) *equipment, supplies, and building materials* used in mines or ore mills (except commodities requiring the use of special equipment) (4) *self-propelled vehicles, heavy road building machinery, and equipment* used in mining and road building which because of their size or weight require the use of special equipment, between points in AZ on and north of Interstate Hwy 40, those in NM on, north and west of a line beginning at the AZ-NM State line and extending along Interstate Hwy 40 to its junction with Interstate Hwy 25, then along Interstate Hwy 25 to the NM-CO State line, those in CO west of the Continental Divide, and those in UT on, south and east of a line beginning at the UT-WY State line and extending along Interstate Hwy 80 to its junction with Interstate Hwy 15, and then along Interstate Hwy 15 to the UT-AZ State line. (Hearing site: Salt Lake City, UT, or Denver, CO.)

MC 144828F, filed May 24, 1978. Applicant: FEPCO TRUCKING, INC., 2699 Caladium Drive, NE., Atlanta, GA 30345. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fibreboard, paperboard, or pulpboard boxes* (except corrugated), between Detroit, MI, and the facilities of Mead Packaging, Division of The Mead Corp., at or near Chicago, IL, under a continuing contract with The Mead Corp., of Dayton, OH. (Hearing site: Atlanta, GA.)

NOTE.—The carrier must satisfy the Commission that its common control possibilities are either approved by the Commission, and consummated, or do not require Commission approval.

MC 144829F, filed May 19, 1978. Applicant: MUCHMORE TRUCKING, LTD., 1616 S.E. "N" Street, Grants Pass, OR 97526. Representative: Jerry R. Woods, Suite 1440, 200 Market Building, Portland, OR 97201. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal briquettes*, from the facilities of Georgia-Pacific Corp., at White City, OR, to points in AZ, CA, and NV. (Hearing site: Portland, OR.)

MC 144848 (Sub-1F), filed June 6, 1978. Applicant: TRANSTATES, INC., a Delaware corporation, 3216 East Westminister, Santa Ana, CA 92703. Representative: David P. Christianson, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Transformers and electrical and switching equipment*, from Jefferson City, MO, to points in CA, OR, WA, AZ, NV, UT, MT, ID, ND, and SD. (Hearing site: Huntington, PA.)

NOTE.—Dual operations may be involved in these proceedings.

MC 112422 (Sub-9F), filed May 24, 1978. Applicant: SAM VAN GALDER, INC., 715 South Pearl Street, Janesville, WI 53545. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. Author-

ity granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *passengers and their baggage* in the same vehicle with Passenger in round-trip charter and special operations, beginning and ending at Harvard, IL, and Darien, Delavan, Sharon, and Walworth, WI, and extending to points in the United States (except AK and HI). (Hearing site: Madison or Milwaukee, WI, or Chicago, IL)

MC 144787 (Sub-1F), filed May 19, 1978. Applicant: INSTANT LIMOUSINE SERVICE, LTD., 41-08 Parsons Boulevard, Flushing, NY 11355. Representative: Bruce J. Robbins, 118-21 Queens Boulevard, Forest Hills, NY 11375. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (a) *Passengers and their baggage,* in the same vehicle with passengers in special and charter operations, between New York, NY, on the one hand, and, on the other, ports of entry on the International Boundary line between the United States and Canada, at points in NY, restricted to the transportation (1) of passengers having a prior or subsequent movement in foreign commerce and (2) not more than 14 passengers in any one vehicle, not including children under 10 years of age who do not occupy a seat and the driver; and (b) *passengers and their baggage,* in the same vehicle with passengers in special and charter operations, in round-trip, sightseeing and pleasure tours, with bilingual tour guide, beginning and ending at New York, NY, and extending to those points in the United States in, east, and north, of OH, KY, TN, and NC. (Hearing site: New York, NY.)

WATER CARRIER

No. W-1291 (Sub-2F), filed May 1, 1978. Applicant: ALUMINA TRANSPORT CORP., 6660 West Broad Street., Richmond, VA 23261. Representative: John H. Caldwell, 900 17th Street NW., Washington, DC 20006. Authority granted to operate, in interstate and foreign commerce, as a *contract carrier by water* transporting: *Soda ash, in bulk,* by self-propelled vessels, from Long Beach and San Diego, CA, to points in NJ, under a continuing contract, or contracts with Kerr-McGee Chemical Corp., of Oklahoma City, OK. (Hearing site: Washington, DC.)

[FR Doc. 78-19486 Filed 7-17-78; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 13, 1978.

These applications for long-and-short-haul relief have been filed with the ICC.

Protests are due at the ICC on or before August 2, 1978.

FSA No. 43577, Southwestern Freight Bureau, Agent's No. B-754, rates on paper and paper articles, from points in Michigan, Minnesota, and Wisconsin, also Fort Frances, Ontario, Canada, to points in southwestern territory, in sup. 72 to its tariff 281-J, ICC 5231, to become effective August 7, 1978. Grounds for relief—revised rate structure.

FSA No. 43578, Traffic Executive Association-Eastern Railroads, Agent's E.R. No. 3072, rates on newsprint paper, from Beaupre, Quebec, Canada, to West Palm Beach, Fla., in sup. 92 to Canadian Freight Association tariff 760, ICC 325, to become effective August 6, 1978. Grounds for relief—water competition.

FSA No. 43579, Southwestern Freight Bureau, Agent's No. B-745, rates on iron and steel articles, from points in official territory, to points in Louisiana and Texas, to be published in its tariff 301-F, ICC 5098. Grounds for relief—revised rate structure.

FSA No. 43580, Southwestern Freight Bureau, Agent's No. B-757, rates on coiled sheet steel, from East St. Louis, Ill., and St. Louis, Mo., to Fort Smith, Ark., in sup. 368 to its tariff 301-F, ICC 5098, to become effective August 7, 1978. Grounds for relief—market competition.

FSA No. 43581, Far Eastern Shipping Company's No. 12, intermodal rates on general commodities, between rail carriers' terminals on the U.S. Atlantic and Gulf Coasts, on the one hand, and, on the other, ports in the Far East, by way of U.S. Pacific Coast ports, in its tariffs Nos. 3, 4, 5, 6, and 7, ICC Nos. 3, 4, 5, 6, and 7, respectively, to become effective August 6, 1978. Grounds for relief—water competition.

By the Commission.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-19837 Filed 7-17-78; 8:45 am]

[7035-01]

[Docket No. AB-140F]

HOBOKEN SHORE RAILROAD ABANDONMENT IN THE CITY OF HOBOKEN, HUDSON COUNTY, N.J.

Findings

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Decision dated June 28, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen,* 354 I.C.C. 584 (1978), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by the Hoboken Shore Railroad of approximately 9.45 miles of track known as the line of the Hoboken Shore Railroad located entirely in the City of Hoboken, Hudson County, NJ. A certificate of public convenience and necessity permitting abandonment was issued to the Hoboken Shore Railroad. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties. The offer must be filed and served no later than August 2, 1978. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective September 1, 1978.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-19844 Filed 7-17-78; 8:45 am]

[7035-01]

[Ex Parte No. 252 (Sub-No. 1)]

INCENTIVE PER DIEM CHARGES—1968 (XF CARS)

By a joint petition filed June 12, 1978, the Grocery Manufacturers of America, Inc., and the Association of American Railroads seek modification of the Commission order entered in Ex Parte No. 252 (Sub-No. 1), 350 I.C.C. 11, 25, on June 13, 1975.

Petitioners wish to amend the Commission order so as to clarify and limit the type of commodities which may be loaded in "XF" cars. Petitioners contend that "XF" boxcars have been and are being loaded with bulk and other commodities, which are not related to

food or food products and which threaten the sanitary integrity of such cars.

The Commission order of June 13, 1975, reads as follows:

"It is further ordered, that XF boxcars must be utilized in the transportation of food, food products, and other noncontaminating commodities in general service. However, to improve utilization, XF boxcars may be assigned to specific locations to be utilized as part of a dedicated boxcars pool for the transportation of food and other noncontaminating products enclosed in clean packaging."

Petitioners wish to amend the order to read as follows:

It is further ordered, that XF boxcars in general service, or assigned service to specific locations, must be utilized in the transportation of noncontaminating ingredients used in the manufacture of food for human consumption in clean packaging, noncontaminating processed food for human or pet consumption in clean packaging, and noncontaminating, non-food commodities enclosed in clean packaging when in mixed loads with those ingredients and food commodities.

Copies of the joint petition have been served upon all railroads in the United States and known parties of record in this proceeding.

All interested persons, may obtain copies of the joint petition from:

Stephen A. Brown, Attorney for the Grocery Manufacturers of America, Inc., 1425 K Street NW., Suite 900, Washington, D.C., or;

James I. Collier, Jr., Attorney for the Association of American Railroads, 1920 L Street NW., Washington, D.C. 20036.

Replies to the joint petition, are to be filed with this Commission no later than 30 days from the service date of this notice.

A copy of this notice should be deposited with the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

Dated at Washington, D.C., this 6th day of July 1978.

By the Commission, Chairman O'Neal.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-19838 File 7-17-78; 8:45 am]

[7035-01]

[Ex Parte No. MC-43]

LEASE AND INTERCHANGE OF VEHICLES BY MOTOR CARRIERS

DECIDED MAY 18, 1978.

Royal Transports, Inc., (MC-139227) and Royal Transports, Inc. of Nebraska (MC-1340), under common control have filed a petition for waiver of paragraphs (a)(3) and (c) of § 1057.4 of the Lease and Interchange of Vehicles Regulations (49 CFR 1057).

Findings: 1. The petitioners have an effective jointly administered safety program.

2. The petitioners will be able to more efficiently operate if permitted to trip lease.

3. The petitioners request for relief beyond that already provided by paragraph (c), as amended by Ex Parte MC-43 (Sub-No. 6), is not warranted.

It is ordered:

1. Waiver of paragraph (a)(3) is granted, provided petitioners remain under common control.

2. Waiver of paragraph (c) is denied

By the Commission, Motor Carrier Leasing Board, Board Members, Joel E. Burns, Robert S. Turkington, and W. F. Sibbald, Jr.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-19839 Filed 7-17-78; 8:45 am]

[7035-01]

[Notice No. 119]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 14, 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 protests 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

MC 26396 (Sub-176TA), filed May 2, 1978. Applicant: POPELKA TRUCKING CO. d.b.a. The Waggoners, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Doors and door frames, and parts and accessories therefor,* from the facilities of Therma-Tru, Inc., at or near Colorado Springs, CO to points in LA, AR, MO, IL, WI, LA, MN, ND, SD, NE, KS, OK, TX, NM, WY, MT, ID, UT, AZ, NV, CA, OR, and WA, and ports of entry on the International Boundry line between the United States and Canada located in WA, ID, MT, ND and MN; and (2) *Commodities named in (1) above, and materials, equipment and supplies* utilized in the manufacture, sales and distribution of commodities named in (1) above, from the destinations named in (1) above, to the facilities of Therma-Tru, Inc., at or near Colorado Springs, CO, for 180 days. Restriction: Restricted against the transportation of commodities in bulk, in tank vehicles. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bill Griffith, traffic manager, Therma-Tru, Inc., 6275 Lakeshore Court, Colorado Springs, CO 80915. Send protests to: District Supervisor, Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 41406 (Sub-76TA), filed April 13, 1978, and published in the FEDERAL REGISTER issue of May 30, 1978, and republished as corrected this issue. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, P.O. Box 2176, Hammond, IN 46323. Representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Roofing, building and insulating materials* (except iron and steel articles and commodities in bulk), from the facilities of CertainTeed Corp. at or near Avery, OH to IL, IN, KY, MI, NY, PA, and WV, for 180 days. Applicant has also filed underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): CertainTeed Corp., shelter materials group, David H. Silvernail, manager, transportation operations, P.O. Box 860, Valley Forge,

PA 19482. Send protests to transportation assistant, Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Kirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604. The purpose of this republication is to show Michigan in lieu of Miami in the territorial description.

MC 56637 (Sub-15TA), filed March 22, 1978, and published in the FEDERAL REGISTER issue of May 30, 1978, and republished as corrected this issue. Applicant: R. C. A. TRUCK LINES, INC., P.O. Box 1027, Cartersville, GA 30120. Representative: Paul M. Daniell, 235 Peachtree Street, Suite 1200, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, (1) Between Chattanooga, TN and Huntsville, AL from Chattanooga, TN over U.S. Hwy 72 to Huntsville, AL and return over the same route, serving no intermediate points. (2) Between Huntsville, AL and Corinth, MS from Huntsville, AL over U.S. Hwy 72 to Corinth, MS and return over the same route, serving all intermediate points, and serving the Tennessee Valley Authority Yellow Creek Nuclear Plant in Tishomingo County, MS as an off-route points. (3) Between Huntsville, AL and Florence, AL from Huntsville, AL over Alternate U.S. Hwy 72 to its intersection with U.S. Hwy 43, then over U.S. Hwy 43 to Florence, AL and return over the same route, serving all intermediate points on the described route and all points in Colbert County, AL not on the described route as off-route points. (4) Between Decatur, AL and Rome, GA from Decatur, AL over U.S. 31 to Cullman, AL, then over U.S. Hwy 278 to Gadsden, AL, then over U.S. Hwy 411 to Rome, GA (also from Gadsden, AL over U.S. Hwy 411 to Centre, AL, then over AL Hwy 9 to the AL-GA State line, then over GA Hwy 20 to Rome, GA, and return over the same route, serving all intermediate points, and (5) Between Chattanooga, TN and Birmingham, AL from Chattanooga, TN over U.S. Hwy 11 (also over Interstate Hwy 59) to Birmingham, AL and return over the same route, serving all intermediate points between Gadsden, AL and Birmingham, AL, including Gadsden, AL, for 180 days. Applicant intends to tack with the authority presently held by it and to interline with other carriers. Supporting shipper(s): There are approximately (76) statements of support attached to the application which may be examined at the field office named below. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309. The purpose of this republication is to show that applicant intends to tack and interline.

MC 109448 (Sub-21TA), filed May 11, 1978. Applicant: PARKER TRANSFER CO., P.O. Box 256, Elyria, OH 44035. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heating and air conditioning plants, equipment and parts thereof, and such materials and supplies* as are required for the installation thereof, between Elyria, OH, on the one hand, and, on the other, points in NC and SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Tappan Co., 206 Woodford Avenue, Elyria, OH 44035. Luxaire, Inc., Filbert Street, Elyria, OH. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 109692 (Sub-55TA), filed May 11, 1978. Applicant: GRAIN BELT TRANSPORTATION CO., Route 13, 340 North James Street, Kansas City, MO 64118. Representative: Warren H. Sapp, 4420 Madison, Suite 170, P.O. Box 16047, Kansas City, MO 64112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* from the facilities of Norfolk Iron & Metal Co. located at or near Norfolk, NE to points in CO, IL, IN, MN, MO, OK, TX, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Norfolk Iron and Metal Co., 300 Braasch Avenue, Norfolk, NE 68701. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 112822 (Sub-453TA), filed May 11, 1978. Applicant: BRAY LINES INC., P.O. Box 1218, Freeport Center, UT 84016. Representative: Edward T. Lyons, Jr., 1660 Lincoln Street, Denver, CO 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Photographic materials, equipment and supplies*, from the facilities of Eastman Kodak Company at or near Windsor, CO, to the facilities of Eastman Kodak Company at or near Chamblee, GA, for 180 days. Supporting shipper(s): Eastman Kodak Co., Windsor, CO 80551. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office & Court House Building, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 119493 (Sub-197TA), filed May 2, 1978. Applicant: MONKEM COMPANY, INC., West 20th Street Road, P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel, president (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, between Kansas City, MO and AL, AR, IN, KY, LA, MI, MN, MS, OK, TN, and WI—non-radial movements, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cereal By-products Co., Kansas City, MO 64112. Send protests to: District Supervisor, John V. Barry, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 123075 (Sub-28TA), filed May 1, 1978. Applicant: SHUPE & YOST, INC. North U.S. 85 Bypass, P.O. Box 1123, Greeley, CO 80631. Representative: Stuart L. Poelman, 700 Continental Bank Building, Salt Lake City, UT 84101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from the facilities of Great Salt Lake Minerals and Chemicals Corp. near Little Mountain, UT to points in KS, NE, SD, and points in CO located east of the Continental Divide and points in WY located on and east of a line beginning at the MT-WY State line and extending sough along U.S. Highway 220 to Muddy Gap, then along U.S. Highway 287 to the Continental Divide north of Sinclair and then along the Continental Divide to the WY-CO state line, under continuing contract with Great Salt Lake Minerals and Chemicals Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Great Salt Lake Minerals and Chemicals Corp., P.O. Box 1190, Ogden, UT 84402. Send protests to: District Supervisor, Roger L. Buchanan, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 128343 (Sub-40TA), filed May 11, 1978. Applicant: C-LINE, INC., Tourtellot Hill Road, Chepachet, RI 02814. Representative: Ronald N. Cobert, 1730 M Street NW., Suite 501, Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical and automotive goods, appliances, equipment, parts, and related accessory items* from River Grove, IL to points

in AL , AR, CA, (except Los Angeles), CT, DE, FL, GA, ID, IA, KS, KY, LA, ME, MD, MA, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OK, RI, SC, SD, TN, UT, VT, VA, WV, WI and WY, for 180 days. The authority requested is to be restricted to a transportation to be provided under a continuing contract or contracts with Avnet, Inc. Supporting shipper(s): Avnet, Inc., 249 Roosevelt, Avenue, Pawtucket, RI 02680. Send protests to: Gerald H. Curry, District Supervisor, 24 Weybosset Street, Room 102, Providence, RI 02903.

MC 128527 (Sub-102TA), filed February 8, 1978, and published in the FEDERAL REGISTER issue of March 23, 1978, and republished as corrected this issue. Applicant: MAY TRUCKING CO., P.O. Box 398, Payette, ID 83661. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Pipe hangers, steel pipe, fabricated, and accessories and fittings thereto,* from the facilities of Huico, Inc., at or near Meridian, ID, to points in the United States (including Alaska, but excluding Hawaii), for 180 days. Applicant does not intend to tack or interline authority. Supporting shipper(s): Huico, Inc., P.O. Box 208, Meridian, IN 83642. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise, ID 83706. The purpose of this republication is to show Idaho in lieu of Indiana in the territorial description as previously published.

MC 138382 (Sub-6TA), filed May 3, 1978. Applicant: PATTERSON COASTAL TRANSPORT, INC., 20607 South LaGrange Road, Frankfort, IL 60423. Representative: Anthony E. Young, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Electronic switching systems and materials, equipment and supplies* (except commodities in bulk), used in the installation of electronic switching systems, from Lisle, IL and Oklahoma City, OK, to points in the United States, under a continuing contract or contracts with Western Electric Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 9 days of operating authority. Supporting shipper(s): Western Electric Co., Inc., Gerald P. Nelson, Resident Transportation Supervisor, 4513 Western Avenue, Lisle, IL 60532. Send protests to: Transportation Consumer Specialist Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 138762 (Sub-20TA), filed May 8, 1978. Applicant: MUNICIPAL TANK LINES LTD., P.O. Box 3500, Calgary, AB, Canada T2P 2P9. Representative: D. S. Vincent (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lime products,* in bulk, in tank vehicles, between ports of entry on the United States-Canada international boundary line located in NY, on the one hand, and, on the other, Butler, PA, restricted to movements in foreign commerce, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): A. Bruce Knott, Supervisor, Administration and Customer Service, Beachvilime Ltd., Guelph DoLine Ltd., P.O. Box 190, Ingersoll, ON, Canada. Send protests to: District Supervisor Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 139569 (Sub-3TA), filed May 2, 1978. Applicant: G & T TRUCKING CO., Route No. 1, County Road 2 and 35 South, Elko, MN 55022. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Contractors' and construction machinery, equipment, and supplies* between points in MN, on the one hand, and, on the other, points in AL, AR, CO, IL, IA, IN, KS, KY, LA, MI, MS, MO, MT, NE, NM, ND, OH, OK, SD, TN, TX, WI, and WY, under a continuing contract with the Zeco Co., Minneapolis, MN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Zeco Co., 9033 Lyndale Avenue South, Minneapolis, MN 55420. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

MC 140645 (Sub-7TA), filed March 31, 1978, and published in the FEDERAL REGISTER issue of May 9, 1978, and republished as corrected this issue. Applicant: UNITED TRUCKING, INC., 100 Stoffel Drive, Tallapoosa, GA 30176. Representative: Clyde W. Carver, 5299 Roswell Road, NE., Suite 212, Atlanta, GA 30342. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Metal containers and metal container ends,* and (2) *machinery, materials, and supplies* used in the manufacture and distribution of metal containers, for the account of Southern Can Co., (A) between Tallapoosa, GA, on the one hand, and, on the other, points in AZ, CA, CO, ID, ME, MT, NV, NM, NH, ND, OR, RI, SD, UT, VT, WA, and WY, (B) between points in Montgomery County, PA, on the one hand, and, on the other, points in AZ, CA, CO, ID, KS, MT, ND, NE, NV, NM, OK, OR, SD, UT, WA, and WY, under a continuing contract or contracts with Southern Can Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Southern Can Co., 100 Stoffel Drive, Tallapoosa, GA 30176. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300 Atlanta, GA 30309. The purpose of this republication is to show ID in lieu of IN in parts (A) and (B) of the territorial description.

MC 143651 (Sub-2TA), filed April 6, 1978, and published in the FEDERAL REGISTER issue of June 9, 1978, as MC 142777 (Sub-2TA), and republished as corrected this issue. Applicant: BLACKHAWK EXPRESS, INC., P.O. Box 277, Wall Lake, IA 51466. Representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, dairy products, and articles* distributed by meat packinghouses, as described in sections A, B, and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from Estherville and Sioux City, IA, and Sioux Falls, SD, to points in AL, AR, CT, DE, DC, FL, GA, LA, ME, MD, MA, MI, MS, NH, NJ, NY, NC, PA, RI, SC, TN, VT, VA, and WV, for 180 days. Restriction: Restricted to traffic originating at the facilities of John Morrell & Co., located at the above origins and destined to the named destination States. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Curt Y. Hopkins, Manager of Transportation, John Morrell & Co., 208 South LaSalle Street, Chicago, IL 60604. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102. The purpose of this republication is to indicate the correct docket number as 97457 (Sub-2TA) in lieu of 142777 (Sub-2TA) as previously published.

MC 144663 (Sub-1TA), filed May 2, 1978. Applicant: DAVE HALDER, Box 513, Ojo Caliente, NM 87549. Representative: Rober von K. Eaton, Modrall, Sperling, Rohl, Harris, & Sisk, P.O. Box 2168, Albuquerque, NM 87103. Authority sought to operate as

a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wallboard* (sheetrock), from Rosario, NM to points in CO, under a continuing contract or contracts with Western Gypsum Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Western Gypsum Co., P.O. Box 2636, Santa Fe, NM 87501. Send protests to: Darrell W. Hammons, District Supervisor, Interstate Commerce Commission, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, NM 87101.

MC 144753TA, filed May 10, 1978. Applicant: RONALD D. OFFUTT, JR., d.b.a. RONALD OFFUTT & SON, Box 126, Glyndon, MN 56547. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potato products* (except in bulk), from the facilities of Potato Processing Co., at or near Atlanta, GA, to points in FL, AL, SC, VA, NC, TN, MD, LA, and MS, under a continuing contract, or contracts, with Potato Processing Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Potato Processing Co., 1015 Boulevard SE., Atlanta, GA 30300. Send to protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 268 Federal Building, and U.S. Post Office, 657 2d Avenue North, Fargo, ND 58102.

MC 144755TA, filed May 11, 1978. Applicant: NEVADA NATIONAL TRANSPORT, INC., A Utah corporation, 213 South 300 West, Provo, UT 84601. Representative: Harry D. Pugsley, 310 South Main Street No. 1200, Salt Lake City, UT 84101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *High-grade ore concentrates* from the facilities of Nevada National Mining Corp., 30 miles from Winnemucca, NV, to Salt Lake County, UT; and (2) *Mining machinery, supplies and equipment* afrom Salt Lake County, UT, to facilities of Nevada National Mining Corp., 30 miles from Winnemucca, NV, under a continuing contract or contracts with Nevada National Mining Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Nevada National Mining Corp., 450 South 9th East, Salt Lake City, UT 84102 (Hans Berger, President). Send to protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

MC 144766TA, filed May 15, 1978. Applicant: RUSSELL HINRICHS, R.R. 1, Petersburg, IL 62675. Representative: Russell Hinrichs (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cement* (in bulk), from Universal Atlas Cement Co., at Hannibal, MO, to Stroh Anderson, Inc., "facilities" in Petersburg, IL, under a continuing contract, or contracts, with Stroh Anderson, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Robert Anderson, Vice President and Manager, Stroh Anderson, Inc., Box 396, Petersburg, IL 62675. Send to protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 144778 (Sub-1TA), filed May 19, 1978. Applicant: HI-RAIL SERVICE CO., 1819 Peachtree Road NE., Suite 622, Atlanta, GA 30309. Representative: Charlene M. Martin or J. Pat Sadler, 1819 Peachtree Road NE., Suite 622, Atlanta, GA 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Repair and replacement parts for railroad cars* (said parts being new, used, and reconditioned), between North Augusta, SC, and Jacksonville, FL, on the one hand, and, on the other, Atlanta, Augusta, Duluth, East Point, Macon, Savannah, and Waycross, GA, and between Jacksonville, FL, and North Augusta, SC, under a continuing contract, or contracts, with Trailer Train Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Trailer Train Co., 300 South Wacker, Chicago, IL 60606. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 144781 (Sub-1TA), filed May 16, 1978. Applicant: GIDEON FARMER, d.b.a. FARMER TRUCKING CO., Monsanto Road, Columbia, TN 38401. Representative: Edward C. Blank, II, Middle Tennessee Bank Boulevard P.O. Box 1004, Columbia, TN 38401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phosphate bearing materials* (raw phosphate muck), from phosphate bearing areas owned by Monsanto Co. in North Limestone County, AL, to Prospect, TN, restricted to transportation in dump trucks and dump vehicles for subsequent movement by rail, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Farmer Construction Co., Inc., P.O. Box 481, Columbia, TN 38401. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 144785TA filed May 19, 1978. Applicant: F. W. NEWCOMB TRUCKING, R. R. No. 4, Muscatine, IA 52761. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sand and gravel*, (in bulk, in dump vehicles), from the facilities of Northern Gravel Co. at or near Muscatine, IA, to points in IL, IN and NE, under a continuing contract, or contracts, with Northern Gravel Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Northern Gravel Co., P.O. Box 307, Muscatine, IA. 52761. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA. 50309.

MC 144786TA, filed May 15, 1978. Applicant: HARKER'S LIVESTOCK SUPPLY, INC., 2801 Sunset Road, Las Vegas, NV 89119. Representative: Gordon G. Harker, 2081 Sunset Road, Las Vegas, NV 89119. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Soil amendments and shavings, dry*, (in bulk), from the facilities of Kaibab Industries, Inc., located at or near Fredonia, AZ, to points in NV and UT, under a continuing contract, or contracts, with Kaibab Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kaibab Industries, Inc., 4602 E. Thomas, Phoenix, AZ 85018. Send protests to: W. J. Huetig, District Supervisor, Interstate Commerce Commission, 203 Federal Building, 705 N. Plaza Street, Carson City, NV 89701.

MC 144789TA, filed May 16, 1978. Applicant: SUZANNE V. KING, d.b.a. Ernie's Mobile Transport, 5779 Feather River Blvd., Marysville, CA 95901. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. Authority sought to operate at a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mobile homes*, in initial movements, from points in CA, to points in NV, OR, AZ, UT, NM, and TX, for 180 days. Supporting shipper(s): There are

approximately (23) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: A. J. Rodriguez, District Supervisor, 211 Main, Suite 500, San Francisco, CA 94105.

PASSENGER CARRIER

MC 144787TA filed May 18, 1978. Applicant: INSTANT LIMOUSINE SERVICE, LTD., 41-08 Parsons Blvd., Flushing, NY 11355. Representative: Bruce J. Robbins, Robbins & Newman, 118-21 Queens Blvd., Forest Hills, NY 11374. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special and charter operations, limited to the transportation of not more than 14 passengers in any one vehicle, not including the driver, and not including children under 10 years of age who do not occupy a seat or seats, between points in the New York, NY, Commercial Zone, on the one hand, and, on the other, points on the United States-Canadian border in NY, restricted to the transportation of foreign travelers having a prior or subsequent movement to or from Europe, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Polonia Universal Service, 141 India Street, Brooklyn, NY. (2) Fregata Travel, 250 West 57th Street, New York, NY. (3) Walters Travel Agency, 148 Jackson Street, Hempstead, NY. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

By the Commission.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-19835 Filed 7-17-78; 8:45 am]

[7035-01]

[Notice No. 120].

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 17, 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

MC 3101 (Sub-5TA), filed May 23, 1978. Applicant: SCHAUM TRANSFER CO., 410 East Davis Street, St. Louis, MO 63111. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite of Mississippi Valley Structural Steel, a division of Debron Corp., at St. Louis, MO, to Waterloo, IA, under a continuing contract, or contracts, with Mississippi Valley Structural Steel, for 180 days. Applicant has also filed and underlying ETA seeking up 90 days of operating authority. Supporting shipper(s): Mississippi Valley Structural Steel, 3117 Big Bend Boulevard, St. Louis, MO 63143. Send protests to: Peter E. Binder, District Supervisor, Interstate Commerce Commission, 210 North 12th Street, Room 1465, St. Louis, MO 63101.

MC 56244 (Sub-57TA), filed May 24, 1978. Applicant: KUHN TRANSPORTATION COMPANY, INC., P.O. Box 98, R.D. No. 2, Gardners, PA 17324. Representative: John M. Musselman, Rhoads, Sinon & Hendershot, 410 North Third Street, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail, wholesale, chain grocery and food business houses, (except commodities in bulk and frozen foods), for the account of Duffy-Mott Company, Inc., from facilities used by Duffy-Mott Company, Inc., at Hanover, PA., and points in its commercial zone, to points in IL, IN, IA, KY, MI, MO, OH, and those points in WV on and north of U.S. Hwy 50, for 180 days. Supporting shipper(s): Duffy-Mott Co. Inc., 370 Lexington Avenue, New York, NY 10017. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108.

MC 97457 (Sub-7TA), filed April 24, 1978, and published in the FEDERAL REGISTER issue of May 23, 1978, and republished as corrected this issue. Applicant: WARNER & SONS TRUCKING CO., 3224 Sand Creek Highway, R.F.D. No. 1, Adrian, MI 49221. Representative: David E. Jerome, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Supplies and materials* used in the manufacture of air conditioners and refrigerated equipment, from Grand Rapids, MI to the plant site of Belding Products Company in Belding, MI, for 180 days. Applicant intends to interline authority. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Belding Products Company, Belding, MI 48809. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, 225 Federal Building, Lansing, MI 48933. The purpose of this republication is to show that applicant intends to interline.

MC 99565 (Sub-16TA), filed June 1, 1978. Applicant: FORE WAY EXPRESS, INC., 204 South Bellis Street, P.O. Box 837, Wausau, WI 54401. Representative: Nancy J. Johnson, 4506 Regent Street, Suite 100, Madison, WI 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment; between points in WI presently served on applicant's regular route authority (except those in the Milwaukee Commercial Zone as defined by the Commission), on the one hand, and, on the other, Grand Rapids, MI, serving Kalamazoo, MI, as an intermediate point, and serving the respective commercial zones of said points, (1) from Appleton, WI, over U.S. Hwy 41 to junction U.S. Hwy 45 at or near Milwaukee, WI, then over U.S. Hwy 45 to junction Interstate Hwy 894, then over Interstate Hwy 894 to junction Interstate Hwy 94,

then over Interstate Hwy 94 to junction U.S. Hwy 131, then over U.S. Hwy 131 to Grand Rapids, and return over the same route; (2) from junction Interstate Hwy 94 and Interstate Hwy 294 near Deerfield, IL, then over Interstate Hwy 294 to junction Interstate Hwy 94 at or near South Holland, IL, and return over the same route, as an alternate route for operating convenience only and serving no intermediate points; (3) from junction Interstate Hwy 90 and Interstate Hwy 94 in Chicago, IL, then over Interstate Hwy 90 to junction Interstate Hwy 94 east of Gary, IN, and return over the same route, as an alternate route for operating convenience only and serving no intermediate points; (4) from junction Interstate Hwy 94 and Interstate Hwy 196, then over Interstate Hwy 196 to Grand Rapids, MI, and return over the same route, as an alternate route for operating convenience only and serving no 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 (106) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Ronald Morken, District Supervisor, Interstate Commerce Commission, 139 West Wilson Street, Madison, WI 53703.

MC 99610 (Sub-29TA), filed April 10, 1978, and published in the FEDERAL REGISTER issue of June 14, 1978, and republished as corrected this issue. Applicant: ROSS NEELY EXPRESS, INC., 1500 Second Street, Pratt City Station, Birmingham, AL 35214. Representative: Tommy Neely (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular 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 No. 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 Spring, 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 No. 411, then over U.S. Hwy No. 411 to junction U.S. Hwy No. 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 No. 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 U.S. 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 No. 40 to junction of AL Hwy No. 40 and AL Hwy No. 117, then over AL Hwy No. 117 to the AL-GA State line, then over GA 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. (9) Between Stevenson, AL and Calhoun, GA: From Stevenson, AL over AL Hwy No. 117 to junction AL Hwy 117 and AL Hwy 71, then over AL Hwy 71 to the AL-GA State line, then over GA Hwy 143 to junction GA Hwy 143 and U.S. Hwy 27, then over U.S. Hwy 27 to Lafayette, GA, then over GA Hwy 143 to Calhoun, GA, and return over the same route, serving all intermediate points, for 180 days. Applicant intends to tack with the authority presently held by it and to interline with other carriers. 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. The purpose of this republication is to show that applicant intends to interline authority, and to add another route to the territorial description.

MC 110525 (Sub-1242TA), filed May 30, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Arsenic acid* (in bulk, in tank vehicles), from Bryan, TX, to Bluffton, IN, Danville, KY, Valdosta, GA, Charles City, IA, and Lakeland and Jacksonville, FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pennwalt Corp., P.O. Box 3608, Bryan, TX 77801. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 111231 (Sub-237TA), filed May 30, 1978. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: B. J. Wiseman, 610 East Emma Avenue, Springdale, AR 72764. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass material and fiberglass products, fibrous glass mineral wool products, fibrous glass textile materials, fibrous glass textile products, plastic materials, and plastic products* (except plastic bottles), and raw material, supplies, machinery, and equipment used in the manufacturing and packing of such commodities (except commodities in bulk, tank, hopper or dump vehicle), between the facilities of Owens-Corning Fiberglass Corp. located in Franklin and Licking Counties, OH, on the one hand, and on the other, points in AR, IL, KS, LA, MS, NE, OK, TN, TX, and MO, for 180 days. Supporting shipper(s): Owens-Corning Fiberglass Corp., Fiberglass Tower, Toledo, OH 43659. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 111302 (Sub-128TA), filed May 30, 1978. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, Knoxville, TN 37919. Representative: David A. Petersen, P.O. Box 10470, Knoxville, TN 37919. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid resins* (in bulk, in tank vehicles), from the facilities of Cargill, Inc., in Forest Park, GA, to Birmingham and Mobile, AL, Miami, Orlando, Pompano Beach, and Tampa, FL, New Orleans, LA,

Cherryville, NC, Spartanburg, SC, Chattanooga, Fayetteville, Memphis, and Nashville, TN, and Houston, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cargill, Inc., 71 Barnett Road, Forest Park, GA 30050. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 112989 (Sub-66TA), filed May 25, 1978. Applicant: WEST COAST TRUCK LINES, INC., 85647 Hwy 99 South, Eugene, OR 97405. Representative: John W. White, Jr., 85647 Hwy 99 South, Eugene, OR 97405. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Containers, container closures, container ends, container accessories, and materials and supplies* used in the manufacture, sale, and distribution of the aforementioned commodities, from the facilities of Latchford Glass Co. at San Leandro, Los Angeles, and Vernon, CA, to points in OR and WA, for for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Latchford Glass Co., P.O. Box 71707, Los Angeles, CA 90001. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 Southwest, Yamhill Street, Portland, OR 97204.

MC 112989 (Sub-67TA), filed May 25, 1978. Applicant: WEST COAST TRUCK LINES, INC., 85647 Hwy 99 South, Eugene, OR 97405. Representative: John W. White, Jr., 85647 Hwy 99 South, Eugene, OR 97405. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Cans and can ends,* from the facilities of Crown Cork & Seal Co., Inc., located at Richmond, CA, to points in OR and WA, for for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Crown Cork & Seal Co., 9300 Ashton Road, Philadelphia, PA 19136. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 Southwest, Yamhill Street, Portland, OR 97204.

MC 114604 (Sub-54TA), filed May 26, 1978. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, Building 33, State Farmer's Market, Forest Park, GA 30050. Representative: Frank D. Hall, 3384 Peachtree Road, Suite 713, Atlanta, GA 30326. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen), from Brundidge, AL, to points in FL, GA, SC, NC, TN, MS, and LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Doxsee Foods, Inc., Banks Highway, Brundidge, AL 36010. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 115215 (Sub-30TA), filed May 23, 1978. Applicant: NEW TRUCK LINES, INC., P.O. Box 639, Perry, FL 32347. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lumber handling machinery, dry kiln outfits, and materials and supplies* used in the installation of the above, form Jacksonville, FL, to points in FL, GA, NC, SC, and TN, for 180 days. Supporting shipper(s): Irvington Moore, Division of National Resources, Inc., 1220 West State Street, Jacksonville, FL 32203. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL.

MC 117119 (Sub-690TA), filed May 30, 1978. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Martin M. Geffon, P.O. Box 338, Willingboro, NJ 08046. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from Baltimore, MD, and Lewes, DE, to points in CA, for 180 days. Applicant has also filed and underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Doxsee Food Corp., 8840 Kelso Drive, Baltimore, MD 21221. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 117119 (Sub-691TA), filed May 30, 1978. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Martin M. Geffon, P.O. Box 338, Willingboro, NJ 08046. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from Englewood, NJ, to points in CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Basic Foods, Inc., 53 Bancker Street, Englewood, NJ 07631. Send protest to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 118922 (Sub-17TA), filed May 26, 1978. Applicant: CARTER TRUCKING CO., INC., P.O. Box 225, Locust Grove, GA 30248. Representative: W. Randall Tye, Suite 1400-Candler Building, 127 Peachtree Street NE, Atlanta, GA 30303. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in, or used by, agricultural equipment, industrial equipment, and lawn and leisure product dealers, between the facilities of John Deere Co., located at or near Conyers, GA, on the one hand, and on the other, points in AL, GA, NC, SC, TN, and VA, under a continuing contract, or contracts, with John Deere Co., for 180 days. Supporting Shipper(s): John Deere Co., 2001 Deere Drive, Conyers, GA 30208. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 123048 (Sub-401TA), filed May 18, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, P.O. Box A, Racine, WI 53401. Representative: Paul L. Martinson (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Chain link fence, pipe and post;* (2) *Materials, equipment and supplies* used in the manufacture of commodities in (1) above, commodities named in (1) from Goodfield, IL, to points in the United States in and east of ND, SD, NE, KS, OK, and TX and commodities named in (2) above, from PA, to Goodfield, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Semmerling Manufacturing Corp., Route 150 and Harrison Street, P.O. Box 85, Goodfield, IL 61742 (James Schmidt). 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.

MC 123407 (Sub-458TA), filed May 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Metal buildings, broken down, and parts thereof,* from El Paso, IL, to points in CO, CT,

DE, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV, and WI; and (2) *Materials and supplies*, (except commodities in bulk), used in the manufacture of metal buildings, from points in CO, CT, DE, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MT, MO, NE, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV, and WI, to El Paso, IL, for 180 days. Applicant has also filed an underlying ETA seeking up 90 days of operating authority. Supporting shipper(s): Marathon Metallic Building Co., Thomas L. Young, traffic manager, 4601 Holmes Road, P.O. Box 142240, Houston TX 77021. Send protests to: Louis M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 Dearborn Street, Room 1386, Chicago, IL 60604.

MC 124887 (Sub-56TA), filed May 23, 1978. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast concrete*, from Peachtree City, GA, to New Orleans, LA, for 180 days. Applicant has also filed an underlying ETA seeking up 90 days of operating authority. Supporting shipper(s): Exposaic Industries, Inc., P.O. Box 2005, 300 Dividend Drive, Peachtree City, GA 30269. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 W. Bay Street, Jacksonville, FL 32202.

MC 124887 (Sub-57TA), filed May 23, 1978. Applicant: SHELTON TRUCKING SERVICE, INC., Rt. 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Morton, PA, Forest and Roxie, MS, to points in AL, GA, FL, NC, and SC, for 180 days. Supporting shipper(s): Stringfellow Lumber Co., P.O. Box 1117, Birmingham, AL 35210. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 126057 (Sub-4TA), filed May 29, 1978. Applicant: MARQUAND EXPRESS, INC., P.O. Box 149, Marquand, MO 63655. Representative: William H. Shawn, Suite 501, 1730 M Street NW, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between Marquand, MO, and points within 15 miles of Marquand, MO, on the one hand, and, on the other, points in MO, for 180 days. Supporting shipper(s): Missouri Brush and Crayon Co., 2726 Brentwood Blvd., St. Louis, MO 63144. Send protests to: P. E. Binder, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

MC 126881 (Sub-15TA), filed May 26, 1978. Applicant: RICHARD B. RUDY, INC., 203 Linden Avenue, Frederick, MD 21701. Representative: Kenneth W. Rudy, 203 Linden Avenue, Frederick, MD. 21701 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sweeteners*, (in bulk, in tank vehicles), from the sites of Skyline Terminals, Inc., Baltimore, MD, to points in DE, MD, NJ, NY, OH, PA, NC, VA, WV, and DC, restricted to the transportation of shipments (a) having a prior movement by rail, water or motor carrier and combinations thereof, and (b) destined to the above named points, under a continuing contract, or contracts, with Skyline Terminals, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 180 days of operating authority. Supporting shipper(s): Skyline Terminals, Inc., 1910 Russell Street, Baltimore, MD 21230. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, 12th and Constitution Avenue NW., Room 1413, Washington, DC 20423.

MC 127705 (Sub-55TA), filed April 10, 1978, and published in the FEDERAL REGISTER issue of May 16, 1978, and republished as corrected this issue. Applicant: KREVDA BROS. EXPRESS, INC., 501 South Broadway, Gas City, IN 46933. Representative: Donald W. Smith P.O. Box 40659, Indianapolis, IN 46240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the facilities of Kerr Glass Manufacturing Co., at Dunkirk, IN to Dearborn, Flint, Grand Rapids, Detroit, and Howell, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kerr Glass Manufacturing Co., P.O. Box 97, Sand Springs, OK 74063.Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802. The purpose of this republication is to add Detroit and *Howell* in lieu of *Holland* to the territorial description.

MC 138328 (Sub-62TA), filed March 15, 1978, and published in the FEDERAL REGISTER issue of May 23, 1978, and republished as corrected this issue. Applicant: CLARENCE L. WERNER d.b.a. WERNER ENTERPRISES, I-80 and Highway 50, P.O. Box 37308, Omaha, NE 68137. Representative: Donna Ehrlich (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal buildings*, knocked down or in sections, and *materials, equipment and supplies* used in the installation and sale of metal buildings; *steel studs; tracks and channels; metal roof trim and guttering;* and *lathing*, from the facilities of the Ceco Corporation at Broadview, IL, to points in CO, IN, IO, KA, MI, MN, MO, MT, NE, ND, OH, PA, SD, WI, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): D. R. D'Argento, traffic manager, The Ceco Corp., 5601 West 26th Street, Chicago, IL 60650. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102. The purpose of this republication is to show Michigan in lieu of Mississippi in the territorial description as previously published.

MC 140033 (Sub-44TA), filed March 22, 1978, and published in the FEDERAL REGISTER issue of April 21, 1978, and republished as corrected this issue. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: Lawrence A. Winkle, Winkle and Wells, P.O. Box 45538, Dallas, TX 75234. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fluorescent lighting fixtures; parts and accessories* for fluorescent lighting fixtures, from Bristol, PA to points in AZ, CA, CO, ID, MT, NE, NM, ND, OR, SD, UT, WA, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Keystone Lighting Corp., Beaver Street & Route 13, Bristol, PA 19007. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242. The purpose of this republication is to show ID in lieu of IN in the territorial description as previously published.

MC 144452 (Sub-1TA), filed March 22, 1978 and published in the FEDERAL REGISTER. issue of May 9, 1978, and republished as corrected this issue. Applicant: ARLEN LINGQUIST, d.b.a. ARLEN E. LINDQUIST TRUCKING,

3242 Old Highway 8, Minneapolis, MN 55418. Representative: James B. Hovland, P.O. Box 1680, 414 Gate City Building, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Oil*, (except in bulk), (a) from Roxana, IL to Shell Lake, Rice Lake, Bruce, New Richmond, Viroqua, Sparta, Necedah, and Tomah, WI; Grand Forks, ND and points in MN; (b) from St. Louis, MO to the facilities of Haliman Oil Company at or near Minneapolis, MN; and (2) *Empty oil drums*, from Shell Lake, Rice Lake, Bruce, New Richmond, Viroqua, Sparta, Necedah, and Tomah, WI; Grand Forks, ND; and points in MN to Roxana, IL; (3) *Lubricants*, (except in bulk), from New Orleans, LA to Virginia, MN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers(s): There are approximately (15) 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: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401. The purpose of this republication is to add (b) to part (1) of the territorial description which was previously omitted.

By the Commission.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-19834 Filed 7-17-78; 8:45 am]

[7035-01]

[No. MC-141971-EX]

NEW ORLEANS TRAFFIC AND TRANSPORTATION BUREAU—EXEMPTION APPLICATION, NEW ORLEANS, LA.

In this application, filed pursuant to the provisions of section 204(a)(4a) of the Interstate Commerce Act, the above-named applicant, representing a class of motor carriers as described below, seeks a certificate of exemption from compliance with the provisions of part II of the act in connection with the transportation, in interstate or foreign commerce, over irregular routes, of general commodities between the points and subject to the restriction substantially as set forth in the appendix to this decision.

Applicant, the New Orleans Traffic and Transportation Bureau, filed this application on behalf of a class of an unspecified number of motor carriers which assertedly operate only within the commercial zone of New Orleans as defined by the Commission. The motor carriers are engaged in local pickup and delivery operations and provide service between the facilities of the Port of New Orleans and points in the commercial zone. Applicant seeks an exemption here for the transportation of freight moving between points in the New Orleans commercial zone and having a prior or subsequent movement by water carrier subject to the Shipping Act of 1916.

In its decision of April 27, 1977, the Commission Review Board No. 2, denied the exemption application on the grounds that applicant had failed to satisfy its evidentiary burden of proof. By petition filed June 20, 1977, applicant seeks reconsideration of the Review Board's decision.[1] Protestants C&D Transportation Co., Inc., and the Common Carrier Conference-Irregular Route have filed replies.

We have considered the record in this proceeding, including the pleadings and the Review Board's decision. We conclude that the findings of the Review Board are correct and should be adopted. Applicants seeking an exemption pursuant to section 204(a)(4a) must demonstrate that the transportation service which will be performed by the eligible motor carrier or class of motor carriers sought to be exempted is of such nature, character, and quantity as not substantially to affect or impair uniform regulation by the Commission of motor carriers operating in interstate or foreign commerce, *Motor Carrier Operation in the State of Hawaii*, 84 MCC 5, 31 (1960), and *Knickerbocker Warehousing Corp., Exemption Application*, 99 MCC 293, 295 (1965). No evidence has been presented bearing on this crucial issue either by the applicant or its supporting witnesses. Applicant has failed to sustain its burden of proof under section 204(a)(4a).

It should be pointed out that the Commission, on its own motion, is proposing to utilize the exemption of section 204(a)(4a) to exempt the incidental transportation of ex-water traffic, the approach which applicant sought here for the Port of New Orleans. In Ex parte No. MC 105, *Single State Exemption—Ex Water Traffic*, notice of proposed rulemaking served concurrently with this decision, the Commission is proposing to exempt a certain class of motor carriers performing incidential transportation movements within the commercial zone of any port city of shipments having a prior or subsequent movement by maritime carrier.

It is ordered: The petitions are denied because the findings of Review Board No. 3 are in accordance with the evidence and the applicable law.

This order will be effective 15 days from its date of service.

Decided June 20, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Murphy, Brown, Stafford, Gresham, and Clapp, Commissioner Murphy concurring in part.

NANCY L. WILSON,
Acting Secretary.

Commissioner Murphy, concurring in part:

I am in agreement with the majority's denial of applicant's petition for reconsideration. However, the decision herein goes further and, in effect, invites applicant to resubmit its proposal in the new proceeding, Ex parte No. MC 105, Single State Exemption—Ex-Water Traffic. More importantly, it gives applicant preferred status insofar as notice under section 553 of the Administrative Procedure Act, 5 U.S.C. § 553, is required. Applicant thus will have a headstart on other interested persons. I do not believe that today's action is in accord with due process.

Accordingly, I would simply deny the petition, thus, affirming the Review Board's decision.

NOTICE.—By this order, this proceeding is rendered administratively final within the meaning of 49 CFR 1101.2(a) of the Commission's regulations; and, in accordance with the provisions of section 558(c) of the Administrative Procedure Act, any corresponding temporary authority expires and operations thereunder must cease upon the effective date of this order, except that to the extent permanent authority is granted in this proceeding (and if partial, only to that extent) the corresponding temporary authority or portion thereof will continue in effect until a certificate or permit is issued and becomes effective. The filing of any further pleadings in this matter will not stay the expiration of the temporary authority related to the denied portion of the sought permanent authority.

APPENDIX

Operations for which exemption is sought: To transport general commodities between points in the commercial zone of New Orleans, La., as defined by the Commission, restricted to the transportation of

[1] The Houston Port Bureau, Inc., which appeared in support of the application, has also submitted for filing a late-tendered petition (telegram) for reconsideration. The late-tendered pleading will be accepted for filing.

shipments having a prior or subsequent movement by common carrier by water not subject to part III of the act.

[FR Doc. 78-19840 Filed 7-17-78; 8:45 am]

[7035-01]

[Docket No. AB-10 (Sub-13F)]

WABASH RAILROAD CO. AND NORFOLK & WESTERN RAILWAY CO. ABANDONMENT IN THE CITY OF COLUMBIA, BOONE COUNTY, MO.

Findings

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by an certificate and decision dated June 26, 1978, a finding, which is administratively final, was made by the Commission, Review Board No. 5, stating that, subject to (1) those conditions for the protection of employees discussed in *Oregon Short Line R. Co.—Abandonment Goshen* 354 ICC 584 (1978), and further that applicant shall keep intact all of the right-of-way underlying the track, including all of the bridges and culverts for a period of 120 days from the effective date of this certificate and decision to permit any State or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way; (2) applicants shall not sell, lease, exchange, or otherwise dispose of the Wabash freight house or depot building and underlying property for a period of 180 days following abandonment unless this property has first been offered upon reasonable terms to public authorities or other responsible persons interested in acquiring the building for public use; (3) during the 180-day conditional period described above, applicants shall take reasonable steps to prevent significant alteration or deterioration of the Wabash depot and freight buildings; (4) in the event that the structures are sold to another party for purposes which would adversely affect their historic qualities, or in the event of plans by either company to demolish the buildings, the applicants shall, prior to the sale or demolition, insure that the structures are adequately recorded according to standards prescribed by the Historic American Building Survey. Applicants shall contact the Missouri Department of Natural Resources, Office of Historic Preservation, for a determination of whether any proposed sale of the structures would adversely affect historic qualities. The extent and nature of such documentation is to be developed in consultation with the Historic American Building Survey and the Missouri State Historic Preservation Officer with copies being provided the Historic American Building Survey and the Missouri State Historic Preservation Officer for inclusion in their respective archival collections; (5) the railroad companies shall require those who acquire the Wabash depot and freight house to notify the Advisory Council on Historic Preservation and the Missouri State Historic Preservation Officer of their plans for the structures; and (6) the Commission retain jurisdiction over the buildings during the conditional period and the conditions are subject to modification after consultation with the Department of the Interior and the Advisory Council on Historic Preservation, the present and future public convenience and necessity permit the abandonment by the Wabash Railroad Co. and Norfolk & Western Railway Co. of a portion of its Moberly Division, a line of railroad known as the Columbia Branch extending from railroad milepost 145+4101 feet to milepost 145+4883 feet a distance of 782 feet in the city of Columbia, Boone County, Mo. A certificate of public convenience and necessity permitting abandonment was issued to the Wabash Railroad Co. and Norfolk & Western Railway Co. Since no investigation was instituted, the requirement of § 1121.38(a) of the regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing exhibit I (section 1121.45 of the regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than August 2, 1978. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective September 1, 1978.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-19846 Filed 7-17-78; 8:45 am]

[7035-01]

[Docket No. AB-46 (Sub-No. 14F)]

WILLIAM M. GIBBONS, TRUSTEE OF THE PROPERTY OF CHICAGO, ROCK ISLAND & PACIFIC RAILROAD CO., DEBTOR, ABANDONMENT NEAR CLARKS GROVE AND MAPLE ISLAND IN FREEBORN COUNTY, MINN.

Findings

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by an certificate and decision dated June 23, 1978, a finding, which is administratively final, was made by the Commission, Review Board No. 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 354 ICC 584 (1978), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by William M. Gibbons, trustee of the property of Chicago, Rock Island & Pacific Railroad Co. of a line of railroad known as Clarks Grove to Maple Island extending from railroad milepost 0.00 near Clarks Grove to the end of the line near Maple Island, a distance of 8.70 miles, in Freeborn County, Minn. A certificate of public convenience and necessity permitting abandonment was issued to Willam M. Gibbons, trustee of the property of Chicago, Rock Island & Pacific Railroad Co. Since no investigation was instituted, the requirement of § 1121.38(a) of the regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing exhibit I (§ 1121.45 of the regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than August 2, 1978.The offer, as filed, shall contain information required pursuant to section 1121.38(b) (2) and (3) of the regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective September 1, 1978.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-19845 Filed 7-17-78; 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

	Item
Equal Employment Opportunity Commission	1
Federal Reserve System	2
Nuclear Regulatory Commission	3, 4
Renegotiation Board	5
Securities and Exchange Commission	6

[6570-06]

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, July 18, 1978.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Parts of the meeting will be open to the public, and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the public:

1. Freedom of Information Act Appeal No. 78-3-FOIA-69, concerning a request for summaries of interviews with parties who have filed charges of discrimination.
2. Proposed Guidelines on Employee Selection Procedures.
3. Report on the Financial Management System.
4. Report on Commission Operations by the Executive Director.

Closed to the public:

Briefing on the Commission's Litigation Program

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required that this meeting be held and that no earlier announcement was possible.

Voting in the affirmative: Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; Ethel Bent Walsh, Commissioner.
Voting in the negative: None.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued July 14, 1978.

[S-1467-78 Filed 7-14-78; 3:44 pm]

[6210-01]

2

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Friday, July 21, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Negotiation of contracts relating to proposed improvements to the Federal Reserve Bank of New York Building.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: July 13, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-1461-78 Filed 7-14-78; 10:14 am]

[7590-01]

3

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: July 11 and 12, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Closed (additional items).

MATTERS TO BE CONSIDERED:

Tuesday, July 11

1. At 11;30 a.m., the Commission held a meeting entitled: "Discussion of NRR Personnel Matters" (Approx. ½ hr.) (Closed—Ex. 6.)
2. At 2 p.m., the Commission held a meeting entitled: "Discussion of OIA/OGC Inquiry in Testimony of the Executive Director for Operations" (Approx. 2½ hrs.) (Closed—Ex. 1.)
3. At 4:45 p.m., the Commission held a meeting entitled: "Discussion of Consideration of Modification of Seabrook Order" (Approx. 1 hr.) (Closed—Ex. 10.)

Additional Information:

By a vote of 4-0 on July 11, 1978, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's rules that Commission business requires that the agenda items be held on less than one week's notice to the public. Prompt scheduling is required so that these matters can be handled expeditiously. (Chairman Hendrie did not participate in the Seabrook vote.)

Wednesday, July 12

1. At 10 a.m., the Commission held a meeting entitled: "Discussion of Consideration of Modification of Seabrook Order" (Approx. ⅛ hr.) (Closed—Ex. 10) which was a continuation of the meeting of the same title held on July 11, 1978.
2. At approximately 4 p.m., the Commission considered these Affirmation items: (a) Personnel Monitoring Reports. (b) Petition for Rulemaking by Business and Professional People. (c) Reappointment of ACRS Member.

Additional Information:

By a vote of 4-0 on July 12, 1978, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's rules that Commission business requires that these items be held on less than one week's notice to the public. Prompt scheduling is required so that these matters can be handled expeditiously.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

JULY 12, 1978.

[S-1462-78 Filed 7-14-78; 10:14 am]

[7590-01]

4

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: July 13 and July 14, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Closed (Changes).

MATTERS TO BE CONSIDERED:

Thursday, July 13

1. The meeting scheduled for 1:30 p.m. entitled "Briefing on Status of Improving Certain Study Group Recommendations" (Approx. 1 hr.) (Public Meeting) has been postponed.

2. The Affirmation Items scheduled for approximately 2:30 p.m. (Approx. 10 min.) (Public Meeting) were cancelled.

Friday, July 14

1. At approximately 3:30 p.m., the Commission will hold a meeting entitled "Discussion of Consideration of Modification of Seabrook Order" (Approx. 1 hr.) (Closed—Exemption 10) which is a continuation of a meeting of the same title held on July 12, 1978.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410

ROGER M. TWEED,
Office of the Secretary.

JULY 13, 1978.

[S-1463-78 Filed 7-14-78; 10:14 am]

[7910-01]

5

THE RENEGOTIATION BOARD.

DATE AND TIME: Wednesday, July 12, 1978; 2:30 p.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C.

STATUS: Closed to public observation.

MATTERS TO BE CONSIDERED:

1. Recommended Determination of Excess Profits and Clearance: Southern Fabricating Co., Inc., fiscal years ended December 31, 1966, through 1969.
2. Administrative 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: July 13, 1978.

HARRY R. VAN CLEVE,
Acting Chairman.

[S-1466-78 Filed 7-14-78; 3:27 pm]

[8010-01]

6

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 29410, July 7, 1978.

STATUS: Open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

PREVIOUSLY ANNOUNCED TIME AND DATE: Thursday, July 13, 1978, 10 a.m. The following additional item will be considered by the Commission at the open meeting scheduled for Thursday, July 13, 1978, at 10 a.m.:

Proposed transmittal of comments to the House Committee on Rules concerning H.R. 1756, "The Sunset Act of 1977", H.R. 9533, "The Sunset Program Evaluation Act of 1977", and H.R. 10421, "The Sunset Evaluation Act of 1977"; bills designed to increase Congressional review of Federal programs.

Commissioners Loomis, Pollack, Evans, and Karmel determined that Commission business required consideration of the matter and that no earlier notice thereof was possible.

JULY 12, 1978.

[S-1465-78 Filed 7-14-78; 11:54 am]

federal register

TUESDAY, JULY 18, 1978
PART II



ENVIRONMENTAL PROTECTION AGENCY

■

TOXIC SUBSTANCES CONTROL

Health and Safety Study Reporting Regulations

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER R—TOXIC SUBSTANCES CONTROL

[OTS-084001; FRL 912-1]

PART 730—HEALTH AND SAFETY STUDY REPORTING REGULATIONS

Final Rule

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice promulgates the final regulations proposed on January 31, 1978, in the FEDERAL REGISTER (43 FR 4073). This regulation requires submission of health and safety studies of the four substances and six categories of substances recommended by the Interagency Testing Committee for priority consideration for testing under section 4(a) of the Toxic Substances Control Act (TSCA). (See 42 FR 55026, October 12, 1977.) The information received will be used to determine the need for and nature of testing regulations. The following chemical substances and categories of substances are covered: Alkyl epoxides, alkyl phthalates, chlorinated benzenes, chlorinated paraffins, chloromethane, cresols, nitrobenzene, toluene, and xylenes. Initial submissions are to be made by manufacturers, processors, or distributors of one or more of these substances.

EFFECTIVE DATE: August 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Ralph Northrop, Office of Toxic Substances (TS-792), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-755-1500.

SUPPLEMENTARY INFORMATION: TSCA section 4(e) established the Interagency Testing Committee (ITC) to recommend chemicals for priority consideration for testing under section 4(a). On October 5, 1977, the ITC recommended four substances and six categories of substances. The Administrator must either initiate section 4(a) rulemaking in accordance with these recommendations or publish his reasons for not doing so within 1 year of their receipt. The purpose of this rule is to help insure that EPA obtains any information that is already available which could provide guidance as to the kinds of testing needed or which would make further testing unnecessary. In addition to this information, the Agency will be surveying the scientific literature and other sources of information.

During the 60-day comment period following the January 31 proposal, only 14 comments were received; however, over two dozen comments have been received since then. Some of these comments have resulted in the changes to the proposal described below. Additional responses to specific comments are given in the appendix.

DEFINITIONS

The purpose of this regulation is to acquire pertinent information not available to the Agency so that the Administrator can make informed decisions regarding the need for testing. In light of this, the definitions of terms in TSCA should be interpreted broadly for the purposes of this rule to allow access to as much relevant information as possible.

Section 8(d) authorizes EPA to require submission of studies of chemicals manufactured, processed or distributed "for commercial purposes." In the proposed regulation the definition of manufacture or process "for commercial purposes" specifically included "for product research and development." Several comments were received stating that research and development chemicals should not be included in this definition because they were not included in the inventory reporting regulations promulgated under section 8(a) of TSCA (see 40 CFR 710.2(p), 42 FR 64576). These comments incorrectly interpret the inventory reporting regulations. Those regulations did not exclude research and development chemicals by definition but, rather, by specific exclusion from the inventory reporting requirements (see 40 CFR 710.4(c)(3)). This exclusion is specifically directed by section 8(b) of TSCA to prevent companies from reporting chemicals for the inventory at the research and development stage in order to avoid the premarket notification under section 5 of TSCA. This rationale clearly does not apply to section 8(d). Accordingly, EPA finds it unnecessary to specifically include research and development chemicals in the "for commercial purposes" definition. There is also no reason to specify "for use as a catalyst" since it is included in the phrase "for use by the manufacturer or processor." Therefore, the definition is now consistent with that in the inventory reporting regulations. A note is included in these regulations to make it clear that research and development chemicals are not excluded.

Another major concern was that valuable confidential business information would be revealed if studies at the research and development stage were required because, under section 14(b), EPA is not prohibited from disclosing any data except those concerning processing and percent composition of mixtures. However, this provision does not apply to chemicals under research and development which have not yet been offered for distribution in commerce.

The definition of "person" has been modified to delete the term "juridical person." The sole purpose of this term in the proposal was to eliminate any confusion as to whether individual employees or the company itself should report to EPA. The Agency has determined that it is sufficiently clear that the person who must submit a list of studies is only the commercial entity and not each of its individual employees. This does not remove the legal liability of those company officials responsible for the company's compliance.

The term "study" has been deleted as unnecessarily restrictive. The definition of "health and safety study" in the act will apply. As noted above, the purpose of this regulation is to obtain as much information as possible; therefore, persons should interpret the term "health and safety study" broadly. The focus should be on studies of effects of a substance. Studies do not include routine medical records, unless the data are collected and analyzed for the purpose of studying the effects of a substance on health or the environment.

WHO MUST REPORT

TSCA section 8(d) authorizes the Administrator to require: (1) From manufacturers, processors, and distributors of a substance, lists of any health and safety studies regarding that substance; and (2) from any person in possession of health and safety studies on a substance, copies of such studies, whether or not they manufacture, process, or distribute the substance. For the purposes of this rule, the requirement for initial submission of lists and copies of studies is limited to manufacturers, processors, and distributors of the ITC-recommended chemicals. The proposal has been changed to include persons who have manufactured, processed, or distributed the designated chemicals, or who have proposed to do so, since January 1, 1975, rather than 1977. Persons who ceased manufacturing, processing, or distributing these substances prior to 1975 are not subject to the requirement. This provision is to ensure that all chemicals within the categories listed in § 730.4 which may appear on the TSCA section 8(b) chemical inventory will be examined (see 42 FR 64572). However, this does not mean that chemicals which would not appear on the inventory (e.g., by reason of amount produced) are excluded from this regulation. All members of the recommended categories of substances for which studies have been done are subject to the requirements.

If a study listed by a manufacturer, processor, or distributor is not in his possession and is not otherwise available to the Agency, the Administrator may require anyone in possession of that study to submit a copy using the procedures outlined in § 730.7. Thus universities, independent laboratories, private and public orgnizations, and individuals who have possession of listed studies may later be asked to submit a copy of a listed study under this regulation.

Types of Studies Subject to Submission

The ITC recommended testing for specific effects of priority concern for each of the four chemicals and six categories of chemicals listed in § 730.4. These effects include carcinogenicity, mutagenicity, teratogenicity, other chronic effects, and environmental effects. The ITC also recommended further investigation of epidemiology studies for certain substances. The Agency has decided not to limit requests to studies of only these effects, but rather to acquire and act on studies of any toxicity associated with these chemicals. It is very informative to know the full range of possible toxic effects of a substance in evaluating and predicting its biological activities. For example, acute studies may suggest possible chronic effects. Therefore, this final regulation requires submission of health and safety studies on any toxic effect studied for these substances. Such effects include: Carcinogenicity, mutagenicity, teratogenicity, environmental effects, behavioral disorders, cumulative or synergistic effects and any other toxic effect, regardless of severity. Studies of animals and humans are to be included. For example, epidemiology studies should not be restricted to human populations, but should also include observations of animals in their natural habitat. Environmental effects include both chemical fate and persistence, as well as ecological effects on plants and animals. Studies of the effects of a mixture that includes a substance listed in section 730.4 must be reported.

Any other information which the respondent can provide to inform EPA of the need for and nature of testing for these substances should be submitted.

Note.—The category "chlorinated paraffins" has been expanded to include those with chlorine content of 35 percent through 70 percent by weight, rather than 65 percent as originally proposed. The ITC's published dossier on this category refers to studies on a product with 70 percent chlorine content and also states that the maximum attainable content is 70 percent. The regulation has been changed to include such substances.

What Must be Reported

Section 730.5 has been revised from the proposal in response to comments to reduce duplicative and unnecessary reporting. The regulation now requires lists of only those studies in a person's possession which have been conducted or initiated by or for respondents or by persons—such as universities, or manufacturers who ceased production before 1975—who are not subject to the listing requirement under this regulation. Persons do not have to list studies conducted by other manufacturers, processors, or distributors who will be reporting these studies themselves. Nor do persons have to list studies on any substances other than those they actually manufactured, processed, or distributed.

Manufacturers, processors, and distributors must submit copies of studies done by or for them or which have been done by other persons not covered by this requirement. These studies are for any of the substances listed in § 730.4, whether or not the commercial entity was actually involved with the particular chemical.

In short, the proposal has been changed to require listing of studies for only those ITC-recommended substances manufactured, processed, or distributed by respondents. The requirement for copies continues to include studies of any substance designated in § 730.4

Studies must be reported (listed and/or copies submitted) whether contained in the files or referenced in letters or memoranda in the files. While such file searches may place a burden on the respondent, the Agency thinks they are necessary to acquire all the available data pertinent to deciding what testing should be done. Significant information may exist in older studies.

Published studies do not have to be listed if indexed by one of the several abstract services in § 730.5. This provision should exclude listing of most studies published in recognized scientific literature. The Defense Documentation Center has been deleted as inappropriate since it may include certain unobtainable classified documents. Persons also do not have to submit copies of studies submitted to any Federal Agency, unless they were submitted with claims of confidentiality. Any study already submitted under TSCA need not be reported.

The kinds of studies which must be listed include not only studies for which final results have been reported, but also studies for which data collection has been initiated. The latter include ongoing studies and studies which, for one reason or another, have not been completed. These studies need only be briefly described in the listing to indicate the type and extent of information collected. Copies of available data may be requested at a later date. However, if there has been a preliminary report of findings which the respondent thinks is significant, a copy should be submitted with the list. Preliminary results do not otherwise have to be submitted with the lists. Respondents are encouraged to append any comments with regard to the import of the study or any other information which could inform EPA as to the need for and nature of testing for the recommended substances. Persons are reminded that if they obtain any preliminary results which reasonable support the conclusion that a substance or mixture presents a substantial risk, they must immediately inform EPA as required by section 8(e) of TSCA (See 43 FR 1110).

Many commenters noted that often studies can be misleading, and in error, especially with regard to preliminary results. This notwithstanding, the Agency requires submission of studies regardless of age, quality, or results so that it may assess their significance.

When to Report

Persons are to submit lists of studies and those copies of studies specified in § 730.5(a)(2) on or before 30 days from the effective date of the rule. The effective date is August 17, 1978.

Copies of ongoing studies listed by respondents are to be submitted within 30 days of completion. If a study yields preliminary results which the respondent thinks are significant these should be submitted to EPA.

Following submission of lists and copies of final reports of studies the Administrator may request submission of underlying data in order to assess a significant study. This would include any preliminary results which had been reported at the time of the request.

Persons do not have to submit final reports of studies which are initiated after either (1) rules under section 4(a) have been promulgated for the substance, or (2) the Administrator has published a Federal Register notice stating his reasons for not initiating such rules. Studies initiated prior to this are subject to this rule to ensure that EPA is apprised of all relevant studies initiated by companies during the decisionmaking period for testing rules. This provision also avoids the burden of continuous reporting, especially after EPA has reviewed a chemical. After this time, the Agency will rely on other sources of information to become apprised of the need to reevaluate a chemical.

Confidentiality

Any person submitting a health and safety study, under either § 730.5 or § 730.7, may claim all or part of the study confidential. However, the

Agency is authorized by section 14(b) of TSCA to withhold from disclosure only limited "trade secret" information: (1) Processing information, and (2) percent composition of mixtures. Other information contained in the study, the disclosure of which would clearly be an unwarranted invasion of personal privacy (such as individual medical records), will be considered confidential as provided in title 5, United States Code, section 552(b)(6). The provisions of section 14(b) apply only for those substances which (1) have been offered for commercial distribution, (2) are subject to a TSCA section 4 testing rule, or (3) are subject to premanufacture notification.

Any claims of confidentiality must be made at the time of submission, as provided in 40 CFR 2.203(a)(2) and in the manner specified in § 730.7 of this regulation. To insure proper handling of confidential material, submissions must be addressed to the Document Control Officer of the Office of Toxic Substances.

A MODEL RULE

This rule will serve as the model for obtaining health and safety studies on substances under consideration for testing under section 4(a) of TSCA, whether recommended by the ITC or some other source. Procedures for routine rulemaking are being developed by the Agency. Modifications in the regulation will be made as experience indicates is necessary. It is expected that the major change in each request for studies will be made in § 730.4 which designates the chemical substances for which testing is being considered. A more complete description of the procedures for using this model rule will appear with the next request for studies.

NOTE.—EPA has determined that this document does not contain a major proposal requiring preparation of an economic impact analysis statement under Executive Order No. 12044 and OMB Circular No. A-107.

40 CFR Part 730 is added as follows:

Dated: July 7, 1978.

DOUGLAS M. COSTLE,
Administrator.

Sec.
730.1 Definitions.
730.2 Scope and compliance.
730.3 Persons who must report.
730.4 Substances to which this part applies.
730.5 Listing and submission requirements.
730.6 Schedule for submission of studies.
730.7 Persons in possession of listed studies.
730.8 Confidentiality claims.

AUTHORITY: Subsection 8(d), Toxic Substances Control Act (90 Stat. 2003, 15 U.S.C. 2601 et seq.).

§ 730.1 Definitions

All the definitions as set forth in the Toxic Substances Control Act (TSCA) section 3 apply for this part. In addition, the following definitions are provided for the purposes of this part:

(a) "Manufacture or process" means to manufacture or process "for commercial purposes," which includes (1) for distribution in commerce, including for test marketing purposes; or (2) for use by the manufacturer or processor, including for use as an intermediate.

NOTE.—This definition includes chemical substances or mixtures manufactured or processed for product research or development.

(b) "Person" includes any natural person, firm, company, corporation, joint-venture, partnership, sole proprietorship, association, or any other business entity, any State or political subdivision thereof, any municipality, any interstate body, and any department, agency, or instrumentality of the Federal Government.

(c) "Substance" means a chemical substance or mixture as defined in TSCA.

§ 730.2 Scope and compliance.

(a) This part implements subsection 8(d) of the TSCA to obtain health and safety studies associated with the substances and categories of substances selected for priority consideration for testing rules under subsection 4(a).

(b) Subsection 15(3) of TSCA makes it unlawful for any person to fail or refuse timely to submit information required under this part. Section 16 provides that a violation of section 15 renders a person liable to the United States for a civil penalty and possible criminal prosecution. Under section 17, the Government may seek judicial relief to compel submittal of subsection 8(d) information and to otherwise restrain any violation of this part.

§ 730.3 Persons who must report.

(a) Persons subject to § 730.5 are all persons who have manufactured, processed, or distributed in commerce, or have proposed to manufacture, process, or distribute in commerce since January 1, 1975, one or more of the substances or categories of substances listed in § 730.4; this includes persons who manufacture, process, or distribute these substances on a seasonal or batch basis, as well as those who hold themselves out as being manufacturers, processors, or distributors.

(b) All persons, as defined in § 730.1(b), are subject to the requirements of § 730.7.

§ 730.4 Substances to which this part applies.

This part applies to all health and safety studies of the substances listed below, including studies of carcinogenicity; mutagenicity; teratogenicity; behavioral disorders; cumulative or synergistic effects; environmental effects; acute, subacute, and chronic effects:

(a) Alkyl epoxides—including all noncyclic aliphatic hydrocarbons with one or more epoxy functional groups;

(b) Alkyl phthalates—all alkyl esters of 1,2-benzene dicarboxylic acid (orthophthalic acid);

(c) Chlorinated benzenes—monochlorobenzene (CAS No. 108-90-7), ortho-, meta-, and para-dichlorobenzene (CAS Nos. 95-50-1, 541-73-1, and 106-46-7);

(d) Chlorinated paraffins—chlorinated paraffin oils and chlorinated paraffin waxes, including those with chlorine content of 35 percent through 70 percent by weight;

(e) Chloromethane—(CAS No. 74-87-3);

(f) Cresols—ortho-, meta-, and paracresol (CAS Nos. 95-48-7, 108-39-4, and 106-44-5);

(g) Hexachloro-1,3,-butadiene—(CAS No. 87-68-3);

(h) Nitrobenzene—(CAS No. 98-95-3);

(i) Toluene—(CAS No. 108-88-3); and

(j) Xylenes—ortho-, meta-, and paraxylene (CAS Nos. 95-47-6, 108-38-3, and 106-42-3).

§ 730.5 Listing and submission requirements.

(a) Except as provided in paragraph (b) of this section, persons subject to this section shall forward to the address in paragraph (f) of this section:

(1) Lists of health and safety studies in the possession of such persons relating to each of the substances set forth in § 730.4 which they manufacture, process, or distribute, whether or not final results or conclusions have been reported,

(i) That are or were conducted or initiated by or for them, or

(ii) That are contained or referenced in letters or memoranda in their files, where such studies were conducted or initiated by a person who is not subject to reporting under this section, and

(2) Copies of any final reports of completed health and safety studies in the possession of such persons for each of the substances listed in § 730.4 whether or not manufactured, processed, or distributed by such persons,

(i) That were conducted or initiated by or for them, or

(ii) That were conducted or initiated by a person who is not subject to reporting under this section. Underlying raw data do not have to be submitted, unless requested by the Administrator or his designee.

(b) Persons subject to this part may, but are not required to, submit:

(1) Copies of studies which have been—

(i) Published in the scientific literature, or

(ii) Submitted to any Federal agency with no claims of confidentiality; or

(2) Lists or copies of any studies which, on the effective date of this part, appear in the following:
(i) Agricola,
(ii) Biological Abstracts,
(iii) Chemical Abstracts,
(iv) Commonwealth Agricultural Bureau Abstracts,
(v) Dissertation Abstracts,
(vi) Environmental Periodicals Bibliography,
(vii) Index Medicus,
(viii) National Technical Information Service, or
(ix) Pollution Abstracts; or
(3) Lists or copies of any study previously submitted to EPA under the TSCA.

(c) The lists of health and safety studies are to be grouped by chemical and alphabetized by the last name of the senior author and shall include:
(1) The title of each study,
(2) The literature citation (including the following sequence of information, as appropriate: Author, title, unabbreviated name of the periodical, date of publication, volume number, pages occupied by the article, series, edition, city of publication, and publisher's name) for published studies,
(3) The title, date, agency name, and any other appropriate identification for studies submitted to any Federal agency,
(4) The title, source, and identity of any person known to have possession of unpublished studies that are referenced but not contained in the files of the person submitting the list, and
(5) A description of any ongoing or completed study for which no final results have been reported, including the purpose of the study, type of data collected, progress, and anticipated date of completion.

(d) The list must also contain the name, job title, address, and telephone number of the submitting official, and the name and address of the manufacturing, processing, or distributing establishment with which he is associated.

(e) Persons who submit or list incomplete studies may be required to submit all or part of any underlying data.
(1) Requests will be made by certified mail by the Administrator or his designee, specifying what data must be submitted.
(2) Submissions must be postmarked within 2 weeks of receipt of the request.

(f) Lists and copies of health and safety studies should be submitted by certified mail to: Document Control Officer, Chemical Information Division, Office of Toxic Substances (TS-793), 401 M Street SW., Washington, D.C. 20460, Attention: 8(d) submission.

§ 730.6 Schedule for submission of studies.

(a) Except as provided in paragraph (b) of this section, submissions under § 730.5 shall be postmarked on or before 30 days after the effective date of this part.

(b) Copies of final reports of studies subject to § 730.5(a)(2) must be submitted to EPA within 30 days of their availability if initiated prior to the date that either (1) rules under section 4(a) of TSCA have been promulgated for the substance, or (2) the Administrator has published in the FEDERAL REGISTER his reason for not initiating section 4(a) rulemaking for that substance. Copies of reports of preliminary results which the respondent thinks are significant should also be submitted to EPA.

§ 730.7 Persons in possession of listed studies.

(a) Any person who possesses a study that is listed by, but not in the possession of, a person submitting a list according to the requirements of § 730.5 must, if requested by the Administrator or his designee, submit a copy to EPA.

(b) In requiring any person to submit a copy of a study under paragraph (a) of this section, EPA shall notify the person in writing of the requirement.
(1) Such written notification shall include:
(i) A copy of this part;
(ii) A description of the requested study;
(iii) The name, address, and telephone number of the person to whom the study is to be submitted; and
(iv) The date by which the study must be submitted, which date shall be no sooner than 30 days after the person's receipt of the notification.
(2) The written notification shall be mailed by certified mail.

§ 730.8 Confidentiality claims.

(a) Any person submitting a health and safety study under this part may assert a business confidentiality claim covering all or part of the health and safety studies. Any information covered by a claim will be disclosed by EPA only to the extent and by means of the procedures set forth in part 2 of this title.

(b) If no claim accompanies the health and safety studies at the time they are submitted to EPA, the studies will be placed in an open file available to the public without further notice to the respondent.

(c)(1) Subsection 14(b) of the Toxic Substances Control Act states that EPA may not withhold from disclosure, on the grounds that they are confidential business information, health, and safety studies of any substance that has been offered for commercial distribution or for which testing is required under TSCA section 4 or for which notice is required under TSCA section 5, except to the extent that disclosure of data from such studies would disclose:
(i) Processes used in the manufacturing or processing of a chemical substance or mixture, or
(ii) The portion of a mixture comprised by any of the chemical substances in the mixture.

(d) To assert a claim of confidentiality for data contained in a health and safety study, the respondent must submit two copies of the study.
(1) One copy of the study must be complete. In that copy the respondent must indicate what data, if any, are claimed as confidential by marking the specific information on each page with a label such as "confidential," "proprietary," or "trade secret."
(2) If some data in the health and safety study are claimed as confidential, the respondent must submit a second copy. The second copy must be complete except that all information claimed as confidential in the first copy must be deleted.
(3) The first copy of the health and safety study will be for internal use by EPA. The second copy will be placed in an open file to be available to the public.
(4) Failure to furnish a second copy of the health and safety study when information is claimed as confidential in the first copy will be considered a waiver of the claim of confidentiality, and EPA will place the first copy in the public file without further notice to the respondent.

APPENDIX

The following are replies to comment areas not addressed in the Supplementary Information.

Comment 1: The definition of person should be exact and should not use the term "includes".

Response: The definition tries to give a complete list of examples of persons, but may not be exhaustive with regard to the types of commercial entities that exist. The intent is that all such persons be included.

Comment 2: The term "distributor" should be clearly defined and should exclude persons who warehouse or distribute prepackaged products directly to consumers.

Response: TSCA defines "distribute in commerce" most comprehensively. The Agency does not wish to exclude any distributor who might possess studies. However, in subsequent development of the model section 8(d) rule, coverage of distributors may be reconsidered.

Comment 3: Exempt small businesses from the regulation.

Response: Much of the burden to small businesses should be relieved by the change in § 730.5 which avoids duplicative reporting of studies conducted by manufacturers, processors, and distributors. In the subsequent development of the model section 8(d) rule the Agency will consider means to minimize the burden on small businesses.

Comment 4: Persons who have manufactured, processed, or distributed the substances at any time should be subject to the requirement.

Response: The Agency has authority to obtain a copy of a study from any person

who possesses it. However, since the Agency needs to acquire the studies subject to this particular rule in an expeditious manner, the Agency is only requiring persons who have manufactured, processed, or distributed since January 1, 1975, to report.

Comment 5: The requirement to search files for referenced studies will require significant man-hours for companies with extensive files. The proposed rule requires an Economic Impact Analysis Statement.

Response: The Agency has determined that these file searches are necessary and do not represent an unreasonable or major burden. Based on discussions with industry representatives at a meeting held October 31, 1977, it was estimated that very few unpublished studies have been conducted by companies. It is therefore unlikely that excessive work will be necessary to meet the final regulation's requirements.

Comment 6: Only studies persons are currently aware of, as used in the section 8(e) statement of interpretation, should be subject to section 8(d) requirements.

Response: Section 8(d) does not apply to studies a person "obtains" as in section 8(e), but rather applies to studies known to or reasonably ascertainable by a person. Further, copies may be obtained from any person in "possession" of a study.

Comment 7: Require submission of only lists, with subsequent requests for copies of studies, if necessary.

Response: This suggestion was rejected because insufficient information is contained in the title of a study. However, to reduce the burden of copying extensive amounts of material, the regulation does not require initial submission of all underlying raw data. It also does not require submission of copies of studies conducted by other persons subject to the rule.

Comment 8: Failure to make a claim of confidentiality at the time of submission should not result in automatic disclosure. This provision is unduly harsh and does not allow for simple clerical error.

Response: EPA has established this procedure in 40 CFR 2.203. This procedure received full public comment when the Freedom of Information Act regulations for handling confidential business information were published September 1, 1976 (41 FR 36902). The Agency does not think it necessary to provide special provisions for this rule. This approach conforms to the requirements of section 14(c)(1) of TSCA.

Comment 9: CAS numbers should be given for the categories of substances.

Response: Chlorinated paraffins are mixtures and thus do not have CAS numbers. Once the inventory of chemicals has been compiled, it will be more practical for the Agency to provide a list of CAS numbers for categories of chemicals such as alkyl epoxides and alkyl phthalates. (Nevertheless, not all chemicals will appear on the inventory which will be of interest under section 4(a); therefore, this list will not be exhaustive.) Until that time, respondents are responsible for identifying which of their chemicals fall within these categories.

Comments 10 and 11: Exclude/include all studies submitted to Federal agencies.

Response: The Agency chose to exclude only those studies submitted to agencies without claims of confidentiality because of the difficulty of obtaining such information at this time. This is because (1) agreements are still being negotiated on the exchange of information between agencies; and (2) provisions for disclosing confidential information differ according to statute.

Comment 12: Reimbursement for tests disclosed by this regulation should be given as provided for in section 4.

Response: Reimbursement applies only in special circumstances specified in sections 4(c) and 5(h). These provisions further apply only in cases where data submission is required by rule under sections 4 or 5, not under section 8.

Comment 13: Federal agencies should not be included in the definition of "person."

Response: Section 26(a) authorizes each Federal department and agency to furnish information as deemed necessary by the EPA Administrator. Furthermore, section 20(a)(1) indicates that for purposes of TSCA Federal agencies are "persons." The Agency, therefore, has full authority to apply rules such as this to other agencies. Compliance with any provision of the act may be waived by the President if it is in the interest of national defense, as provided by section 22 of TSCA.

Comment 14: Provide a definition for "unpublished studies."

Response: The Agency thinks it is sufficiently clear that unpublished studies are those for which a literature citation as required by § 730.5(2) cannot be given.

Comment 15: Other items of information besides processing and percent composition data should be held confidential, such as the company name and market data.

Response: Section 730.7 states that any information may be claimed confidential by respondents. Upon request for release of a study the Agency will make a determination, according to the procedures in 40 CFR Part 2, as to the validity of such claims. A final policy toward release of such information (e.g., the link between a company and the chemical studies) has not yet been established.

Comment 16: Studies which are "known to" company officials, but not in writing in the files, could be significant and should be required to be submitted or listed.

Response: After extensive consideration of possible alternatives, the Agency chose to apply this rule to studies in company files as the most reasonable way for both the Agency and industry to survey available information. The Agency welcomes suggestions for reasonable means to expand the requirement for obtaining notice of studies not contained in company files.

[FR Doc. 78-19678 Filed 7-17-78; 8:45 am]

Federal Register

TUESDAY, JULY 18, 1978
PART III



DEPARTMENT OF LABOR

Mine Safety and Health Administration

■

HEALTH AND SAFETY TRAINING AND RETRAINING OF MINERS

Proposed Rule

[4510-43]

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[30 CFR Part 48]

TRAINING AND RETRAINING OF MINERS

Proposed Rule

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Proposed rule.

SUMMARY: This proposed rule would acquire an operator of a coal or other mine to provide health and safety training and retraining for miners. This proposed rule will implement section 115 of the Federal Mine Safety and Health Act of 1977 (Mine Act). The intended effect of the proposed rule is to ensure comprehensive and effective health and safety training programs for miners and to promote the joint effort and responsibility of operators and miners in the development and implementation of such programs.

DATES: Comments must be received by August 23, 1978. Public hearings will be held August 14, 1978, in Charleston, W. Va.; August 16, 1978, in St. Louis, Mo.; and August 18, 1978, in Phoenix; Ariz.

ADDRESS: Send comments to Frank A. White, Room 613, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-235-1910. The addresses of the public hearings will be announced in a later FEDERAL REGISTER notice.

FOR FURTHER INFORMATION CONTACT:

Harry L. Schell, Room 516, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-235-1515.

SUPPLEMENTARY INFORMATION:

I. STATUTORY BACKGROUND

The Mine Act, Pub. L. 95-164, applies to coal and other mines, amended the Federal Coal Mine Health and Safety Act of 1969, Pub. L. 91-173, and repealed the Federal Metal and Nonmetallic Mine Safety Act, Pub. L. 89-577. Section 115(a) of the Mine Act provides that operators of a coal or other mine shall have health and safety training programs approved by the Secretary. The Secretary is responsible under section 115(a) for promulgating regulations with respect to such health and safety training programs. Section 115(a) specifies that miners are to receive no less than 40 hours and 24 hours of new miner training for underground and surface work, respectively, no less than 8 hours of refresher training annually, and task training for new work assignments. Section 115 also lists required courses and provides that training is to be conducted during normal work hours at normal pay, that miners are to be reimbursed for additional costs they incur incident to training (§ 115(b)), and that operators must maintain miners' training certificates for inspection and furnish copies of such records to the miners (§ 115(c)). These requirements have been incorporated into this proposed rule.

II. SUMMARY OF PROPOSED RULE

Under this proposed rule, operators of coal and other mines are required to train miners according to health and safety training programs approved by the Mine Safety and Health Administration (MSHA). Operators submit the training program for approval to the MSHA Training Center Chief. Operators must have training programs for the training of new miners, the training of newly employed experienced miners, the training of miners assigned to new tasks, and the annual refresher training of miners. The requirements specify deadlines for submittal, approval, and commencement of training programs. Operators must also extend to miners' representatives the opportunity to comment on proposed training programs prior to submittal for approval.

Operators are not required to regularly submit training programs for approval except that certain information regarding refresher training is to be submitted annually. Once approved, all training programs will be subject to monitoring and evaluation by the MSHA Office of Education and Training, which may require changes or additions in the programs in order that approval be retained.

Operators and miners' representatives are afforded an opportunity to engage in informal consultation with the training center chiefs concerning any needed revisions specified by the training center chiefs in order to obtain or retain program approval. Moreover, operators, miners, and miners' representatives may appeal the training center chiefs' decisions affecting the training programs to MSHA's director of education and training. In addition, the training center chiefs and the director must state in writing to the operator any reasons for changes or for disapproval of programs or proposed notifications, advise corrective action, and specify a time for compliance.

To the greatest extent possible, given the variety of conditions existing or that may exist in mines and the state of contemporary mine health and safety knowledge, the proposed rule specifies the courses which must be included in the training programs. All courses except new task training must be taught by instructors approved by MSHA, such approval to be revoked only for good cause. To assist operators, particularly small operators and operators with limited resources and facilities, operators may participate in MSHA conducted or approved cooperative training programs.

III. RULEMAKING BACKGROUND

In order to assist the Secretary of Labor (Secretary) in the development of the mine health and safety training regulations contained in this proposed rule, an advisory committee (Committee) was established in accordance with sections 101 and 102(c) of the Mine Act. The Committee was directed to review the regulations suggested for proposal by the Secretary, and, based on such review, make recommendations to the Secretary regarding the regulations. The Committee held two series of meetings which the public was invited to attend on March 28 through 31, 1978, in Arlington, Va. and April 27 through 29, 1978, in Washington, D.C. Notices announcing the two meetings were published in the FEDERAL REGISTER on March 10, 1978 (43 FR 9885) and April 11, 1978 (43 FR 15204), respectively. The Committee subsequently submitted to the Secretary its recommendations, which, except as noted below, comprise this proposed rule.

The proposed rule revises §§ 48.2(a) and 48.22(a) of the Committee recommendation for the definition of miner by referring to the exclusion of construction workers and shaft and slope sinkers for purposes of subparts A and B. The Committee deleted any reference to construction workers or shaft and slope sinkers. The Committee felt that since these two categories of workers were to be covered under subpart C, which is still in the drafting stage, it would be inappropriate to refer to subpart C as though it were in final form at the proposal stage. Nevertheless, the importance of notifying all interested persons that construction workers and shaft and slope sinkers are excluded from subparts A and B is compelling enough that it is made part of the proposed regulation.

Additionally, there still is a great deal of concern over the scope of the definition of miner. The crux of the problem is the extent to which various types of workers on mine property are considered miners for the purposes of training. Several revised definitions of "miner" were submitted to the Committee by interested persons. MSHA also submitted a revised definition. The Committee drafted their revised definition, which was voted on and accepted unanimously in open session. Their definition is included in these proposed regulations.

The proposed rule revises the definition of experienced miner in §§ 48.2(b) and 48.22(b). The Committee recommended that the term, "experienced

miner" include persons who are employed as miners on the date the training plan is approved. The proposed rule defines "experienced miner" to include persons who are employed as miners on the effective date of the regulations.

The Committee was concerned that a hiring freeze would occur if persons, who were scheduled to be hired between the effective date of these regulations and the date the training plan was approved, were considered new miners instead of newly employed experienced miners. Their reasoning was based on the fact that these regulations require mandatory new miner training in accordance with an approved training plan before a new miner may work at the mine. Since an approved training plan will normally follow the effective date of these regulations by several months, the Committee believed that the operator was effectively barred from hiring new miners between the time the regulation became effective and the date the training plan was approved. This is not the case. Even though the proposed regulations would require that all new miners receive mandatory training, the operators is not required to give such training until the training plan is approved. Therefore, any new miner hired between the effective date of these regulations and the date the training plan is approved is not required to be trained under these regulations until the mine operator has a MSHA-approved training plan.

Normally a training plan will not be approved until several months after the effective date of these regulations. Therefore, persons hired before the effective date of these regulations will usually gain several months of work experience before the training plan is approved and becomes effective. When the training plan is actually approved and implemented these miners can reasonably be referred to as "experienced miners." If the "experienced miner" cutoff date were the date when the training plan is approved, new miners could be hired 1 day before the training plan is approved and be considered experienced miners who would be exempt from new miner training. Clearly, Congress did not intend this result when it urged the Secretary of Labor to apply a rule of reason in establishing criteria for defining an experienced miner. Therefore, the date when these regulations become effective is a logical cutoff date to determine who will be considered an "experienced miner."

The proposed rule adds §§ 48.3(k) and 48.23(k) concerning letters of disapproval. The Committee recommended that similar provisions be added to the appeals §§ 48.11 and 48.21, respectively. Letters of disapproval are as appropriate to initial decisions affecting approval of programs as they are to the appellate procedure, and therefore the regulations would be improved if such provisions were included with other sections concerning the approval of training programs. The Committee also limited its recommendation to requiring that MSHA only issue letters of disaproval of a proposed training program. This concept has been expanded in §§ 48.3(k) and 48.23(k) to require that MSHA similarly notify operators when MSHA disapproves or requires changes in existing programs or disapproves program modifications. Considerations of fair notice and of providing reasons for agency decisions apply equally in those situations as well.

In §§ 48.7(a) and 48.27(a), the Committee recommended that task training would "not be required for miners who have been trained and/or who have demonstrated safe operating procedures for such new work tasks within 12 months preceding assignment." This proposed rule more fully articulates the exempted categories of miners to include, (1) miners who have been trained in safe operating procedures and who have demonstrated safe operating procedures for such new tasks within the 12 months preceding assignment, and (2) miners who have performed such tasks and who have demonstrated the safe operating procedures for the tasks within the 12 months preceding assignment. After careful review of the Committee meeting transcripts it is believed that the revised wording better comports with the intent of the Committee. The change clarifies that previous task experience will suffice in lieu of training but that the demonstration of safe operating procedures is still required.

The Committee recommendation regarding individuals who may instruct and supervise new task training under §§ 48.7(a) (1) and (2)(ii) and 48.27(a)(1) and (2)(ii) has been clarified and expanded to include qualified trainers and supervisors experienced in the assigned task, equipment or machine. The Committee intended to include, but inadvertently deleted, immediate supervisors as new task trainers. Therefore, the proposed rule allows the immediate supervisor to give new task training. The proposed rule also permits any level of supervisor to teach task training since there apprears to be no reason why these supervisors may not also capably give such training. However, the proposed rule attaches a condition that the supervisor be experienced in the assigned task, equipment or machine which is the subject of training. That an individual is a "supervisor" alone does not guarantee experience or requisite skills to teach new task training adequately. Task training may also be given by qualified trainers. This permits the operator to fully use existing personnel as trainers who are knowledgable and skilled in teaching the subject matter.

In §§ 48.9(c) and 48.29(c), this proposed rule deletes the Committee recommendation that operators be required to submit, as a matter of course, a copy of each miner training certificate to MSHA upon completion of instruction. This deletion is based on the determination that there is no administrative purpose which warrants such additional routine record collection. Agency monitoring of training programs will rely on inspection of the training certificates kept by operators at the mines. Operators who fail to allow MSHA to inspect the training certificates will be cited and penalized accordingly.

The right of appeal contained in §§ 48.11 and 48.21 has been extended to miners and miners' representatives. The Committee's recommendations reflected the Committee's principal concern that operators be afforded an administrative check on the discretion of the Training Center Chiefs to require program changes or additions, particularly in the nature of additional courses not specified in the Mine Act or the regulations. The proposed rule recognizes that the development and maintenance of effective training programs is of mutual benefit to, and requires the joint participation and cooperation of operators, miners and miners' representatives. Miners and their representatives are most immediately affected by the training and are entitled to appeal decisions concerning their own health and safety. Moreover, the Committee recommended that the appeal right be specifically referenced in those provisions which the allow the training center chiefs to require additional but unspecified courses in proposed programs and to require changes in existing programs. Accordingly, it could be inferred that the appeal right would be available only to those types of decisions addressed in those provisions. To limit appeals to such decisions would be unduly restrictive. Therefore, the appeals sections have been reworded and the references to those sections thoughout the regulations have been deleted to clarify that all types of decisions by the training center chiefs affecting proposed or existing training programs are appealable to the Director of Education and Training, MSHA.

This proposed rule also deletes from the Committee's recommendations for surface mines and surface areas of underground mines, one section numbered § 48.27(d) requiring persons who control or direct haulage operations to take certain training. Section 48.27(d) is identical to § 48.7(d) retained in the proposed rule for underground mines. The requirements of § 48.7(d) do not

apply to surface operations; persons who control or direct haulage operations and who should take the specified training are employed in underground mines only.

Minor clarifying, conforming, grammatical and style changes of the Committee's recommendations comprise the remaining changes in this proposed rule. Such changes are nonsubstantive and do not alter the meaning of the recommendations.

Neither the Committee's recommendations nor this proposed rule contain a requirement that miners be trained in cardio-pulmonary resuscitation (CPR). The inclusion of CPR elicited substantial discussion during the Committee's meetings. Required CPR training for rescue team members is under serious consideration for inclusion in the regulations concerning mine rescue teams. Those regulations are currently under study and will be proposed before September, 1978.

IV. Rulemaking Procedure

This rulemaking procedure is governed by section 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164. Under Executive Order 12044 a comment period of at least 60 days would be allowed, during which any person may request a public hearing. If a hearing were requested, a notice announcing the hearing and listing issues raised by the written comments would be published. Because section 115 of the Mine Act directs the Department of Labor to promulgate these proposed rules within 180 days from March 9, 1978, it is not possible for MSHA to adhere to the normal rulemaking in this instance, but section 101 of the Mine Act will be adhered to. Therefore, the comment period is limited to 30 days, but the record will be held open until August 23, 1978.

In anticipation of requests for a public hearing, public hearings on the proposed rules will be held on August 14, 16 and 18, 1978. All testimony relevant to the proposed rules will be received in the record at the public hearings. This rulemaking procedure is consistent with the provisions of section 101 of the Mine Act and is designed to maximize public input into the final regulations.

V. Public Hearing

Public hearings on these proposed rules will be held on August 14, 1978, in Charleston, W.Va., on August 16, 1978, in St. Louis, Mo. and on August 18, 1978, in Phoenix, Ariz. Hearing locations in those cities will be announced in the Federal Register as soon as arrangements are made. The hearings will commence at 9 a.m. on the day specified and continue until 5:30 p.m. if necessary. The hearing will be conducted by Frank A. White, Office of Standards, Regulations and Variances, MSHA, and Harry L. Schell, Office of Education and Training, MSHA. It will be conducted in an informal manner. Each oral presentation will be limited to 20 minutes. There will be no cross-examination of those persons making statements, although at the discretion of the chairman, supplemental statements by those presenting evidence may be permitted. Although formal rules of evidence will not apply, the chairman may, in his discretion, exclude irrelevant or unduly repetitious material. A verbatim transcript of the proceedings will be taken. All written comments and data shall be included in the record. The transcript of the proceedings shall be available for public inspection. The record shall remain open until August 23, 1978, for the submission of supplementary statements or data.

VI. Compliance With Executive Order 12044

Executive Order 12044 states that agencies shall give the public at least 60 days to comment on proposed significant regulations except where the agency determines this is not possible. The comment period for these proposed rules is 30 days because section 115 of the Mine Act provides that final training standards be promulgated within 180 days after the effective date of the Act.

Although a 30-day comment period is specified, it should be noted that the rulemaking record will be held open until August 23, 1978.

Executive Order 12044 also requires agencies to prepare a detailed regulatory analysis of those significant regulations which may have major economic consequences for the general economy, for individual industries, geographical regions or levels of Government. A regulatory analysis has not been prepared for these proposed training regulations because the Secretary has no discretion to reduce the number of hours of required training to be received by each miner below the number set by Congress in section 115 of the Mine Act. Since the major portion of the economic impact of these proposed regulations is represented by the mandatory hours of training, the remaining economic impact represented by the administrative provisions of the proposal is relatively slight and is well below the criteria for preparation of a regulatory analysis.

Drafting Information

The principal persons responsible for drafting this proposed rule are: John S. Curtis, Education and Training, Mine Safety and Health Administration; and Robert C. Snashall, Jr., Attorney Advisor, Division of Mine Safety and Health, Office of the Solicitor, Department of Labor.

Dated: July 13, 1978.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

In consideration of the foregoing it is proposed to amend 30 CFR Chapter I as follows:

SUBCHAPTER H—EDUCATION AND TRAINING

1. By adding a new Subchapter H—Education and Training.

2. By adding a new Part 48 to Subchapter H as set forth below.

PART 48—TRAINING AND RETRAINING OF MINERS

Subpart A—Training and Retraining of Underground Miners

Sec.
48.1 Scope.
48.2 Definitions.
48.3 Training programs; time of submission; where filed; information required; time for approval; method for disapproval; commencement of training; approval of instructors.
48.4 Cooperative training program.
48.5 Training of new miners; minimum courses of instruction; hours of instruction.
48.6 Training of newly employed experienced miners; minimum courses of instruction.
48.7 Training of miners assigned to a task in which they have had no previous experience; minimum courses of instruction.
48.8 Annual refresher training of miners; minimum courses of instruction; hours of instruction.
48.9 Records of training; certificate.
48.10 Compensation for training.
48.11 Appeals procedure.

Subpart B—Training and Retraining of Miners Working at Surface Mines and Surface Areas of Underground Mines

48.21 Scope.
48.22 Definitions.
48.23 Training programs; time of submission; where filed; information required; time for approval; method for disapproval; commencement of training; approval of instructors.
48.24 Cooperative training program.
48.25 Training of new miners; minimum courses of instruction; hours of instruction.
48.26 Training of newly employed experienced miners; minimum courses of instruction.
48.27 Training of miners assigned to a task in which they have had no previous experience; minimum courses of instruction.
48.28 Annual refresher training of miners; minimum courses of instruction.
48.29 Records of training; certificate.
48.30 Compensation for training.
48.31 Appeals procedure.

Authority: Secs. 115(a), (b) and (c) and sec. 101(a)(2) of the Federal Mine Safety and Health Act of 1977 (Pub. L. 91-173, as amended by Pub. L. 95-164).

Subpart A—Training and Retraining of Underground Miners

§ 48.1 Scope.

The provisions of this Subpart A set forth the mandatory requirements for submitting and obtaining approval of programs for training and retraining miners working in underground mines. Requirements for compensation for training and retraining are also included. The requirements for training and retraining miners working at surface mines and surface areas of underground mines are set forth in Subpart B of this part.

§ 48.2 Definitions.

For the purpose of this Subpart A—

(a) "Miner" means any person working in an underground mine or any person whose duties require being underground, except supervisory personnel subject to approved State certification requirements. This definition shall include the operator if the operator works underground on a continuing, even if irregular, basis. For purposes of this Subpart A, this definition excludes persons performing underground construction, including the sinking of slopes and shafts.

(b) "Experienced miner" means a person who is employed as an underground miner on the effective date of these rules; or a person who has received a certificate of training from an appropriate State agency within the preceding 12 months; or a person who has had at least 12 months experience working underground in a mine during the preceding three years; or a person who has received the training for a new miner within the preceding 12 months as prescribed in § 48.5 of this Subpart A.

(c) "New miner" means a miner who is not an experienced miner.

(d) "Normal work hours" means a period of time during which an employee is otherwise scheduled to work. This definition does not preclude scheduling training classes on the sixth or seventh working day if such a work schedule has been established for a sufficient period of time to be accepted as the employer's common practice. Miners shall be paid at a rate of pay which shall correspond to the rate of pay they would have received performing their normal work tasks.

(e) "Operator" means any owner, lessee, or other person who operates, controls, or supervises an underground mine; or any independent contractor designated as an operator performing services or construction at such mine.

(f) "Task" means a work assignment that includes duties of a job that occur on a regular basis, and which requires physical abilities and job knowledge.

§ 48.3 Training programs; time of submission; where filed; information required; time for approval; method for disapproval; commencement of training; approval of instructors.

(a) Within 150 days after the effective date of this Subpart A, unless extended by MSHA, each operator of an underground mine shall have an approved program for training new miners, training newly-employed experienced miners, training of miners for new tasks, and annual refresher training for all miners as follows:

(1) In the case of an underground mine which is operating on the effective date of this Subpart A, the operator of the mine shall submit such program for approval within 90 days after the effective date of this Subpart A.

(2) In the case of a new underground mine which is to be opened or a mine which is to be reopened or reactivated after the effective date of this Subpart A, the operator shall have an approved program prior to opening a new mine, or reopening or reactivating an inactive mine.

(b) Training programs shall be filed with the Chief of the Training Center, MSHA, for the area in which the mine is located.

(c) Each operator shall submit to the Chief of the Training Center, MSHA, the following information:

(1) The company name, mine name, and MSHA identification number of the mine.

(2) The name and position of the person designated by the operator who is responsible for health and safety training at the mine. This person may be the operator.

(3) A list of MSHA-approved instructors with whom the operator proposes to make arrangements to teach the courses, and the courses each instructor is qualified to teach.

(4) The location where training will be given.

(5) A description of the teaching methods and the course materials which are to be used in training.

(6) The approximate number of miners employed at the mine and the maximum number who will attend each session of training.

(7) The predicted time or periods of time when regularly scheduled refresher training will be given. This schedule shall include the subjects of courses to be taught, the total number of instruction hours for each course, and the predicted time and length of each session of training. Each operator shall submit this schedule annually.

(8) For the purposes of § 48.7, the operator shall submit:

(i) A complete list of task assignments to correspond with the definition of "task".

(ii) The titles of personnel conducting the training for this section.

(iii) The outline of training procedures used in training miners in those work assignments listed under paragraph (c)(8)(i) of this section.

(iv) The evaluation procedures used to determine the effectiveness of training under this section.

(d) The operator shall furnish to the representative of the miners a copy of the training program two weeks prior to its submission to the Chief of the Training Center. Where the miners' representative is not designated, a copy of the plan shall be posted on the bulletin board two weeks prior to its submission to the Chief of the Training Center. Written comments received by the operator from miners or their representatives shall be submitted to the Chief of the Training Center. Miners or their representatives may submit written comments directly to the Chief of the Training Center.

(e) All training required by training programs submitted and approved by the Chief of the Training Center as required by this Subpart A shall be subject to evaluation by the Office of Education and Training, MSHA, to determine the effectiveness of the training program. If it is deemed necessary, the Chief of the Training Center may require changes in, or additions to, programs.

(f) Except as provided in § 48.7 of this Subpart A, all courses shall be conducted by MSHA-approved instructors.

(g) Instructors shall be approved in one or more of the following ways:

(1) Instructors shall take an instructor's training course conducted by the Office of Education and Training, MSHA, or given by persons who are designated by the Office of Education and Training, MSHA, to give such instruction; and instructors of courses shall have satisfactorily completed a program of instruction approved by the Office of Education and Training, MSHA, in the subject matter to be taught; or

(2) Instructors may be designated by MSHA as approved instructors to teach specific courses based on their qualifications and teaching experience.

(3) On the effective date of this Subpart A, cooperative instructors who have been designated by MSHA to teach MSHA-approved courses and who have taught such courses within the 24 months prior to the effective date of this subpart shall be considered approved instructors for such courses.

(4) Instructors may have their approval revoked for good cause which may include not teaching a course at least once every 24 months. Reasons for revocation must be sent to the instructor, in writing, with a copy of the letter sent to Director of Education and Training, MSHA, 4015 Wilson Boulevard, Arlington, Va. 22203.

(h) The Chief of the Training Center for the area in which the mine is located shall notify the operator, in writing, within 60 days from the date on which the training program is filed, of the approval or status of the approval of the training program.

(1) If revisions are required for approval, or to retain approval thereafter, the revisions required shall be specified and the operator and the representative of miners shall be afforded an opportunity to discuss the revisions with the Chief of the Training Center, or to propose alternate revisions or changes. The Chief of the Training Center, in consultation with the operator and the representative of the miners, shall fix a time within which the discussion will be held, or alternate revisions or changes submitted, before final approval is made.

(2) The Chief of the Training Center may approve separate phases of the training program and withhold approval of other phases, pending discussion of revisions or submission of alternate revisions or changes.

(i) Except as provided under § 48.8(c) of this Subpart A, the operator shall commence training of miners within 60 days after approval of the training program, or approved phases of the training program.

(j) The operator shall obtain approval from the Chief of the Training Center, MSHA, in the area in which the mine is located, prior to changing or modifying the approved training program.

(k) In the event the Chief of the Training Center or the Director of Education and Training disapproves a training plan or a proposed modification of a training plan or requires changes in a training plan or modification, the Chief of the Training Center or the Director of Education and Training shall in writing to the operator:

(1) State the specific changes or items of deficiency.

(2) Specify the action necessary to effect the changes or bring the disapproved training plan or modification into compliance.

(3) Establish a deadline for completion of remedial action to effect compliance, which shall serve to suspend punitive action under the provisions of sections 104 and 110 of the act and other related regulations until that established deadline date, except that no such suspension shall take place in imminent danger situations.

§ 48.4 Cooperative training program.

(a) An operator of a mine may conduct his own training program, or may participate in training programs established and conducted by MSHA or other State or Federal agencies, or associations of mine operators, miners' representatives, other mine operators, private associations, or educational institutions which are MSHA approved.

(b) Each program and course of instruction shall be given by instructors who have been approved by MSHA to instruct in the courses which are given, and such courses and the training program shall be adapted to the mining operations and practices existing at the mine and shall be approved by the Chief of the Training Center for the area in which the mine is located.

§ 48.5 Training of new miners; minimum courses of instruction; hours of instruction.

(a) Each new miner shall receive no less than 40 hours of training, which shall include MSHA-approved training and instruction prescribed in this section before such miner is assigned to work duties. Such training shall be conducted in conditions which as closely as practicable duplicate actual underground conditions, and approximately 8 hours shall be given at the mine site.

(b) The training program for new miners shall include the following courses:

(1) *Instruction in the statutory rights of miners and their representatives under the act; authority and responsibility of supervisors.* The course shall include instruction in the statutory rights of miners and their representatives under the act, including a discussion of section 2 of the act; a review and description of the line of authority of supervisors and miners' representatives and the responsibilities of such supervisors and miners' representatives; introduction to the operator's rules; and the proper procedure for reporting hazards.

(2) *Self-rescue and respiratory devices.* The course shall include instruction and demonstrations in the use, care, and maintenance of self-rescue and respiratory devices used at the mine. Such course shall be given before the new miner goes underground.

(3) *Entering and leaving the mine; transportation; communications.* The course shall include instruction on: The procedures in effect for entering and leaving the mine; the check-in and check-out system in effect at the mine; the procedures for riding on and in mine conveyances; the controls in effect for the transportation of miners and materials; the use of the mine communication systems, warning signals, and directional signs.

(4) *Introduction to the work environment.* The course shall include a visit and tour of the mine or portions of the mine which are representative of the entire mine. A method of mining utilized at the mine shall be observed and explained.

(5) *Mine map; escapeways; emergency evacuation; barricading.* The course shall include: A review of the mine map; the escapeway system; the escape, firefighting, and emergency evacuation plans in effect at the mine; the location of abandoned areas. Also included shall be an introduction to methods of barricading and the locations of the barricading materials, where applicable. The program of instruction for escapeways and emergency evacuation plans submitted to the District Manager for approval shall be used for this course.

(6) *Roof or ground control and ventilation plans.* The course shall include: An introduction to and instruction on the roof or ground control plan in effect at the mine and procedures for roof and rib or ground control; and, an introduction to and instruction on the ventilation plan in effect at the mine and the procedures for maintaining and controlling ventilation.

(7) *Health.* The course shall include instruction on the purpose of taking dust, noise, and other health measurements, and any health control plan in effect at the mine shall be explained. The health provisions of the act and warning labels shall also be explained.

(8) *Clean up; rock dusting.* The course shall include instruction on the purpose of rock dusting and the clean up and rock dusting program in effect at the mine, as appropriate.

(9) *Hazard recognition.* The course shall include the recognition and avoidance of hazards present in the mine, to include explosives where appropriate.

(10) *Electrical hazards.* The course shall include recognition and avoidance of electrical hazards.

(11) *First aid.* The course shall include instruction in first aid methods acceptable to MSHA.

(12) *Mine gases.* The course shall include instruction in the detection and avoidance of hazards associated with mine gases.

(13) *Health and safety aspects of the tasks the new miner will be assigned.* The course shall include the mandatory health and safety standards pertinent to the assigned tasks.

(14) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

(c) Methods to determine successful completion of the training shall be included in the training plan. The methods for determining such completion shall be administered to the miner before he is assigned work duties.

(d) Upon proof by an operator that a new miner has received the courses and hours of instruction set forth in paragraphs (a) and (b) of this section within 12 months preceding initial employment at a mine, such miner need not repeat the training, but the operator shall give and the miner shall receive and complete the instructions

and program of training set forth in paragraph (b) of § 48.6, if applicable, and § 48.7 before commencing work.

§ 48.6 Training of newly-employed experienced miners; minimum courses of instruction.

(a) An experienced miner shall receive and complete training in the program of instruction prescribed in this section and, if applicable, § 48.7, before such miner is assigned to work duties.

(b) The training program for newly-employed experienced miners shall include the following:

(1) *Introduction to work environment.* The course shall include a visit and tour of the mine. The methods of mining utilized at the mine shall be observed and explained.

(2) *Mandatory health and safety standards.* The course shall include the mandatory health and safety standards pertinent to the assigned tasks.

(3) *Authority and responsibility of supervisors and miners' representatives.* The course shall include: A review and description of the line of authority of supervisors and miners' representatives; responsibilities of such supervisors and miners' representatives; introduction to the operator's rules; and the proper procedures for reporting hazards.

(4) *Entering and leaving the mine; transportation; communications.* The course shall include: Instruction in the procedures in effect for entering and leaving the mine; the check-in and check-out system in effect at the mine; the procedure for riding on and in mine conveyances; the controls in effect for the transportation of miners and materials; the use of the mine communication system, warning signals, and directional signs.

(5) *Mine map; escapeways; emergency evacuation; barricading.* The course shall include: A review of the mine map; the escapeway system; the escape, firefighting and emergency evacuation plans in effect at the mine; the location of abandoned areas; and, where applicable, methods of barricading and the locations of barricading materials. The program of instruction for escapeways and emergency evacuation plans approved by the District Manager shall be used for this course.

(6) *Roof or ground control and ventilation plans.* The course shall include: An introduction to and instruction on the roof or ground control plan in effect at the mine; procedures for roof and rib or ground control; and introduction to an instruction on the ventilation plan in effect at the mine; procedures for maintaining and controlling ventilation.

(7) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

§ 48.7 Training of miners assigned to a task in which they have had no previous experience; minimum courses of instruction.

(a) Miners assigned to new work tasks as mobile equipment operators, drilling machine operators, haulage and conveyor systems operators, roof and ground control machine operators, and those in blasting operations shall not perform new work tasks in these categories until training prescribed in this paragraph has been completed. This training shall not be required for miners who have been trained and who have demonstrated safe operating procedures for such new work tasks within 12 months preceding assignments. This training shall also not be required for miners who have performed the new work tasks and who have demonstrated safe operating procedures for such new work tasks within 12 months preceding assignment. The training program shall include the following:

(1) *Safe operating procedures for work tasks, equipment and machinery.* The training shall include instruction in the safe operating procedures related to the assigned tasks, equipment or machine, and shall be given in an on-the-job environment, by a qualified trainer, or a supervisor experienced in the assigned tasks, equipment or machine, or other person experienced in the assigned tasks, equipment or machine; and

(2) (i) *Supervised practice during non-production.* The training shall include supervised practice in the assigned tasks, operating a machine or equipment, and performing work duties at times or places where production is not the primary objective; or

(ii) *Supervised operation during production.* The training shall include, while production is in progress, supervised operation of the machine or equipment and performing work duties under the direct and immediate supervision of a qualified trainer, or a supervisor experienced in the assigned tasks, equipment or machine, or other person experienced in the assigned tasks, equipment or machine.

(3) *New or modified machines and equipment.* Equipment and machine operators shall be instructed in safe operating procedures applicable to new or modified machines or equipment to be installed or put into operation in the mine, which require new or different operating procedures.

(4) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

(b) An equipment or machine operator shall not operate equipment or a machine without direction and immediate supervision until such operator has demonstrated safe operating procedures for the equipment or machine to the operator of the mine or the operator's agent.

(c) Miners assigned a new task not covered in paragraph (a) of this section shall be instructed in the safe work procedures and accident prevention pertaining to the safety and health aspects specific to that task prior to performing such task.

(d) Any person who controls or directs haulage operations at a mine shall receive and complete training courses in safe haulage procedures related to the haulage system, ventilation system, firefighting procedures, and emergency evacuation procedures in effect at the mine before assignment to such duties.

§ 48.8 Annual refresher training of miners; minimum courses of instruction; hours of instruction.

(a) Each miner shall receive a minimum of 8 hours of annual refresher training as prescribed in paragraph (b) of this section.

(b) The annual refresher training program for all miners shall include the following courses of instruction:

(1) *Mandatory health and safety standards.* The course shall include mandatory health and safety standard requirements which are related to the miner's tasks and work assignments.

(2) *Transportation controls and communication systems.* The course shall include: Procedures for riding on and in mine conveyances; the controls in effect for the transportation of miners and materials; the use of the mine communication systems, warning signals, and directional signs.

(3) *Barricading.* The course shall include a review of the methods of barricading and locations of barricading materials, where applicable.

(4) *Roof or ground control and ventilation plans.* The course shall include: A review of roof or ground control plans in effect at the mine; the procedures for maintaining ventilation; and control of ventilation.

(5) *First aid.* The course shall include a review of first aid methods acceptable to MSHA.

(6) *Electrical hazards.* The course shall include recognition and avoidance of electrical hazards.

(7) *Prevention of accidents.* The course shall include a review of accidents, causes of accidents, and instruction in accident prevention in the work environment.

(8) *Self-rescue devices and respiratory devices.* The course shall include instruction in the use, care, and maintenance of self-rescue and respiratory devices.

(9) *Explosives.* The course shall include a review and instruction on the hazards related to explosives, and instruction in procedures for the safe handling of explosives. The only ex-

ception to this course component is when there are no explosives used or stored on the mine property.

(10) *Mine gases.* The course shall include instruction in the detection and avoidance of hazards associated with mine gases.

(11) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

(c) All miners working at an underground coal or other mine on the effective date of the Federal Mine Safety and Health Act of 1977 (March 9, 1978) shall receive refresher training as prescribed in this section and in accordance with the approved plan, to begin not more than 90 days after the date of approval of the training program required by this Subpart A.

(d) Where annual refresher training is conducted periodically, such sessions shall not be less than 30 minutes of actual instruction time and the miners shall be notified that the session is part of annual refresher training.

§ 48.9 Records of training.

(a) The operator shall certify, on a form approved by the Secretary, that the miner has received the specified training in each subject area of the approved training program for the mine. A certificate for each miner shall be maintained by the operator, and shall be available for inspection at the mine site, and a copy thereof shall be given to each miner at the completion of such training. When a miner leaves the operator's employ, the miner shall be entitled to a copy of his training certificate.

(b) False certification that training was given shall be punishable under section 110 (a) and (f) of the Federal Mine Safety and Health Act of 1977.

(c) Copies of training certificates for currently employed miners will be kept at the mine site for two years, or for 60 days after termination of employment.

§ 48.10 Compensation for training.

(a) Training shall be conducted during normal hours; miners attending such training shall receive the rate of pay as provided in § 48.2(d).

(b) If training is conducted at a training site located at other than the mine site, and the miner travels a longer distance than to the mine site, the miner shall be paid for the additional mileage at a rate of 17 cents per mile. Where more than one day of training is required, the operator may provide compensation for overnight lodging and meals in lieu of daily mileage. Mileage shall be computed round trip from the normal work place to the training site according to official State highway maps.

§ 48.11 Appeals procedures.

The operator, miner, and miners' representative shall have the right of appeal from a decision of the Training Center Chief.

(a) In the event an operator, miner, or miners' representative decides to appeal a decision by a Training Center Chief, such an appeal shall be submitted, in writing, to the Director of Education and Training, MSHA, 4015 Wilson Boulevard, Arlington, Va. 22203, within 30 days of notification of the Chief of the Training Center's decision.

(b) The Director of Education and Training may require from the operator, and the miners or their representatives, and the Chief of the Training Center, additional information, if the Director determines such information is necessary.

(c) The Director of Education and Training shall render a decision on the appeal within 30 days after receipt of the appeal.

Subpart B—Training and Retraining of Miners Working at Surface Mines and Surface Areas of Underground Mines

§ 48.21 Scope.

The provisions of this Subpart B set forth the mandatory requirements for submitting and obtaining approval of programs for training and retraining miners working at surface mines and surface areas of underground mines. Requirements for compensation for training and retraining are also included. The requirements for training and retraining miners working in underground mines are set forth in Subpart A of this part.

§ 48.22 Definitions.

For the purposes of this Subpart B—

(a) "Miner" means any person working at a surface mine or surface area of an underground mine; or any person whose duties require his or her presence at the mine, except supervisory personnel subject to approved State certification requirements. This definition shall include the operator if the operator works at the mine on a continuing, even if irregular, basis. For the purposes of this Subpart B, this definition excludes nonproduction and nonmaintenance personnel, and persons performing construction on the surface, including the sinking of slopes and shafts.

(b) "Experienced miner" means a person who is employed as a miner on the effective date of these rules; or a person who has received a certificate of training from an appropriate State agency within the preceding 12 months; or a person who has had at least 12 months experience working in a mine during the preceding 3 years; or a person who has received the training for a new miner within the preceding 12 months as prescribed in § 48.25 of this Subpart B.

(c) "New miner" means a miner who is not an experienced miner.

(d) "Normal work hours" means a period of time during which an employee is otherwise scheduled to work. This definition does not preclude scheduling training classes on the 6th or 7th day if such a work schedule has been established for a sufficient period of time to be accepted as the employer's common practice. Miners shall be paid at a rate of pay which shall correspond to the rate of pay they would have received performing their normal tasks.

(e) "Operator" means any owner, lessee, or any other person who operates, controls or supervises a surface mine or a surface area of an underground mine; or any independent contractor designated as an operator performing services or construction at such mine.

(f) "Task" means a work assignment that includes duties of a job that occur on a regular basis and which requires physical abilities and job knowledge.

§ 48.23 Training programs; time of submission; where filed; information required; time for approval; method for disapproval; commencement of training; approval of instructors.

(a) Within 210 days after the effective date for this Subpart B, unless extended by MSHA, each operator of a mine shall have approved programs for training new miners, training newly employed experienced miners, training of miners for new tasks and annual refresher training for all miners as follows:

(1) In the case of a mine which is operating on the effective date of this Subpart B, the operator for the mine shall submit such program for approval within 150 days after the effective date of Subpart B.

(2) In the case of a new mine which is to be opened or a mine to be reopened or reactivitated after the effective date of this Subpart B, the operator shall have an approved program prior to opening a new mine, or reopening or reactivitating an inactive mine unless the mine in question is reopened or reactivitated periodically using portable equipment and mobile teams of miners as a normal method of operation by an operator. The operator to be so excepted shall maintain an approved plan for training covering all mine locations which it operates with portable equipment and mobile teams of miners.

(b) Training programs shall be filed with the Chief of the Training Center, MSHA, for the area in which the mine is located.

(c) Each operator shall submit to the Chief of the Training Center, MSHA, the following information:

(1) The company name, mine name, and MSHA identification number of the mine.

(2) The name and position of the person designated by the operator who

is responsible for health and safety training at the mine. This person may be the operator.

(3) A list of MSHA-approved instructors with whom the operator proposes to make arrangements to teach the courses, and the courses each instructor is qualified to teach.

(4) Location where training will be given for each course.

(5) A description of the teaching methods and the course materials which are to be used in training.

(6) The approximate number of miners employed at the mine and the maximum number who will attend each session of training.

(7) The predicted time or periods of time when regularly scheduled refresher training will be given. This schedule shall include the subjects of courses to be taught, the total number of instruction hours for each course, and the predicted time and length of each session of training. Each operator shall submit this schedule annually.

(8) For the purposes of § 48.27, the operator shall submit:

(i) A complete list of task assignments to correspond with the definition of "task".

(ii) The titles of personnel conducting the training for this section.

(iii) The outline of training procedures used in training miners in those work assignments listed in paragraph (c)(8)(i) of this section.

(iv) The evaluation procedures used to determine the effectiveness of training under this section.

(d) The operator shall furnish to the representative of the miners a copy of the training program two weeks prior to its submission to the Chief of the Training Center. Where the miners' representative is not designated, a copy of the plan shall be posted on the bulletin board two weeks prior to its submission to the Chief of the Training Center. Written comments received by the operator from miners or their representatives shall be submitted to the Chief of the Training Center. Miners or their representatives may submit written comments directly to the Chief of the Training Center.

(e) All training required by training programs submitted and approved by the Chief of the Training Center as required by this Subpart B shall be subject to evaluation by the Office of Education and Training, MSHA, to determine the effectiveness of the training program. If it is deemed necessary, the Chief of the Training Center may require changes in, or additions to, programs.

(f) Except as provided in § 48.27 of this Subpart B, all courses shall be conducted by MSHA-approved instructors.

(g) Instructors shall be approved in one or more of the following ways:

(1) Instructors shall take an instructor's training course conducted by the Office of Education and Training, MSHA, or given by persons designated by the Office of Education and Training, MSHA to give such instruction; and instructors of courses shall have satisfactorily completed a program of instruction approved by the Office of Education and Training, MSHA, in the subject matter to be taught; or

(2) Instructors may be designated by MSHA as approved instructors to teach specific courses based on their qualifications and teaching experience.

(3) On the effective date of this Subpart B, cooperative instructors who have been designated by MSHA to teach MSHA-approved courses and who have taught such courses within the 24 months prior to the effective date of this subpart shall be considered approved instructors for such courses.

(4) Instructors may have their approval revoked for good cause which may include not teaching a course at least once every 24 months. Reasons for revocation must be sent to the instructor, in writing, with a copy of the letter sent to the Director of Education and Training, MSHA, 4015 Wilson Boulevard, Arlington, Va. 22203.

(h) The Chief of the Training Center for the area in which the mine is located shall notify the operator, in writing, within 60 days from the date on which the training program is filed, of the approval or status of the approval of the training program.

(1) If revisions are required for approval, or to retain approval thereafter, the revisions required shall be specified and the operator and the representative of the miners shall be afforded an opportunity to discuss the revisions with the Chief of the Training Center, or propose alternate revisions or changes. The Chief of the Training Center, in consultation with the operator and the representative of the miners, shall fix a time within which the discussion will be held, or alternate revisions or changes submitted, before final approval is made.

(2) The Chief of the Training Center may approve separate phases of the training program and withhold approval of other phases, pending discussion of revisions or submission of alternate revisions or changes.

(i) Except as provided under § 48.28(c) of this Subpart B, the operator shall commence training of miners within 60 days after approval of the training program, or approved phases of the training program.

(j) The operator shall obtain approval from the Chief of the Training Center, MSHA, in the area in which the mine is located, prior to changing or modifying the approved training program.

(k) In the event the Chief of the Training Center or the Director of Education and Training disapproves a training plan or a proposed modification of a training plan or requires changes in a training plan or modification, the Chief of the Training Center or the Director of Education and Training shall notify the operator in writing of:

(1) The specific changes or items of deficiency.

(2) The action necessary to effect the changes or bring the disapproved training plan or modification into compliance.

(3) The deadline for completion of remedial action to effect compliance, which shall serve to suspend punitive action under the provisions of sections 104 and 110 of the act and other related regulations until that established deadline date, except that no such suspension shall take place in imminent danger situations.

§ 48.24 Cooperative training program.

(a) An operator of a mine may conduct his own training program, or may participate in training programs established and conducted by MSHA or other State or Federal agencies, or associations of mine operators, miners' representatives, other mine operators, private associations, or educational institutions which are MSHA-approved.

(b) Each program and course of instruction shall be given by instructors who have been approved by MSHA to instruct in the courses which are given, and such courses and the training program shall be adapted to the mining operations and practices existing at the mine and shall be approved by the Chief of the Training Center for the area in which the mine is located.

§ 48.25 Training of new miners; minimum courses of instruction; hours of instruction.

(a) Each new miner shall receive no less than 24 hours of training, which shall include MSHA-approved training and instruction prescribed in this section before such miner is assigned to work duties.

(b) The training program for new miners shall include the following courses:

(1) *Instruction in the statutory rights of miners and their representatives under the Act; authority and responsibility of supervisors.* The course shall include instruction in the statutory rights of miners and their representatives under the act, including a discussion of section 2 of the act; a review and description of the line of authority of supervisors and miners' representatives and the responsibilities of such supervisors and miners' representatives; introduction to the operator's rules; and the proper procedure for reporting hazards.

(2) *Self-rescue and respiratory devices.* The course shall include instruction and demonstrations in the use, care, and maintenance of self-rescue and respiratory devices, where appropriate.

(3) *Transportation controls and communications systems.* The course shall include instruction on the procedures in effect for riding on and in mine conveyances; the controls for the transportation of miners and materials; the use of mine communication systems, warning signals, and directional signals.

(4) *Introduction to work environment.* The course shall include a visit and tour of the surface mine or other facilities, or portions of the mine which are representative of the entire mine or operation. The method of mining or operation utilized shall be observed and explained.

(5) *Escapeways; emergency evacuation; firewarning and firefighting.* The course shall include a review of the mine escape system; escape and emergency evacuation plans in effect at the mine; and instruction in the firewarning signals and firefighting procedures.

(6) *Ground control; working in highwall, water hazards, pit and spoil bank areas; illumination and night work.* The course shall include an introduction to and instruction on the highwall and ground control plans in effect at the mine; instruction and procedures for working safely in areas of highwalls, water hazards, pits, and spoil banks; the illumination of work areas; and safe work procedures during the hours of darkness.

(7) *Health.* The course shall include instruction on the purpose of taking dust, noise, and other health measurements, and any health control plan in effect at the mine shall be explained. The health provisions of the act and warning labels shall also be explained.

(8) *Hazard recognition.* The course shall include the recognition and avoidance of hazards present in the mine.

(9) *Electrical hazards.* The course shall include recognition and avoidance of electrical hazards.

(10) *First aid.* The course shall include a course in first aid methods acceptable to MSHA.

(11) *Explosives.* The course shall include a review and instruction on the hazards of explosives and instruction in the procedures for the safe handling of explosives. The only exception to this course component is when no explosives are used or stored on mine property.

(12) *Health and safety aspects of the task to which the new miner will be assigned.* The course shall include the mandatory health and safety standards pertinent to the assigned tasks.

(13) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

(c) Methods to determine successful completion of the training shall be included in the training plan. The methods for determining such completion shall be administered to the miner before he is assigned to work duties.

(d) Upon proof by an operator that a new miner has received the courses and hours of instruction set forth in paragraphs (a) and (b) of this section within 12 months preceding initial employment at a mine, such miner need not repeat the training, but the operator shall give and the miner shall receive and complete the instructions and program of training set forth in paragraph (b) of § 48.26, if applicable, and § 48.27 before commencing work.

§ 48.26 Training of newly-employed experienced miners; minimum courses of instruction.

(a) An experienced miner shall receive and complete training in the program of instruction prescribed in this section and, if applicable, § 48.27, before such miner is assigned to work duties.

(b) The training program for newly-employed experienced miners shall include the following:

(1) *Introduction to work environment.* The course shall include a visit and tour of the mine. The methods of mining or operations utilized at the mine shall be observed and explained.

(2) *Mandatory health and safety standards.* The course shall include the mandatory health and safety standards pertinent to the assigned tasks.

(3) *Authority and responsibility of supervisors and miners' representatives.* The course shall include a review and description of the line of authority of supervisors and miners' representatives; responsibilities of such supervisors and miners' representatives; introduction to the operator's rules; and the proper procedures for reporting hazards.

(4) *Entering and leaving the mine; transportation; communications.* The course shall include instruction in the procedures in effect for entering and leaving the mine; the check-in and check-out system in effect at the mine; the procedure for riding on and in mine conveyances; the controls in effect for the transportation of miners and materials; the use of the mine communication system, warning signals, and directional signals.

(5) *Escapeways; emergency evacuation; firewarning and firefighting.* The course shall include a review of the mine escape system; escape and emergency evacuation plans in effect at the mine; and instruction in the firewarning signals and firefighting procedures.

(6) *Ground control; working in highwalls, water hazards, pit and spoil bank areas; illumination and night work.* The course shall include an introduction to and instruction in the highwall and ground control plans in effect at the mine; instruction and procedures for working safely in areas of highwalls, water hazards, pits, and spoil banks; the illumination of work areas; and safe work procedures for miners during hours of darkness.

(7) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

§ 48.27 Training of miners assigned to a task in which they have had no previous experience; minimum courses of instruction.

(a) Miners assigned to new work tasks as mobile equipment operators, drilling machine operators, haulage and conveyor systems operators, ground control machine operators, and those in blasting operations shall not perform new work tasks in these categories until training prescribed in this paragraph has been completed. This training shall not be required for miners who have been trained and who have demonstrated safe operating procedures for such new tasks within 12 months preceding assignment. This training shall also not be required for miners who have performed the new work tasks and who have demonstrated safe operating procedures for such new work tasks within 12 months preceding the assignment. The training program shall include the following:

(1) *Safe operating procedures for work tasks, equipment or machinery.* The training shall include instruction in the safe operating procedures related to the tasks, equipment or machine, and shall be given in an on-the-job environment, by a qualified trainer, or a supervisor experienced in the tasks, equipment or machine, or other person experienced in the tasks, equipment or machine; and

(2)(i) *Supervised practice during nonproduction.* The training shall include supervised practice in the assigned tasks, operating a machine or equipment and performing work duties at times or places where production is not the primary objective; or

(ii) *Supervised operation during production.* The training shall include, while production is in progress, supervised operation of the machine or equipment and performing work duties under the direct and immediate supervision of a qualified trainer, or a supervisor experienced in the tasks, equipment or machine, or other person experienced in the tasks, equipment or machine.

(3) *New or modified machines and equipment.* Equipment and machine operators shall be instructed in safe operating procedures applicable to

new or modified machines or equipment to be installed or put into operation in the mine, which require new or different operating procedures.

(4) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

(b) An equipment or machine operator shall not operate equipment or a machine without direction and immediate supervision until such operator has demonstrated safe operating procedures for the equipment or machine to the operator of the mine or the operator's agent.

(c) Miners assigned a new task not covered in paragraph (a) of this section shall be instructed in the safe work procedures and accident prevention pertaining to the safety and health aspects specific to that task prior to performing such tasks.

§ 48.28 Annual refresher training of miners; minimum courses of instruction; hours of instruction.

(a) Each miner shall receive a minimum of 8 hours of annual refresher training as prescribed in paragraph (b) of this section.

(b) The annual refresher training program for all miners shall include the following courses of instruction:

(1) *Mandatory health and safety standards.* The course shall include mandatory health and safety standard requirements which are related to the miner's tasks and work assignments.

(2) *Transportation controls and communication systems.* The course shall include instruction on the procedures for riding on and in mine conveyances; the controls in effect for the transportation of miners and materials; the use of the mine communication systems, warning signals, and directional signals.

(3) *Escapeways; emergency evacuation; firewarning and firefighting.* The course shall include a review of the mine escape system; escape and emergency evacuation plans in effect at the mine; and instruction in the firewarning signals and firefighting procedures.

(4) *Ground control; working in highwalls, water hazards, pit and spoil bank areas; illumination and night work.* The course shall include a review and instruction on the highwall and ground control plans in effect at the mine; instruction and procedures for working safely in areas of highwalls, water hazards, pit and spoil banks; the illumination of work areas; and safe work procedures during hours of darkness.

(5) *First aid.* The course shall include a review of first aid methods acceptable to MSHA

(6) *Electrical hazards.* The course shall include recognition and avoidance of electrical hazards.

(7) *Prevention of accidents.* The course shall include a review of accidents, causes of accidents, and instruction in accident prevention in the work environment.

(8) *Health.* The course shall include instruction on the purpose of taking dust, noise and other health measurements, and any health control plan in effect at the mine shall be explained. The health provisions of the Act and warning labels shall also be explained.

(9) *Explosives.* The course shall include a review and instruction on the hazards of explosives and the hazards related to the use of explosives, and instruction in procedures for the safe handling of explosives. The only exception to this course component is when there are no explosives used or stored on the mine property.

(10) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

(c) All miners working at a mine on the effective date of the Federal Mine Safety and Health Act of 1977 (March 9, 1978) shall receive refresher training, as prescribed in this section, and in accordance with an approved plan, to begin not more than 90 days after the date of approval of the training program required by this Subpart B.

(d) Where annual refresher training is conducted periodically, such sessions shall not be less than 30 minutes of actual instruction time and the miners shall be notified that the session is part of an annual refresher training.

§ 48.29 Records of training.

(a) The operator shall certify, on a form approved by the Secretary, that the miner has received the specified training in each subject area of the approved training program for the mine. A certificate for each miner shall be maintained by the operator, and shall be available for inspection at the mine site, and a copy thereof shall be given to each miner at the completion of such training. When a miner leaves the operator's employ, the miner shall be entitled to a copy of his training certificate.

(b) False certification that training was given, shall be punishable under section 110 (a) and (f) of the Federal Mine Safety and Health Act of 1977.

(c) Copies of training certificates for currently employed miners will be kept at the mine site for 2 years, or for 60 days after termination of employment.

§ 48.30 Compensation for training.

(a) Training shall be conducted during normal working hours; miners attending such training shall receive the rate of pay as provided in § 48.22(d).

(b) If training is conducted at a training site located at other than the mine site, and the miner travels a longer distance than to the mine site, the miner shall be paid for the additional mileage at a rate of 17 cents per mile. Where more than one day of training in required, the operator may compensate the miner for travel expenses at the rate of 17 cents per mile and for lodging and meals in lieu of daily round trip commuting expenses. Mileage shall be computed round trip from the normal work place to the training site according to official State highway maps.

§ 48.31 Appeals procedures.

The operator, miner, and miners' representative shall have the right of appeal from a decision of the Training Center Chief.

(a) In the event an operator, miner, or miners' representative decides to appeal a decision by the Training Center Chief, such an appeal shall be submitted, in writing, to the Director of Education and Training, MSHA, 4015 Wilson Boulevard, Arlington, Va. 22203, within 30 days of notification of the Chief of the Training Center's decision.

(b) The Director of Education and Training may require additional information from the operator, miners, or miners' representatives, and the Chief of the Training Center if the Director determines such information is necessary.

(c) The Director of Education and Training shall render a decision on the appeal within 30 days after receipt of the appeal.

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