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federal register

TUESDAY, AUGUST 29, 1978

highlights

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

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

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

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

federal register

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(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.)

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NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

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: August 25, 1978]

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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.

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[3195-01]

Title 3—The President

PROCLAMATION 4590

Women's Equality Day, 1978

By the President of the United States of America

A Proclamation

August 26, 1978, is the 58th anniversary of the adoption of the 19th Amendment to the Constitution guaranteeing that the right of United States citizens to vote shall not be denied or abridged by the Federal government or any state on account of sex.

This was the successful culmination of the struggle of the American Women's Suffrage movement. The right to vote, to participate in the process of framing the laws under which we all live, is fundamental. But it was only the first step in achieving full equality for women. The late Dr. Alice Paul realized this, drafted the Equal Rights Amendment in 1923 and had it introduced in Congress over a period of 49 years, until it passed on March 22, 1972.

Women have made substantial progress toward full equality in recent years, partly as a result of the national debate on the Equal Rights Amendment, which has made many people aware of existing injustices. Despite this progress, strong action is still needed to guarantee women full equality of opportunity.

I personally believe that ratification of the Equal Rights Amendment can be the single most important step in guaranteeing all Americans—both women and men—their rights under the United States Constitution. This major step toward full equality for women has already been taken by 35 states, representing seventy-two percent of the population of this Nation. Only three more states must ratify the Equal Rights Amendment before it becomes a part of the Constitution. I believe this is too important and far-reaching an issue for arbitrary time barriers to limit full debate and an ultimate decision that truly reflects the will of the American people. In a society that is free, democratic and humane, there can be no time limit on equality.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim August 26, 1978, as Women's Equality Day and do hereby call upon the people of the United States to observe this day with appropriate ceremonies and activites. I further urge all our people to dedicate themselves anew to the goal of achieving equal rights for women under the law.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of August, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

[FR Doc. 78-24417 Filed 8-25-78; 4:45 pm]

rules and regulations

[1505-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Transfers From Retired Employees Health Benefits Program

Correction

In FR Doc. 78-22104 appearing at page 35017 in the issue for Tuesday, August 8, 1978, on page 35018, the second line of § 890.603, change "§ 89.602" to read "§ 890.602".

[1505-01]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—CHILD NUTRITION PROGRAMS

PART 245—DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS

Racial Identification

Correction

In FR Doc. 78-23947 appearing at page 37980 in the issue for Friday, August 25, 1978, on page 37980, make the following corrections:

(1) In the first column under the summary beginning in the tenth line, "national school lunch program and school breakfast program" should be corrected to read "National School Lunch Program and School Breakfast Program".

(2) In the second column, under supplementary information in the 3rd paragraph in the 5th line, "effective" should be corrected to read "ineffective."

[3410-05]

Title 7—Agriculture

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 11]

PART 726—BURLEY TOBACCO

Burley Tobacco 1971-72 and Subsequent Marketing Years 1977-78 Average Market Price and 1978-79 Penalty Rate

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule contains the average market price received by producers for the 1977-78 marketing year and the penalty rate for excess tobacco for the 1978-79 marketing year. The penalty rate is 75 percent of the average market price for the previous marketing year as required by section 314 of the Agricultural Adjustment Act of 1938, as amended.

EFFECTIVE DATE: August 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Maurice Reddick, Production Adjustment Division, USDA, P.O. Box 2415, Washington, D.C. 20013, 202-447-4695.

SUPPLEMENTARY INFORMATION: Since determination of the 1977-78 average market price producers received for burley tobacco and the rate of penalty reflect only mathematical computations required by law, it is hereby determined that compliance with the notice of proposed rulemaking, public procedure, and 30-day effective date provisions of 5 U.S.C. 553 and the requirements of E.O. 12044 is impracticable, unnecessary, and contrary to the public interest.

FINAL RULE

Accordingly, 7 CFR Part 726 is amended by revising § 726.86(c) to read as follows:

§ 726.86 Rate of penalty.

* * * * *

(c)(1) *Average market price.* The average market price as determined by the Crop Reporting Board for the marketing year specified was:

AVERAGE MARKET PRICE

Marketing year:	*Cents per pound*
1972-73	80.9
1973-74	79.2
1974-75	92.9
1975-76	113.7
1976-77	114.2
1977-78	120.0

(2) *Rate of penalty per pound.* The penalty per pound for marketings of excess tobacco subject to marketing quotas during the marketing year specified shall be:

Marketing year:	*Cents per pound*
1973-74	59
1974-75	70
1975-76	85
1976-77	79
1977-78	86
1978-79	90

(Secs. 301, 312, 313, 314, 316, 318, 319, 362, 363, 372-375, 377, 378, 52 Stat. 38, as amended, 46, as amended, 47, as amended, 48, as amended, 62, as amended, 75 Stat. 469, as amended, 81 Stat. 120, as amended, 52 Stat. 63, as amended, 85 Stat. 23, 70 Stat. 206, as amended, 72 Stat. 995, as amended (7 U.S.C. 1301, 1312, 1313, 1314, 1314b, 1314d, 1314e, 1363, 1372-1375, 1377, 1378).)

Signed at Washington, D.C., on August 18, 1978.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-23627 Filed 8-29-78; 8:45 am]

[1505-01]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK)

[Milk Order No. 40]

PART 1040—MILK IN THE SOUTHERN MICHIGAN MARKETING AREA

Order Suspending Certain Provisions

Correction

In FR Doc. 78-22731 appearing on page 36045 in the issue of Tuesday, August 15, 1978, in the middle column, the last paragraph should read as follows:

* * * * *

The suspension was requested by Michigan Milk Producers Association. The cooperative has had to make uneconomic shipments of milk to maintain pool status for supply plants for which it has qualification responsibility through unit pooling. This has resulted because substantial quantities of milk that normally are received direct from farms at pool distributing plants are having to be shipped at considerable expense to nonpool plants for manufacturing. This is necessary to make room at pool distributing plants for qualifying shipments from supply plants.

* * * * *

[3410-07]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER N—OTHER LOAN PROGRAMS

[FmHA Instruction 1980-E]

PART 1980—GUARANTEED LOAN PROGRAMS

Business and Industrial Loan Program

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations to comply with recent legislation. The intended effect is to exempt small business projects from the requirements of existing law that business and industrial loans may not be made if the project being financed will cause a shift of employment from one area to another or cause overproduction.

EFFECTIVE DATE: August 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Darryl H. Evans, Loan Specialist, telephone 202-447-4150.

SUPPLEMENTAL INFORMATION: The Farmers Home Administration (FmHA) amends § 1980.412, paragraphs (c) and (d) and § 1980.451, paragraph B 3(a) under the heading "Administrative" of subpart E of part 1980, chapter XVIII, title 7, Code of Federal Regulations.

Section 1980.412, paragraphs (c) and (d) are revised to exempt projects where the financial assistance to be provided is under $1,000,000 or direct employment is 50 or less, from the requirements that business and industrial loans may not be made if the project being financed would result in a transfer of employment from one area to another or the project would result in overproduction. Section 1980.451, paragraph B 3(a) under the heading "Administrative" is revised to provide the administrative procedure to effect the regulation change.

These changes will eliminate the need to submit to the Department of Labor for certification such projects and should save the applicant, lender, and Agency considerable time and expense.

This change is in accordance with the provisions of the Agricultural Credit Act of 1978, Pub. L. 95-344, which was effective August 4, 1978.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since the amendment is required by the Agricultural Credit Act of 1978.

Accordingly, as revised, § 1980.412, the first sentence in paragraph (c) and the entire paragraph (d) and § 1980.451, paragraph B 3(a) under the heading "Administrative" reads as follows:

§ 1980.412 Ineligible loan purposes.

* * * * *

(c) For projects in which such assistance exceeds $1,000,000 or direct employment increases more than 50 employees, which is calculated to, or is likely, to result in the transfer from one area to another of any employment or business activity provided by the operation of the applicant. * * *

(d) For projects in which such assistance exceeds $1,000,000 or direct employment increases more than 50 employees which is calculated to or is likely to result in an increase in the production of goods, materials or commodities, or the availability of services or facilities in the area when there is not sufficient demand for such goods, materials, commodities, services or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

* * * * *

2. In § 1980.451, paragraph B 3(a) under "Administrative", is revised as follows:

§ 1980.451 Filing and processing applications.

* * * * *

ADMINISTRATIVE

* * * * *

B. * * *

3. * * *

(a) Form FmHA 449-22 (7 copies) for loans over $1,000,000 and when direct employment increases more than 50 employees.

* * * * *

(7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary of Agriculture for Rural Development, 7 CFR 2.70.)

Dated: August 18, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-24369 Filed 8-28-78; 8:45 am]

[3410-34]

Title 9—Animals and Animal Products

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

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Importation of Horses

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations for importing horses from countries affected with contagious equine metritis (CEM) a breeding disease of horses by deleting the provisions for the temporary importation of horses into the United States for purposes other than breeding. This action is being taken because such regulations are no longer necessary due to the promulgation of other reguations concerning the unrestricted entry of horses into the United States from countries affected with CEM under prescribed conditions.

EFFECTIVE DATE: August 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. D. E. Herrick, USDA, APHIS, VS, Federal Building, Room 815, Hyattsville, Md. 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION: On Friday, December 16, 1977, there was published in the FEDERAL REGISTER (42 FR 63384-63385) an amendment to the regulations (9 CFR 92) which provided for the importation of certain horses into the United States for a temporary period not to exceed 90 days for purposes other than breeding in accordance with prescribed conditions. At the time this action was taken, the regulations did not provide for the unrestricted entry of horses.

Section 92.2(2)(iv) of the regulations now provides for the permanent entry of horses into the United States from countries affected with CEM if such animals are accompanied by an import permit and a certificate stating that the horses have not been or any breeding premises since reaching 2 years of age, and that three negative cultures for CEM were obtained from specified anatomical locations of each animal at intervals of no less than 7 days with the last negative culture test conducted within 30 days of the date of exportation. In the case of fillies and mares, one of the cultures must have been collected at a time of estrus.

The Department has determined that these provisions for horses are adequate to permit the unrestricted entry of certain horses into the United States from countries where CEM exists without endangering the livestock of the United States. Therefore, provisions for the temporary importation of such horses from countries where CEM exists are no longer necessary.

This action will provide uniform requirements for the unrestricted importation of horses into the United States from countries where CEM exists and will provide relief of restrictions no longer required.

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended in the following respects:

In § 92.2 subparagraph (i)(2)(iii) is deleted and subparagraph (i)(2)(iv) is redesignated subparagraph (i)(2)(iii).

(Sec. 2, 32 Stat. 792, as amended; secs. 4 and 11, 76 Stat. 130, 132 (21 U.S.C. 111, 134c, 134f); 37 FR 28464, 28477; 38 FR 19141.)

These amendments relieve certain restrictions presently imposed and no longer necessary under current regulations, and should be made effective promptly to be of maximum benefit to affected persons.

The Department finds that notice of proposed rulemaking and other public participation regarding these amendments are impracticable, unnecessary and contrary to the public interest, and under the administrative procedure provisions in 5 U.S.C. 553, good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 23d day of August 1978.

NOTE.—The Animal and Plant Health Inspection Service had determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

M. T. GOFF,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 78-24193 Filed 8-28-78; 8:45 am]

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS

Changes in Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Change in discount rates.

SUMMARY: The Board of Governors has amended its Regulation A, "Extensions of Credit By Federal Reserve Banks," for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country. Pursuant to the authority of 5 U.S.C. sec. 553(b)(B) and (d)(3), these amendments are being published without prior general notice of proposed rulemaking, public participation, or deferred effective date. The Board has for good cause found that urgent economic and financial considerations required that these amendments must be adopted immediately and that delay would be contrary to the public interest.

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

FOR FURTHER INFORMATION CONTACT:

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

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

1. Section 201.51 is amended to read as follows:

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

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

Federal Reserve Bank of—	Rate	Effective
Boston	7¾	Aug. 21, 1978
New York	7¾	Do.
Philadelphia	7¾	Do.
Cleveland	7¾	Do.
Richmond	7¾	Do.
Atlanta	7¾	Do.
Chicago	7¾	Do.
St. Louis	7¾	Do.
Minneapolis	7¾	Do.
Kansas City	7¾	Do.
Dallas	7¾	Do.
San Francisco	7¾	Do.

2. Section 201.52 is amended to read as follows:

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

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

Federal Reserve Bank of—	Rate	Effective
Boston	8¼	Aug. 21, 1978
New York	8¼	Do.
Philadelphia	8¼	Do.
Cleveland	8¼	Do.
Richmond	8¼	Do.
Atlanta	8¼	Do.
Chicago	8¼	Do.
St. Louis	8¼	Do.
Minneapolis	8¼	Do.
Kansas City	8¼	Do.
Dallas	8¼	Do.
San Francisco	8¼	Do.

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

Federal Reserve Bank of—	Rate	Effective
Boston	8¾	Aug. 21, 1978
New York	8¾	Do.
Philadelphia	8¾	Do.
Cleveland	8¾	Do.
Richmond	8¾	Do.
Atlanta	8¾	Do.
Chicago	8¾	Do.
St. Louis	8¾	Do.
Minneapolis	8¾	Do.
Kansas City	8¾	Do.
Dallas	8¾	Do.
San Francisco	8¾	Do.

3. Section 201.53 is amended to read as follows:

§ 201.53 Advances to persons other than member banks.

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

Federal Reserve Bank of—	Rate	Effective
Boston	10¾	Aug. 21, 1978.
New York	10¾	Do.
Philadelphia	10¾	Do.
Cleveland	10¾	Do.
Richmond	10¾	Do.
Atlanta	10¾	Do.
Chicago	10¾	Do.
St. Louis	10¾	Do.
Minneapolis	10¾	Do.
Kansas City	10¾	Do.
Dallas	10¾	Do.
San Francisco	10¾	Do.

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

By order of the Board of Governors, August 22, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-24197 Filed 8-28-78; 8:45 am]

[6210-01]

[Reg. Z; FC-0149]

PART 226—TRUTH IN LENDING

Official Staff Interpretation; Suspension of Effective Date and Republication for Public Comment

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Effective date of official staff interpretation suspended; its text reprinted for public comment.

SUMMARY: The Board is suspending the effective date of official staff interpretation FC-0149 regarding open end credit account—specific disclosures requirements, published on June 20, 1978 (43 FR 26425) and is republishing it for public comment. The agency is taking this action in response to a request for public comment submitted in accordance with 12 CFR 226.1(d)(3).

DATES: The effective date of FC-0149 is suspended until further notice. Comments must be received on or before September 28, 1978.

ADDRESS: Comments including reference to FC-0149 to Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FOR FURTHER INFORMATION CONTACT:

Robert Plows, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3667.

SUPPLEMENTARY INFORMATION: (1) The effective date, July 20, 1978, of official staff interpretation FC-0149, is suspended in accordance with 12 CFR 226.1(d)(2)(ii). This interpretation may not be relied upon until final action is taken. Notice of such action will be published in the FEDERAL REGISTER in approximately 60 days and will become effective upon publication.

(2) The text of official staff interpretation FC-0149, which follows, is republished for comment. Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR 261.6.

(3) Interested persons are invited to submit relevant comments. All material should be submitted in writing to: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and should be received not later than September 28, 1978. Comments will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's rules regarding availability of information (12 CFR 261.6(a)).

(4) After comments are considered, this official staff interpretation may be amended, may be rescinded or may remain unchanged. Final action regarding this official staff interpretation will appear in the FEDERAL REGISTER.

(5) Authority: 15 U.S.C. 1640(f).

[FC-0149]

§ 226.7(a)—"Single written statement" does not mean that initial open end disclosures must be placed on the same side of a single sheet of paper.

JUNE 7, 1978.

This responds to your * * * letters requesting official staff interpretations of §§ 226.4 and 226.7 of Regulation Z. This letter answers your final question; your other questions will be dealt with in a separate letter.

You ask whether the initial open end credit disclosures required by § 226.7(a) can be set forth on two sides of a single sheet of paper. Section 226.7(a) provides that disclosures be made on a "single written statement." You note that, in contrast to that section, § 226.8(a), relating to credit other than open end, expressly requires that disclosures be made "on the same side of the page" or on "one side of a separate statement." Thus, you argue that a creditor would be permitted under § 226.7(a) to place the required disclosures on the front and the reverse sides of a page.

In the staff's opinion, the language "single written statement" does not mean that the initial open end credit disclosures required by § 226.7(a) must be placed on the same side of a single sheet of paper. Consequently, a creditor would not be prohibited from using the front and the reverse sides of "a single written statement."

In accordance with your request, this is an official staff interpretation issued pursuant to § 226.1(d)(2) of Regulation Z, as revised on April 21, 1978. It will become effective thirty days after it is published in the FEDERAL REGISTER, unless the Board receives an appropriate and timely request for public comment. You will be promptly notified if such a request is received.

I note that you may represent creditors subject to the laws of the State of Connecticut. Since Connecticut has been granted an exemption from the applicable provisions of the Truth in Lending Act, you may wish to contact the office of Mr. David H. Neiditz, Bank Commissioner of the State of Connecticut, for his views.

I trust that these official comments satisfactorily answer your inquiry. If you have other questions in the future, please feel free to contact Mr. Edward F. Kipfstuhl, Manager, Consumer Affairs and Regulations Department, at the Federal Reserve Bank of New York, New York, N.Y. 10045.

Sincerely,

NATHANIEL E. BUTLER,
Associate Director.

Board of Governors of the Federal Reserve System, August 23, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-24305 Filed 8-28-78; 8:45 am]

[8025-01]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Rev. 2, Amdt. 6]

PART 102—DISCLOSURE OF INFORMATION AND PRIVACY ACT OF 1974

Change in Title of Official Deciding Appeals and Authorizing Testimony by SBA Personnel

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: Sections 102.5 and 102.7 of SBA's rules and regulations designate the Assistant Administrator for Advocacy and Public Communications as the official to whom administrative appeals of refusals to disclose information under the Freedom of Information Act shall be addressed; who makes final Agency decisions on such appeals; and who authorizes appearances and testimony by SBA officers and employees. Section 102.4(f)(2) mistakenly refers to the Assistant Administrator for Congressional and Public Affairs as the official to whom appeals shall be addressed. The official with these responsibilities is now the Chief Counsel for Advocacy.

EFFECTIVE DATE: This regulation shall be effective as of July 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard B. McMurray, Office of the General Counsel, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, 202-653-6573.

SUPPLEMENTARY INFORMATION: Since this change involves a matter of internal Agency management, the Agency finds it unnecessary to issue this change as a notice of proposed rulemaking with opportunity for public comment, or to delay its effective date, as provided for in 5 U.S.C. 553.

Accordingly, pursuant to the authority in section 5(b)(6) of the Small Business Act (72 Stat. 385, 15 U.S.C. 634), Part 102 of Title 13 of the Code of Federal Regulations is amended by substituting "Chief Counsel for Advocacy" (1) for "Assistant Administrator for Congressional and Public Affairs" in § 102.4(f)(2); and (2) for "Assistant Administrator for Advocacy and Public Communications" and "Assistant Administrator" wherever they appear in §§ 102.5(c), 102.5(e), and 102.7.

Dated: August 22, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-24290 Filed 8-28-78; 8:45 am]

[6320-01]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-1071; Amdt. No. 63]

PART 288—EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION

Minimum Charter Rates

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule amends the minimum charter rates for foreign and overseas air transportation services performed for the Department of Defense (DOD) and procured by the Military Airlift Command (MAC). This proceeding was instituted to correct a problem which has surfaced since the establishment of existing MAC rates. The amended rates will permit carriers to perform categories A and Z passenger services at rates equivalent to the lower scheduled commercial tariff fares which are available to the general public.

DATES: Adopted: August 23, 1978. Effective: August 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Leonard S. Friedman, Postal and Military Rates Division, B.P.D.A., B-68, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, phone 202-673-5368.

SUPPLEMENTARY INFORMATION: By EDR-356, 43 FR (25433), June 1, 1978, we proposed to modify part 288, as requested by DOD, to: (1) Set the category B passenger charter rates for wide-bodied jet aircraft at the higher level for low-density stretched jets; [1] and, (2) permit the carriage of categories A and Z individual passengers on scheduled services at rates equivalent to the lowest unrestricted scheduled service commercial fare available to the general public whenever the minimum categories A and Z rates would result in a higher charge.

In the notice the Board also declined to act on DOD's request for further modifications of part 288 to derive the categories A and Z rates from the category B rate for wide-bodied jet aircraft, to amend the minimum aircraft seating densities, and to revise the category Y rate to the level of the category B rate for wide-bodied jet roundtrip passenger service.[2]

Comments were filed by Trans International Airlines, Inc. (TIA) and the DOD.

TIA supports the proposed revision of the category B rates for wide-bodied aircraft.

On the proposed modifications of part 288, DOD says that (1) rather than fixing the wide-bodied category B rates at the low-density rates for stretched jets, the Board should revise the stretched and wide-bodied aircraft seating densities to a 34-inch pitch and the category B passenger rates for these aircraft should be increased to 3.196 cents, roundtrip, and 6.002 cents, one way; [3] and, (2) it should be able to use any published fare at its option for categories A and Z traffic unless the tariff definition of eligible travelers clearly would not include DOD travelers. DOD also raises again arguments on the derivation of the categories A, Z, and Y rates which were considered in EDR-356. Nothing new is added by these comments and they will not be repeated.

On consideration of the comments, we conclude that the issue of category B rates for wide-bodied aircraft can be better resolved without any adjustment to the presently established rates and the proposed amendment for the categories A and Z military passenger traffic should be clarified to permit carriage at lower commercial fares when it meets the applicable commercial tariff terms and conditions. Part 288 will be amended accordingly.

We do not believe that it is appropriate to amend unilaterally such fundamental elements of part 288 rates as the minimum aircraft cabin loads (ACL's) or the related category B charter rates without a rulemaking proceeding embodying a rate review in which all the parties are given the opportunity to present their positions on all of the issues.

DOD apparently anticipated and recognized this problem when it offered the alternative of accepting its proposed category B rates increase for the stretched and wide-bodied jet charter services. DOD is willing to pay a higher rate but apparently feels that the Board's proposed increase is too high. We believe, on further reflection, that this matter can be satisfactorily resolved without any amend-

[1] MAC had contended that wide-bodied aircraft were not being made available by carriers because the currently effective rates provide carriers less revenues than the previous rates.

[2] Further consideration of the category Y rates was deferred in EDR-356 pending the Board's final decision in the *Category Y Fare Investigation*, docket 28096.

[3] DOD also asserts that in lieu of a rate study to establish amended densities and rates, it would accept the Board's fixing the minimum stretched and wide-bodied Category B passenger rates at the increased levels it proposes with no change in the currently effective seating standards (minimum ACL).

ment to the currently effective rates. The current rates are minimum levels, and DOD has the prerogative to contract for category B wide-bodied jet services at higher charges whenever it determines that such increases are commensurate with the benefits it desires from them in the furtherance of its military mission. DOD is surely in the better position to determine this balance.

In view of the need for expeditious action, the Board finds that good cause exists to make the part 288 amendments effective in this proceeding on less than thirty (30) days' notice. Accordingly, the amended part 288 rates shall become effective immediately upon adoption of this rule.

In consideration of the above, the Board is amending part 288 of the Economic Regulations (14 CFR part 288), effective as follows:

Amend § 288.7(d)(1) by adding a proviso to read as follows:

§ 288.7 Reasonable level of compensation.

* * * * *

(d) For category A transportation on and after August 23, 1978:

(1) Passengers, 7.044 cents per passenger-mile *Provided,* That a carrier may perform category A passenger services at a rate per passenger-mile which, when applied to the mileage between specific points in accordance with subparagraph (3) of this paragraph, produces a product fare equal to a published tariff fare that is in fact available to the general public for equivalent service under the tariff's terms and conditions which are likewise applicable to the category A military passenger, in the event that the category A rate per passenger-mile, specified above, would result in a higher charge than such published tariff.

(2) * * *

* * * * *

(Secs. 204, 403, and 416 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, and 771, as amended; (49 U.S.C. 1324, 1373, and 1386).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-24354 Filed 8-28-78; 8:45 am]

[6320-01]

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Reg. OR-131; Amdt. No. 26]

PART 389—FEES AND CHARGES FOR SPECIAL SERVICES

Amendment to Reflect Current Board Practices for the Copying of Magnetic Tape

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule updates the Board's regulations to reflect current practices concerning (1) the availability of the Board's public records on magnetic tape for copying through the National Archives and Records Service (NARS) of the General Services Administration and (2) the availability of public records on magnetic tape to the public through outside computer service bureaus when NARS does not have the requested data.

DATES: Effective: August 23, 1978. Adopted: August 23, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Portions of the Board's organization regulations which deal with fees and charges for access to public records on magnetic tapes and the charge for duplication of these records using the Board's computer facilities do not reflect current procedures for making data contained on magnetic tapes available to the public.

The National Archives and Records Service (NARS) of the General Services Administration now does most of the copying of magnetic tapes and directly bills the parties requesting the information. Under current procedures, the Board has been directing persons who need data on magnetic tapes to NARS or, in certain cases, making the tapes available to outside computer service bureaus for copying or data extraction at the requesting party's expense.

The following amendment of part 389 would reflect this current practice. In addition, it eliminates the outdated fees and charges for obtaining data on magnetic tape. Since parties requesting the data would be billed by NARS or the computer service bureaus they use, there is no need for such price quotations in the Board's regulations.

Since this amendment is an administrative matter affecting a rule of agency organization and procedure and creating no additional burden, the Board finds that notice and public procedure are unnecessary, and that the rule may become effective immediately.

Accordingly, the Civil Aeronauatics Board amends part 389 of its organization regulations, Fees and Charges for Special Services (14 CFR part 389), as follows:

1. The table of contents is amended by deleting "389.14a Furnishing magentic tapes for copying."

2. In § 389.14, the first sentence and paragraph (b) are amended, current paragraph (c) is amended and redesignated as paragraph (d), current paragraph (d) is amended in part and redesignated as paragraph (e), and a new paragraph (c) is added, to read:

§ 389.14 Locating and copying records and documents.

Public records and documents on file with the Civil Aeronautics Board will be located and copied upon request and payment of fees as set forth below:

(a) * * *

(b) Photocopies of records or documents shall be made using the Board's facilities or by contractors.

(1) The fee for photocopying will be 15 cents per page.

(2) The fee for copying by contractors will be that established in the contracts with the Board and will be billed directly by those contractors.

(c) Copies of Board data on magnetic tapes, or extractions of data from Board data tapes, will be made by the National Archives and Records Service (NARS) of the General Services Administration or by computer service bureaus.

(1) The Director, Bureau of Accounts and Statistics, furnishes many public records and documents contained on magentic tape to NARS. Initial requests for data should be made directly to the Machine Readable Archives Division, National Archives and Records Services, General Services Administration, Washington, D.C. 20408, with the applicant directly reimbursing NARS for its copying or data extraction charges. When NARS does not have the requested data, the Director, Bureau of Accounts and Statistics, upon written request, will furnish the tapes for a reasonable length of time to a computer service bureau chosen by the applicant subject to the Director's approval. The computer service bureau shall assume the liability for the cost of replacing any tape that may be damaged or destroyed by it.

(2) The fee for data copying by NARS will be determined by NARS.

(3) The fee for data copying by a computer service bureau shall be es-

tablished by agreement between the requesting party and the computer service bureau.

(d) Where the Board's fee for service requested will exceed $100, the service will not be performed until payment has been received. In such cases, the requester will be notified promptly of the amount of the fee, and the requested service will be performed as expeditiously as practicable following receipt of payment.

(e) Applications for waivers or modifications of any fees required to be paid to the Board under this section may be filed in accordance with the following:

(1) Each applicant * * *

(2) Applications requesting waivers or modifications * * *

(3) The Managing Director * * *

(4) A decision * * *

§ 389.14a [Deleted]

3. Section 389.14a, *Furnishing magnetic tapes for copying,* is deleted.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324(a)).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary

[FR Doc. 78-24355 Filed 8-28-78; 8:45 am]

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 33-5958; 34-15077; 35-20677; 39-512; IC-10369; IA-637]

PART 201—RULES OF PRACTICE

Petitions for Rulemaking

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules of practice (1) to state that petitions for rulemaking may include either the text or the substance of the proposed rule; and (2) to correct references to the procedures followed by the Secretary after receipt of a petition.

EFFECTIVE DATE: August 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Myrna Siegel, Attorney, Office of the General Counsel, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-4868.

SUPPLEMENTARY INFORMATION: Section 201.4(a) of the Commission's rules of practice currently requires that a petition for rulemaking "shall include a statement setting forth the text of any proposed rule." By establishing this procedure the Commission intended to prevent the submission of petitions which did not sufficiently articulate the type of action requested and might therefore receive inadequate consideration. While this rule has not been so strictly interpreted as to preclude the consideration of a petition which does not include the text of a proposed rule, this requirement has evoked at least one question and a petition for amendment.

After considering the petition for an amendment to that section, the Commission has concluded that it would be appropriate for its current regulation to be amended. The legislative history of the Administrative Procedure Act ("APA"), 5 U.S.C. 551, et seq.,[1] indicates that Congress expected agencies to implement the Act with its own regulations. Therefore, the imposition of requirements on the submission of petitions is consistent with Congressional expectations. However, rulemaking petitions which are determined by the Commission to possibly warrant substantive action often require publication for public comment. The APA requirement applicable to the publication of notices of proposed rulemaking is that such notices must state "either the terms or substance of the proposed rule or a description of the subjects and issues involved." 5 U.S.C. 553(b)(3).

Accordingly, the Commission has considered the matter and has determined that the submission of a proposed text is not a necessity. Petitions for rulemaking which adequately describe the substance of the proposal would be sufficiently explanatory to insure that they will receive adequate consideration and would contain sufficient information to fulfill the publication requirements of the APA.

In addition, § 201.4(a) does not accurately describe the procedures which are currently followed by the Secretary after receipt of a petition. The section states that the Secretary transmits the petition to the Commission. In practice, the petition is transmitted to the appropriate Division or Office, which in turn prepares a recommendation which is then submitted to the Commission with the petition. The amended rule will reflect this procedure.

Accordingly, 17 CFR Part 201 is amended by revising paragraph (a) of § 201.4 to read as follows:

[1] H. Rep. No. 1980 79th Cong. 2d Sess. 22 (1946); S. Rep. No. 752 79th Cong. 1st. Sess. 12 (1945).

§ 201.4 Issuance, amendment and repeal of rules of general application.

(a) *By petition.* Any person desiring the issuance, amendment or repeal of a rule of general application may file a petition therefor with the Secretary of the Commission. Such petition shall include a statement setting forth the text or the substance of any proposed rule or amendment desired or specifying the rule the repeal of which is desired and stating the nature of his interest and his reasons for seeking the issuance, amendment or repeal of the rule. The Secretary shall acknowledge receipt of the petition and refer it to the appropriate Division or Office for consideration and recommendation. Such recommendations are transmitted with the petition to the Commission for such action as the Commission deems appropriate. The Secretary shall notify the petitioner of the action taken by the Commission.

* * * * *

The Commission finds that the foregoing action relates solely to rules of agency procedure or practice and, accordingly, that notice and prior publication for comment under the APA are unnecessary. See 5 U.S.C. 553(b).

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

AUGUST 21, 1978.

[FR Doc. 78-24278 Filed 8-28-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 77N-0356]

PART 136—BAKERY PRODUCTS

PART 137—CEREAL FLOURS AND RELATED PRODUCTS

Iron Fortification of Flour and Bread; Findings of Fact, Conclusions, and Final Order

AGENCY: Food and Drug Administration.

ACTION: Termination of stay; final rule.

SUMMARY: This final rule withdraws stayed amendments that would have increased iron fortification of enriched flour, enriched self-rising flour, and

enriched bread, rolls, and buns, and bread products; and restores former provisions of the regulations. These actions are being taken because the Commissioner of Food and Drugs, after a public hearing and receipt of exceptions to a tentative order, has determined that the increase in iron has not been proved to be needed, safe, or effective.

EFFECTIVE DATE: November 27, 1978.

ADDRESS: The transcript of the public hearing and other evidentiary submissions, as well as exceptions, may be seen in the Office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Rosa M. Gryder, Office of Associate Commissioner for Health Affairs (HFS-52), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4491.

SUPPLEMENTARY INFORMATION: The Commissioner issued proposed findings of fact, proposed conclusions, and a tentative order in the FEDERAL REGISTER of November 18, 1977 (42 FR 59513), and allowed 60 days for the filing of written exceptions. Exceptions to the order were received from 12 persons, only 2 of whom had testified at the hearing. A summary of the exceptions and the Commissioner's responses is as follows:

1. Several exceptions pointed out that restoring the old regulations would eliminate the bioavailability requirements for iron-fortified bread contained in the stayed provisions. This point was made by some who agreed with the decision not to order additional iron fortification of bread.

The Commissioner concurs that this is an unfortunate effect of his order. However, he does not have the authority to promulgate a bioavailability requirement under the standard being restored since the desirability of doing so was not considered at the hearing. Because he believes that such a requirement may be desirable, the Commissioner will soon publish separately in the FEDERAL REGISTER a proposal to implement this requirement.

2. One exception was directed not to the Commissioner's tentative order as such but rather to the rationale for his decision. This exception stated that much of the Commissioner's discussion and findings were unnecessary to the decision.

While it is true that the Commissioner could have issued a narrower decision, basing it on the unproven effectiveness of the proposed fortification, for example, he thought that, because of the importance of the matter and the amount of time put into the hearing by all parties, the parties and the public were entitled to a decision on all four hearing issues. Therefore, he rendered a decision on all the issues.

3. This same exception stated that the Commissioner's decision was inconsistent with other fortification decisions.

The Commissioner is unaware of any decision FDA has made concerning the iron fortification of a staple food product as widely used as bread which is inconsistent with this decision.

4. The author of this same exception also expressed fear that the nature of the Commissioner's tentative order would deter further research in the area of iron fortification.

The Commissioner has no intention to discourage research, and no control over the research budgets of food manufacturers. If, as seems likely, this exception is intended to present the Commissioner with an opportunity to narrow the scope of his final order, he accepts the opportunity to do so. The order in this proceeding results from the finding that a proposed fortification has not been proven to be safe, effective, or needed. In another situation, if the evidence supporting the safety, effectiveness, or necessity of the fortifying ingredient is more favorable to the proposed change, the Commissioner may decide another way.

5. This same exception expressed concern about the language in the tentative order that referred to "adequate studies," noting that such a requirement had not been imposed previously.

The requirement of "adequate studies" in the tentative order should be seen as applying in situations where serious concern about the safety of a proposed ingredient has been voiced and where the needed amount of that ingredient is in dispute. Also, this requirement will apply especially in cases where the food in question is a widely eaten staple product.

6. A number of exceptions presented new information in the form of articles published since the hearing took place. Other exceptions presented the opinions of distinguished physicians and nutritionists who had not testified or presented affidavits at the hearing.

Under the ground rules of normal notice-and-comment rulemaking, these comments and data would be carefully weighed before rendering a final decision. However, the procedural situation in this case prohibits the Commissioner from considering evidence in the form of data and testimony which were not presented at the hearing. Because the hearing took the form of an adversary proceeding at which witnesses were examined orally and cross-examined, it would be unfair for the Commissioner to give weight to expressions of opinion when those expressing them were not subject to cross-examination. Exceptions should have made reference to the hearing record. The best vehicle for bringing any new data to FDA's attention is by way of a new petition.

7. One exception noted an apparent contradiction between the Commissioner's finding of bioavailability of iron in bread on the one hand and the lack of evidence of effectiveness on the other.

The Commissioner is no better able to explain this apparent anomaly than were the experts who testified at the hearing or those who have commented before and after the hearing. It would seem that iron that reaches the bloodstream would have the desired effect, but, as indicated in the tentative order, there is some, albeit inadequate, evidence that iron fortification of bread does not have the desired effect, and there is no good evidence that it does.

8. Dr. Clement A. Finch, who testified at the hearing, asked that the record be clarified to reflect that he does believe that iron fortification would be effective.

Let the record be so clarified.

9. Dr. Finch, like others, objected to the Commissioner's proposal for targeting individuals known to be at risk and supplementing their diets with iron supplements or foods naturally high in iron.

The Commissioner believes that this idea cannot be rejected until it has been tried, although he recognizes that there may be difficulties with it. Where there are safety questions of the sort set forth in the tentative order, educational programs for people at risk and the promotion of iron supplementation or the consumption of high-iron-content foods present possible alternatives to the assumption of involuntary risks by others.

10. One exception stated the doubt that any harmful effect is occurring as a result of ingestion of bread fortified with iron at the proposed levels. As evidence, the exception cites an alleged absence of more severe symptoms in any iron-related disease as iron consumption increases.

The Commissioner, however, is unaware of any evidence pro or con concerning the existence of increased severity of symptoms in any of the conditions named in the tentative order caused by ingestion of iron.

11. A number of exceptions received merely reiterated the position taken by the petitioners at the hearing, i.e., that there is a demonstrated large

need for additional iron in the diet. Several exceptions argued that the northwest portion of the Ten-State Survey clearly demonstrates that 20 percent of adult females were shown by transferrin saturation to be iron-deficient.

The Commissioner cannot rely solely on one portion of a study which was not designed to define the extent of iron deficiency anemia in light of the existence of evidence to the effect that iron deficiency is not so widespread. The Commissioner refers to his comment in the tentative order concerning the Ten-State Survey and other available studies and to his proposed findings and conclusions contained therewith. New evidence not of record in the 1974 hearing may yet prove that more widespread iron deficiency exists in the United States. If so, another petition should be filed to allow FDA to consider the basis of the new evidence.

12. One witness at the hearing, Dr. William Darby, took exception to the Commissioner's finding that mild iron deficiency anemia has not been proven harmful. Dr. Darby cited new studies purporting to demonstrate the contrary.

As explained above, the Commissioner cannot in this order properly consider data produced after the closing of the hearing record.

13. Dr. Darby also took exception on grounds that the Commissioner's decision will have unfortunate international implications, discouraging international organizations from pursuing campaigns to ameliorate worldwide iron deficiency anemia.

Unfortunately, Dr. Darby did not raise these concerns at the hearing when he testified. Therefore, it would be unfair to respondents for the Commissioner to consider this objection now that the hearing record has closed.

14. One exception states that carbonyl iron is not as bioavailable as other sources of iron in use today, such as ferrous sulfate.

Because the Commissioner concluded that both were bioavailable sources of iron in bread, this exception does not challenge his conclusions. It may be, as the exception suggests, that the use of iron sources in bread and flour have changed since 1974, and that more ferrous sulfate and other iron having a high bioavailability are being used. Because such information is not of record, the Commissioner can only say that, if this is true, this fact would not allay his concern that current sources of iron may be "too bioavailable," thus increasing fears about safety problems.

15. One corporation, a major supplier of vitamin enrichment premixes to the flour milling industry, stated that simply returning to the old maximum-minimum range for iron will cause continued compliance problems for the milling and baking industry. The exception filed by this company stated that the company would prefer that iron levels be stated in the same terms used for vitamins, i.e., a single minimum level with reasonable overages left to good manufacturing practice regulations, and that the iron levels in enriched flour be adjusted better to accommodate the widespread practice of using enriched flour to manufacture enriched bread. Specifically, the exception proposed that the minimum iron standards for enriched flour be not less than 18.3 milligrams (mg) per pound and for enriched bread and rolls not less than 11.5 mg per pound, with reasonable overages left to good manufacturing practice regulations.

This was the approach taken in the original proposal of December 3, 1971 (36 FR 23074). The Commissioner agrees with the arguments presented in this exception. However, because none of the issues at the hearing involved these questions per se, the Commissioner is unable in this order to effectuate the proposal made in this exception. Therefore, he expects to issue a new proposal separately along the lines suggested in this exception.

16. One exception noted that the Hearing Examiner had rendered a decision favorable to the petitioner on all issues.

Although he did not, in his opinion and findings or conclusions, specifically so state, the Hearing Examiner was apparently applying a standard of proof different from that of the Commissioner. The Commissioner has made clear his view that, at the hearing, FDA and the petitioners, not the respondents, had the burden of proof. Further, the Commissioner has indicated that, because of safety questions, there is a greater burden on the proponents to show need and effectiveness. Also, the Commissioner believes that his own consideration of the matter took into account, more than did the Hearing Examiner's review, the quality of the data as opposed to the quality or quantity of expert testimony supporting each side. There is no doubt that at the hearing FDA presented distinguished witnesses to support its position. These witnesses' opinion testimony, however, was backed by very little good data in the form of reliable studies that answered the questions raised.

17. An official of the Federation of American Societies for Experimental Biology (FASEB) filed an exception, objecting that FASEB's report (G-15) had been quoted out of context concerning (1) the lack of unanimity among its members concerning the desirability of increased iron enrichment; and (2) the lack of experimental evidence to support the safety of increased iron enrichment. The accuracy of the quotations to which the exception referred was not questioned. The person taking exception evidently was distressed at the possibility that it might be interpreted that FASEB does not support increased iron enrichment of bread.

Lest there be doubt, the record should reflect (1) that, whereas FASEB's select ad hoc committee was not unanimous in its decision, a majority did support the iron increase; and (2) that both the majority and minority agreed that additional research is needed to determine the impact of increased dietary iron on body iron accumulation; however, the majority believed that awaiting receipt of this evidence should not delay implementation of increased iron fortification of bread.

18. One exception contained a recommendation that those at risk from increased iron (hemochromatotic and thalassemic individuals) receive special precautionary treatment. This, according to the exception, would be preferable to withholding a needed regulatory decision for the sake of a few who might suffer.

There is no evidence on the record as to how one could identify latent hemochromatotic individuals. Therefore, the Commissioner believes that this suggestion does not sufficiently protect those at risk.

Having considered the evidence received at the hearing, the Hearing Examiner's report, and all the exceptions and written arguments that were filed, as well as the exceptions filed subsequent to the publication of the tentative order and proposed findings and conclusions, the Commissioner, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))), and under authority delegated to him (21 CFR 5.1), is issuing the following findings of fact, conclusions, and final order, which, except for minor editorial changes, are the same as those in the previous notice:

FINDINGS OF FACT

1. A small fraction of the U.S. population has been shown to be iron-deficient. However, data concerning the iron deficiency of larger numbers are inconclusive, and, therefore, greater deficiency is not proven (R-Mann-1, T. 850 ff.).

2. Ferrous sulfate and reduced iron provide bioavailable sources of iron (G-21).

3. There are no good studies showing that additional iron enrichment of flour and bread will be effective in supplying the needs of those who are iron deficient (T. 234, T. 643, T. 905,

R-C-8, R-C-9, R-CU-4). One study indicates that such augmentation would not affect hemoglobin (R-CU-6), but this study is too small and of too short duration to warrant any firm conclusions on this question (T. 205).

4. Present evidence is inadequate to support a firm conclusion that mild iron deficiency anemia is harmful (R-C-4, R-C-5, T. 889, R-15, p. 19).

5. Additional fortification of bread beyond what is necessary to replace iron lost in the milling process has not been proven to be an efficient way of reaching those segments of the population that need iron supplementation (G-10, R-C-2, T. 900-902, 1019).

6. Hemochromatosis is a hereditary disease in which the ability to inhibit iron absorption is lost (G-15). There is insufficient evidence to prove or disprove that incidence or severity of hemochromatosis can be influenced by changes in dietary iron intake (G-15, T-184-187).

7. Thalassemia and sickle-cell anemia are diseases in which patients suffer from excessive iron storage (T. 191, 842; R-C-10, R-C-16). Data showing whether or not increased dietary iron would cause or exacerbate diseases involving anemias, including thalassemia and sickle-cell anemia, are either unavailable or insufficient, but respected medical opinion urges caution (T. 847, G-10, R-C-10, R-C-16).

8. Dietary control is not a prescribed treatment for any of the diseases in which the body loses control over iron absorption (T. 309, 948 (hemochromatosis), T. 194, 775 (thalassemia)).

9. There is no credible evidence that excess iron either causes or exacerbates Parkinson's disease (T. 203, 605-606).

10. There is no evidence, other than anecdotal testimony, that iron supplementation masks the onset of colon cancer (T. 203-205, T. 1028-1029, R-C-16).

11. Any iron loss occurring in an individual having colon cancer would be much greater than could be compensated for by the amount of iron absorbed from the proposed increased levels of fortification (T. 214, T. 423-424).

12. Improved technology leading to greater bioavailability of iron, together with augmented iron fortification of bread, could cause very large amounts of iron to enter the systems of the United States population, with unpredictable results (T. 915-917).

CONCLUSIONS

1. The Commissioner has the authority to promulgate the regulations.

2. Although currently available data show that there is a need for increased iron for 1 to 2 percent of the population, there is a question whether surveys or studies show it to be greater than that.

3. There are bioavailable sources of iron in bread.

4. There is insufficient evidence that the augmentation in iron-fortified bread would ameliorate the condition of those who need additional iron.

5. There are no adequate studies showing the safety of the increased levels of iron in bread, especially with reference to hemochromatosis and thalassemia. Therefore, the proponents of the augmentation have failed to sustain their burden of proof.

6. Proof of safety with respect to Parkinson's disease and the masking of cancer symptoms is likewise absent, but the questions raised concerning these two issues are not substantial and are not supported by sufficient medical opinion to influence regulatory action.

7. Because of the findings and conclusions above, the augmentation of iron fortification of bread, as set forth in the stayed provisions of the regulation, should not be approved.

FINAL ORDER

Therefore, on the basis of the foregoing findings of fact and conclusions drawn therefrom: *It is ordered*, That the stayed provisions of the regulations issued October 15, 1973 (38 FR 28558) amending the standards of identity to increase the added iron content of enriched bread flour, enriched self-rising flour, enriched bread, rolls, or buns be withdrawn and §§ 136.115(a)(1), 137.165(a), and 137.185(a) be revised to read as follows:

§ 136.115 Enriched bread, rolls, and buns.

(a) * * *

(1) Each such food contains in each pound 1.8 milligrams of thiamine, 1.1 milligrams of riboflavin, 15 milligrams of niacin, and not less than 8.0 milligrams and not more than 12.5 milligrams of iron.

* * * * *

§ 137.165 Enriched flour.

* * * * *

(a) It contains in each pound 2.9 milligrams of thiamine, 1.8 milligrams of riboflavin, 24 milligrams of niacin, and not less than 13.0 milligrams and not more than 16.5 milligrams of iron.

* * * * *

§ 137.185 Enriched self-rising flour.

* * * * *

(a) It contains in each pound 2.9 milligrams of thiamine, 1.8 milligrams of riboflavin, 24 milligrams of niacin, and not less than 13.0 milligrams and not more than 16.5 milligrams of iron.

* * * * *

Effective date. This order is effective November 27, 1978.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)).)

Dated: August 13, 1978.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 78-24282 Filed 8-28-78; 8:45 am]

[6730-01]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER A—GENERAL PROVISIONS

[General Order No. 16, Amdt. 25; Docket No. 78-12]

PART 502—RULES OF PRACTICE AND PROCEDURE

Simplification of the Rules Governing Special Docket Applications for Permission to Refund or Waive Portions of Freight Charges in the Foreign Commerce

AGENCY: Federal Maritime Commission.

ACTION: Final rules.

SUMMARY: The Commission's rule governing the filing of applications by common carriers by water in the foreign commerce of the United States or conferences of such carriers seeking permission to refund or waive portions of freight charges because of tariff errors is amended. The amendments are necessary to eliminate unnecessary technicalities and ambiguities in the present rules which have caused undue delay in the processing of such applications. The effect of the amendments will be to eliminate participation of unnecessary parties, clarify when such applications must be filed, simplify the standard form used to submit relevant information, and insure that applicants furnish adequate evidence justifying the relief sought.

EFFECTIVE DATE: September 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573, 202-523-5725.

SUPPLEMENTAL INFORMATION: The Commission instituted this proceeding by Notice of Proposed Rulemaking (notice) published in the FEDERAL REGISTER on May 1, 1978 (43 FR 18572) to amend rule 92(a) of its rules of practice and procedure, 46 CFR 502.92(a). As explained in the notice, the purpose of the proposed amendments is to eliminate unnecessary delay in deciding special-docket cases caused by the present rule.

The proposed amendments would eliminate the need to obtain concurrences or affidavits from shippers, consignees, or freight forwarders, clarify the requirement that applications be filed within 180 days from date of shipment, and simplify the application. The amendments would also insure that applicants furnish adequate supporting information and that other steps would be taken to carry out the purposes of Pub. L. 90-298, which amended section 18(b)(3) of the Shipping Act, 1916, 46 U.S.C. 817(b)(3).

Comments were submitted in response to the notice by three conferences (the conferences),[1] Sea-Land Service, Inc. (Sea-Land), Elkan Turk, Jr., an attorney who practices before the Commission, E. I. du Pont de Nemours & Co. (du Pont), and the U.S. Department of Agriculture (USDA). All of these commentators except USDA state that they generally support the proposed rule changes. USDA confines its comments to specific proposed changes.

The commentators disagreed on the definition of the term "date of shipment." The Conferences, Sea-Land, and Mr. Turk support "date of sailing" as the definition while du Pont and USDA suggest "date of payment of the freight."[2] The Commission proposed "date of issuance of the rated bill of lading" but specifically invited comments regarding this as well as other definitions.

Neither the Shipping Act nor its legislative history provides a definition of the term "date of shipment" and this omission has caused recurring problems. The Commission believes that it must fix a definition to insure equality of treatment among applicants and meet the congressional intent to provide equitable relief but only so long as such relief is sought within a certain period of time.

The Commission carefully considered the arguments favoring "date of sailing" and "date of payment of the freight" suggested by the commentators as well as other definitions which have been used, such as "date of issuance of rated bill of lading," "date of loading," and "date of onboard bill of lading." we believe the most suitable definition is "date of sailing of the vessel from the port at which the cargo was loaded." This date can be easily ascertained from carrier and other records, e.g., Lloyd's Voyage Record. Dates of bills of lading, especially onboard bills of lading, are often found to be unreliable. Use of this definition also gives applicants an additional period of time to seek equitable relief for shippers and consignees beyond that which would apply if date of issuance of rated bill of lading or onboard bill of lading were used. Use of this definition also insures that the shipment was loaded aboard ship and that it commenced its ocean voyage whereas dates appearing on bills of lading do not necessarily indicate that the cargo actually left the carrier's terminal on those dates. As Sea-Land commented: "Many times bills of lading are issued and rated but due to unforeseen operational reasons the cargo is not loaded on the scheduled vessel."

The Commission appreciates the desire of shippers such as du Pont and USDA to use "date of payment" as the definition. We find this to be unsatisfactory. In some instances, a shipper or consignee may be unwilling or unable to pay the freight in whole or in part.[3] In such instances, the time for filing special-docket applications would be prolonged indefinitely, leaving the parties in a state of uncertainty. Furthermore, contrary to USDA's contentions, using date of payment does not necessarily protect shippers or assist them in making prompt and correct payments. As the Record in "Proposed Rule-Time Limit on Filing Overcharge Claims" shows, numerous shippers conduct little or no audit of their freight bills and consequently do not become aware of discrepancies until more than 6 months after payment has been made. Moreover, even if notice to shippers is the determining factor, although nothing in the statute or its legislative history so indicates,[4] receipt of the freight bill, not date of payment, would be the proper standard. It is the former event which puts shippers on notice of any discrepancies.

Accordingly, we are adopting "date of sailing of the vessel from the port at which the cargo was loaded" as the definition of "date of shipment."

The commentators refer to several other proposed rule changes which they believe require clarification or further amendment. The Conferences contend that the portion of proposed rule 92(a)(4) referring to other steps which the Commission may order to be taken if an application is denied is too broad and should be restricted to collection of undercharges. The Conferences also suggest that proposed rule 92(a)(2) be further amended to refer to conferences if conference tariffs are involved. We have considered these comments and believe that the amendments suggested are unnecessary.

If an application for refund or waiver is denied, action other than an order to collect undercharges may be warranted. Such action should be consistent with Pub. L. 90-298 and the requirements of due process. For example, a finding of violation of other provisions of the Shipping Act could not be made in a special-docket proceeding nor could reparation be ordered because of the notice requirements of the Administrative Procedure Act. However, in some cases it might be appropriate to order an applicant not only to collect undercharges but to file an affidavit of compliance. Furthermore, since shippers and consignees are not required to be parties to special-docket proceedings, it might be appropriate to order carriers to notify the shipper or consignee of the denial or to provide them with copies of the Commission's decision. Such action might be warranted if the record showed that although special-docket relief could not be granted, the shipper or consignee concerned might have the right to file a claim under the carrier's tariff or a complaint under section 22 of the Shipping Act because of an apparent misrating due to arithmetic error, misclassification, misdescription, or similar mistake.

We find no reason to further amend proposed rule 92(a)(2) by inserting a reference to conferences. The notice of proposed rulemaking, proposed rule 92(a)(1), and the revised form incorporated into the new rules indicate that conferences as well as individual carriers are indispensable parties if confer-

[1] These conferences are: Japan-Puerto Rico and Virgin Islands Freight Conference; Japan/Korea-Atlantic and Gulf Freight Conference; Trans-Pacific Freight Conference of Japan/Korea.

[2] No one opposed the proposed definition of "filing" of applications to mean date the application is received by the Commission or the date it is deposited in the mail, as duly certified by the applicant, whichever occurs sooner.

[3] For example, in Special Docket No. 527, *Ford France, S.A.* v. *Sea-Land Service, Inc.* (initial decision, November 29, 1977), the consignee-complainant has been prevented from making payment on four shipments that occurred in early 1977 because of exchange control restrictions imposed by the French Government. Furthermore, in proposed rule-time limit on filing "overcharge claims," 12 F.M.C. 298 (1969), the record showed that shippers such as the U.S. Government, because of its extensive transportation activities, could not always make prompt payment.

[4] In some statutes, notice is expressly made the determining factor. For example, in the Interstate Commerce Act, institution of suits in loss and damage cases must commence within 2 years, "such period for institution of suits to be computed from the day when notice in writing is given by the carrier to the claimant that the carrier has disallowed the claim. * * *" Section 20(11), 49 U.S.C. 20(11).

ence tariffs are involved. The Commission explained in the notice that inclusion of conferences in the revised form was necessary because the present form makes no specific provision for conference concurrence or verification. Therefore, the proposed rule provides that both the carrier and the conference join in the application when a conference tariff is involved.

Sea-Land suggests that proposed rule 92(a)(1) be amended to include consignees as well as shippers and that proposed rule 92(a)(5) delete the requirement that supporting evidence be furnished regarding date of payment. We find it unnecessary to change the text of proposed rule 92(a)(1). The portion of the present rule to which Sea-Land refers is unchanged. The Commission has always interpreted the term "shipper," as used in Pub. L. 90-298, to include consignees if they paid or were responsible for payment of freight charges. The proposed revised form indicates that special-docket applications are filed for the benefit of the "person who paid or is responsible for payment of freight charges." The requirement that supporting evidence regarding date of payment be furnished in proposed rule 92(a)(5) should be deleted. Such evidence is unnecessary since we are not adopting "date of payment" as "date of shipment."

Mr. Turk suggested clarification of references to "number of shipments" and "aggregate" freight charges. Under the present rule "shipment" refers to the information shown on an individual bill of lading and "aggregate" refers to total freight charges derived by adding separate bills of lading. These are the intended meanings in the revised form.

USDA suggests that the rule should permit the concurrence and participation of shippers in the preparation and filing of applications. USDA fears that because the statute allows only carriers or conferences to file applications, a carrier might not have the incentive to file an application unless the shipper can concur and participate. We cannot amend the statute. There is nothing in the proposed rule to prevent shippers from assisting carriers in preparing applications or from urging carriers to file applications. Shippers may even petition for leave to intervene in the proceeding under rule 72, 46 CFR 502.72. Consequently, there is no need to amend the rule as recommended by USDA.[5]

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553), and sections 18(b)(3), 21, and 43 of the Shipping Act, 1916 (46 U.S.C. 817(b)(3), 820, and 841a), part 502 of title 46, is amended to read:

§ 502.92 Special docket applications [Amended]

1. Paragraph (a) of § 502.92 is revised to read as follows:

(a)(1) A common carrier by water in foreign commerce which publishes its own tariff or, if the common carrier does not publish its own tariff, the carrier and the conference to which it belongs, may file an application for permission to refund or waive collection of a portion of freight charges where it appears that there is (i) an error in a tariff of a clerical or administrative nature or (ii) an error due to inadvertence in failing to file a new tariff. Such refund or waiver must not result in discrimination among shippers.

(2) The Commission must have received an effective tariff setting forth the rate on which refund or waiver would be based prior to the filing of the application.

(3) The application for refund or waiver must be filed with the Commission within 180 days from the date of shipment. An application is filed when it is placed in the mail or, if delivered by another method, when it is received by the Secretary of the Commission. Filings by mail must include a certification as to date of mailing. Date of shipment shall mean the date of sailing of the vessel from the port at which the cargo was loaded.

(4) By filing, the applicant(s) agrees that:

(i) If permission is granted by the Commission:

(A) An appropriate notice will be published in the tariff, or

(B) Other steps will be taken as the Commission may require which give notice of the rate on which such refund or waiver would be based, and

(C) Additional refunds or waivers shall be made with respect to other shipments in the manner prescribed by the Commission's order approving the application.

(ii) If the application is denied, other steps will be taken as the Commission may require.

(5) Application for refund or waiver shall be made in accordance with the form set forth below. Any application which does not furnish the information required by the prescribed form or otherwise comply with this rule may be returned to the applicant by the Secretary without prejudice to resubmission within the 180-day limitation period.

[5] We have, however, made certain minor changes to the proposed form in paragraphs (1) and (4) to conform with our intentions and provide more adequate information.

FEDERAL MARITIME COMMISSION

Special Docket No.

Application of _____ for
(Applicant(s))

the benefit of _____
(Name of person who paid or is responsible for payment of freight charges)

(1) Shipment(s)

Commodity (according to tariff description) _____

Number of shipments _____

(a) weight or measurement of individual shipment _____

(b) aggregate weight or measurement of all shipments _____

Date of shipment (sailing) (furnish supporting evidence) _____

Shipper and place of origin _____

Consignee and place of destination _____

Name of carrier and date shown on bill of lading (furnish legible copies of bill(s) of lading) _____

Names of participating ocean carriers and routing _____

Name(s) of vessel(s) involved in carriage _____

Amount of freight charges collected (furnish legible copies of rated bill(s) of lading or freight bill(s), as appropriate)

(a) per shipment _____

(b) in the aggregate _____

(c) by whom paid _____

(d) who is responsible for payment if different _____

Rate applicable at time of shipment (furnish legible copies of tariff page(s)) _____

Rate sought to be applied (furnish legible copies of tariff page(s)). Note: Must be on file with Commission prior to application _____

Amount of freight charges at rate sought to be applied

(a) per shipment _____

(b) in the aggregate _____

Amount of freight charges sought to be (refunded) (waived)

(a) per shipment _____

(b) in the aggregate _____

(2) Furnish docket numbers of other special docket applications or decided or pending formal proceedings involving the same rate situations.

(3) State whether there are shipments of other shippers of the same or similar commodity which (a) moved via applicant(s) during the period of time beginning on the day the bill(s) of lading was issued and ending on the day before the effective date of the conforming tariff and (b) moved on the same voyage of the vessel(s) carrying the shipment(s) described in (1) above.

(4) Fully explain the clerical or administrative error or error due to inadvertence showing why the application should be granted. Furnish affidavits, if appropriate, and legible copies of all supporting documents. If the error is due to inadvertence, specify the date when applicant(s) intended or agreed to file a new tariff.

_____

(Applicant) (Carrier)

By: _____

(Signature)

_____

(Typed or printed name of person signing)

_____

(Title)

_____

(Date)

State of ————, County of ————,

ss:

I, ————, on oath declare that I am ———— of the above-named carrier-applicant, that I have read this application and know its contents; and that they are true.

Subscribed and sworn to before me, a notary public in and for the State of ————, County of ————, this —— day of ————, A.D. 19—.

(Seal)

_____

(Notary Public)

The ———— (Applicant) (Conference) joins in the application.

By: _____

(Signature)

_____

(Typed or printed name of person signing)

_____

(Title)

_____

(Date)

State of ————, County of ————,

ss:

I, ————, on oath declare that I am ———— of the above-named conference-applicant; that I have read this application and know its contents, and that they are true.

Subscribed and sworn to before me, a notary public in and for the State of ————, County of ————, this —— day of ————, A.D. 19—.

(Seal)

_____

(Notary Public)

I certify that the date shown below is the date of mailing of the original and three copies of this application to the Secretary, Federal Maritime Commission, Washington, D.C. 20573.

Dated at ———— this —— day of ————, 19—.

(Signature) _____

(For) _____

* * * * *

2. Paragraph (c) of § 502.92 is amended by revising the first sentence to read as follows:

* * * * *

(c) Applications under paragraphs (a) and (b) of this section shall be submitted in an original and three (3) copies to the Office of the Secretary, Federal Maritime Commission, Washington, D.C. 02573.

* * * * *

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-24365 Filed 8-28-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Rice Lake National Wildlife Refuge, Minn., to Ruffed and Spruce Grouse Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of ruffed and spruce grouse hunting on the Rice Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide recreational opportunity to the public.

DATES: September 16, 1978 through December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager; Rice Lake National Wildlife Refuge; Route 2; McGregor, Minn. 55760, telephone 218-768-2402.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of only ruffed and spruce grouse on the Rice Lake National Wildlife Refuge in Aitkin County, Minn., is permitted from September 16 through December 31, 1978, only in the hunting area designated by (green) signs as open to hunting. The open area comprised of about 2,000 acres is delineated on maps available at refuge headquarters, McGregor, Minn., and from the Regional Director, Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State regulations governing the hunting of upland game.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas which are set forth in title 50, Code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

DAVID E. HEFFERNAN,
Refuge Manager.

AUGUST 21, 1978.

[FR Doc. 78-24280 Filed 8-28-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of the Erie National Wildlife Refuge, Pa., to Hunting.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Erie National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1, 1978 through February 28, 1979.

FOR FURTHER INFORMATION CONTACT:

Bill McCoy, Erie National Wildlife Refuge, RD 2, Box 191, Guys Mills, Pa. 16327, telephone No. 814-789-3585.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of migratory game birds on the Erie National Wildlife Refuge is permitted from September 1, 1978 through December 31, 1978 in accordance with all State and Federal regulations subject to the following special conditions: Field possession of migratory game birds is prohibited in areas of the refuge closed to migratory game bird hunting. Such hunting is permitted only on the designated area, as shown on maps available at refuge headquarters.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of rabbits, woodchucks, raccoons, squirrels, grouse, quail, pheasants, skunks, oppossums, and foxes is permitted from October 14, 1978 through February 28, 1979 on portions of the Erie National Wildlife Refuge. Maps showing the open hunting areas are available at refuge headquarters.

Hunting shall be in accordance with all State regulations governing hunting of small game, furbearers, and foxes, subject to the following special conditions: That portion of the refuge situated between Pennsylvania Routes 27 and 173 is closed to hunting with firearms from September 1, 1978 through November 25, 1978. Hunting of fox and raccoon is permitted only on that portion of the refuge located north of Route 27. All fox and raccoon hunters must have a special use permit in possession when hunting on the refuge. Permits may be secured at the refuge headquarters.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer on the Erie National Wildlife Refuge, Pa., is permitted from September 30, 1978 through January 13, 1979. The open hunting area is shown on maps available at refuge headquarters.

Hunting shall be in accordance with all State and Federal regulations covering the hunting of deer, subject to the following special conditions: All hunters, except archery hunters, shall be required to wear a minimum of 400 total square inches of a safety fluorescence color material. A permit is required for all deer hunting. Permits may be secured at refuge headquarters and must be returned via mail or in person within 10 days of the close of the respective season. Failure to return the permit will result in loss of hunting privileges the following year. Refuge hunters are prohibited from engaging in target practice or random shooting in all refuge hunts. The use of alcoholic beverages is not permitted on the refuge when visiting for the purpose of hunting.

All hunting area maps are available at refuge headquarters and from the Regional Director, 1 Gateway Center, Newton Corner, Mass. 02158.

The provisions of this special regulation supplement the regulations governing hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Administrative needs require that the Erie refuge hunting seasons be held concurrent with the Pennsylvania State hunting seasons. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

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

AUGUST 22, 1978.

[FR Doc. 78-24281 Filed 8-28-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of the Parker River National Wildlife Refuge, Mass., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Parker River National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1978, through January 31, 1979.

FOR FURTHER INFORMATION CONTACT:

George Gavutis, Parker River National Wildlife Refuge, Northern Boulevard, Plum Island, Newburyport, Mass. 01950, telephone 617-465-5753.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of waterfowl and coots on the Parker River National Wildlife Refuge, Mass., is permitted only on the areas designated by signs as open to hunting. These open areas, comprising 1,900 acres, and known as the Pine Island Hunting Area (area A), Parker River Hunting Area (area B), Nelson's Island Hunting Area (area C), and the Youth Hunting Area (area D), are delineated on maps available at refuge headquarters, or from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of waterfowl and coots, subject to the following special conditions:

1. Hunters will be required to have taken and passed the refuge open book waterfowl hunters qualification examination prior to hunting on the refuge. These hunters must have a valid certification card with them while hunting on the refuge and must display it upon request. Hunters who are convicted of a violation of refuge regulations are subject to having their exam certification card revoked.

2. The number of hunters on the Pine Island Area will be limited to 75 each day, Parker River Area to 25 each day, and the Nelson's Island Area to 50 each day. Participation will be on a first-come, first-served basis. Hunters using area B must each bring and set out at least two (2) waterfowl decoys and waterfowl may only be hunted within 50 yards of these set decoys.

3. Hunters on all three areas are limited to 15 shotshells per day. Steel shot is required for all 12-gage shotguns. Persons using 12-gage shotguns may not have in their possession lead shotshells. Lead shotshells may be used in shotguns other than 12-gage.

4. The Youth Hunting Area will be open during the regular State waterfowl season for young waterfowl trainees on selected days except Sundays under the provisions of this special program. Literature describing this program is available at the refuge headquarters.

5. Boat access is prohibited on area C and required on area A. Boats may be landed only during the open season on waterfowl and only by persons authorized to participate in refuge hunting programs. Access to area C must be from the refuge parking lot.

The provisions of this special regulation supplement the regulations governing hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 31, 1979. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not

contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

HOWARD N. LARSEN,
Regional Director,
Fish and Wildlife Service.

AUGUST 22, 1978.

[FR Doc. 78-24279 Filed 8-28-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Monte Vista National Wildlife Refuge, Colo., to Public Hunting of Upland Game

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of cottontail rabbits and white and black-tailed jackrabbits on the Monte Vista National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 30, 1978 through January 21, 1979.

FOR FURTHER INFORMATION CONTACT:

Melvin T. Nail, Refuge Manager, Monte Vista National Wildlife Refuge, P.O. Box 511, Monte Vista, Colo. 81144, telephone 303-852-2435; or Mitchell G. Sheldon, Assistant Area Manager, Refuges and Wildlife, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138, telephone 801-524-5630.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Hunting of cottontail rabbits and white and black-tailed jackrabbits is permitted on the Monte Vista National Wildlife Refuge, Colo., but only on the areas designated by signs as being open to hunting. These areas comprising 5,314 acres are delineated on maps available at refuge headquarters, Monte Vista, Colo., and from the Area Manager, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of cottontail rabbits and white and black-tailed jackrabbits, subject to the following special conditions:

(1) Cottontail rabbits and white and black-tailed jackrabbits—September 30, 1978 through October 13, 1978, inclusive, and November 11, 1978 through January 18, 1979, inclusive.

(2) Shooting hours for cottontail rabbits will be from sunrise to sunset.

(3) Shooting hours for white and black-tailed jackrabbits shall coincide with those set by Federal and State proclamation for the hunting of migratory waterfowl.

(4) Admittance—Entrance to the area open to hunting and parking of vehicles will be restricted to designated parking areas.

(5) Dogs—Not to exceed two dogs per hunter may be used in the hunting of the above species.

(6) Hunting with rifles and handguns is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50, Code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

MELVIN T. NAIL,
Refuge Manager.

AUGUST 21, 1978.

[FR Doc. 78-24359 Filed 8-28-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Monte Vista National Wildlife Refuge, Colo., to Public Hunting of Migratory Game Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of geese, ducks, coots, mergansers, mourning doves, and Wilson's snipe on the Monte Vista National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 30, 1978 through January 21, 1979.

FOR FURTHER INFORMATION CONTACT:

Melvin T. Nail, Refuge Manager, Monte Vista National Wildlife Refuge, P.O Box 511, Monte Vista, Colo. 81144, telephone 303-852-2435; or Mitchell G. Sheldon, Assistant Area Manager, Refuges and Wildlife, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138, telephone 801-524-5630.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game bird hunting; for individual wildlife refuge areas.

Hunting of geese, ducks, coots, mergansers, mourning doves, and Wilson's snipe is permitted on the Monte Vista National Wildlife Refuge, Colo., but only on the areas designated by signs as being open to hunting. These areas comprising 5,314 acres are delineated on maps available at refuge headquarters, Monte Vista, Colo., and from the Area Manager, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of geese, ducks, coots, mergansers, mourning doves, and Wilson's snipe, subject to the following special conditions:

(1) The refuge will be open to hunting of mourning doves and Wilson's snipe only during the established waterfowl seasons—September 30, 1978 through October 13, 1978, inclusive, and November 11, 1978 through January 18, 1979, inclusive.

(2) Shooting hours will be from sunrise to sunset on mourning doves and Wilson's snipe.

(3) Admittance—Entrance to the area open to hunting, and parking of vehicles will be restricted to designated parking areas.

(4) Dogs—Not to exceed two dogs per hunter may be used in the hunting of the above species.

(5) Boats—The use of boats is prohibited. One or two-man liferafts that can be carried by an individual from the parking areas to the hunting area may be used to retrieve dead or wounded birds.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50, Code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

MELVIN T. NAIL,
Refuge Manager, Monte Vista National Wildlife Refuge, Monte Vista, Colo.

AUGUST 21, 1977.

[FR Doc. 78-24360 Filed 8-28-78; 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.

[3410-15]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1701]

FLOOD PLAINS AND WETLANDS PROCEDURES

Proposed Exhibit G to REA Bulletin 20-21:320-21

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to issue an exhibit G to REA Bulletin 20-21:320-21, National Environmental Policy Act. This proposed exhibit sets forth REA policy and procedure for implementation of Executive Orders 11988, Flood Plain Management, and 11990, Wetlands Protection, dated May 24, 1977, as they relate to the REA program. These orders require all Federal agencies to take special care when undertaking actions that may affect flood plains or wetlands.

The procedures require all applicants for REA financial assistance to avoid disrupting flood plains or wetlands where there is a practicable alternative and to minimize environmental harm to flood plains and wetlands that may be caused by such actions. Applicants will be required to consult with Federal, State, and local agencies having flood plain and wetland expertise in determining flood plain and wetland locations, whether practicable alternatives to locating in these areas exist and proper mitigation measures where no practicable alternatives exist.

When an environmental impact statement (EIS) is being prepared for a project, analysis and determination of its effects on flood plains and wetlands will be integrated into the EIS process. In all other instances, consideration of the proposed action's effects on flood plains and wetlands will be coordinated to the maximum extent practicable with the fulfillment of REA's NEPA requirements.

On issuance of exhibit G to REA Bulletin 20-21:320-21, appendix A to part 1701 will be modified accordingly.

DATE: Public comments must be received by REA no later than September 28, 1978.

ADDRESS: Interested persons may submit written data, views or comments to the Director, Management Services Division, Rural Electrification Administration, Room 4024 South Building, Washington, D.C. 20250, telephone 202-447-4512. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director, Management Services Division, during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Blaine D. Stockton, Jr., Director, Management Services Division, Rural Electrification Administration, Room 4024 South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-4512.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue an exhibit G to REA Bulletin 20-21:320-21. Copies of the exhibit are being mailed to all REA and RTB borrowers. others may secure a copy in person or in writing from the Director, Management Services Division.

Dated: August 22, 1978.

DAVID A. HAMIL,
Administrator.

[FR Doc. 78-24292 Filed 8-28-78; 8:45 am]

[3410-34]

Animal and Plant Health Inspection Service

[9 CFR Part 92]

IMPORTATION OF BIRDS

Procedures for the Recovery of Costs of Services

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to establish procedures for the recovery of costs of services provided by Veterinary Services in conjunction with the importation of birds through approved quarantine facilities. This action is necessary in order to place in effect a practical method of collection and deposit of such funds in a manner whereby they will be available to Veterinary Services for defraying expenses involved in the service. The effect of this action would be to establish a system whereby costs of services provided by Veterinary Services at approved quarantine facilities for birds would be collected from the importer and deposited in a trust fund so as to be available to Veterinary Services for defraying expenses involved.

DATE: Comments on or before September 13, 1978.

ADDRESS: Written comments should be submitted to the Deputy Administrator, Veterinary Services, APHIS, USDA, Room 821, Federal Building, 6505 Belcrest Road, Hyatttsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. George P. Pierson, USDA, APHIS, VS, Import-Export Staff, Room 817, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to section 2 of the Act of February 2, 1903, as amended, section 11 of the Act of May 29, 1884, as amended, and sections 2, 3, 4, and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 114a, 134a, 134b, 134c, and 134f, respectively), and the Act of July 24, 1919, and section 603(a) of the Act of August 30, 1972 (7 U.S.C. 450b and 2201, respectively) the Animal and Plant Health Inspection Service is considering amending Part 92, Title 9, Code of Federal Regulations.

The regulations in 9 CFR 92.11(e) require that each lot of commercial birds, zoological birds, or research birds imported into the United States be quarantined for a minimum of 30 days at a USDA quarantine facility or in a facility provided by the importer and approved by the Deputy Administrator. Section 92.11(f) provides that to qualify as an approved quarantine facility and to retain such approval, certain standards for approved quarantine facilities and handling procedures for importation of birds must be met and that the cost of the facility and all costs associated with its maintenance and operation shall be borne by the importer. Section 92.12(a) provides that the Deputy Administrator, Veterinary Services, may prescribe reasonable rates for the costs to the Department incurred in the care, feed, and and handling of animals, sanitation of the facilities, inspection, and

other services as may be required from the time of unloading at a quarantine port to the time of release from quarantine.

On August 9, 1978, there was published in the FEDERAL REGISTER (43 FR 35457-35459) an interim rule which will require importers, effective October 1, 1978, to reimburse Veterinary Services for all costs incurred in providing services required at approved quarantine facilities for the importation of birds, and a schedule of fees to be charged importers for such services. This document proposes to establish procedures for the collection of such costs from importers and for the deposit of funds so collected in a manner so as to be available to Veterinary Services for defraying expenses involved in this service.

It is proposed to amend § 92.11(e) of the regulations to require an importer to execute a Cooperative and Trust Fund Agreement and deposit funds with the Deputy Administrator to cover the costs to be incurred by the Department as a prerequisite to the issuance of a permit for the importation of birds through an approved quarantine facility. A new § 92.11(f)(7) is proposed which would set forth the Cooperative and Trust Fund Agreement required and the conditions for its issuance and use. The Cooperative and Trust Fund Agreement would require that the importer deposit funds with the Deputy Administrator equal to the approximate cost to the Department in furnishing services for two 30-day quarantine periods. This is necessary because funds must be available to pay for services required before the work can be accomplished. Under the Cooperative and Trust Fund Agreement, the first bills would be prepared at the end of the first month, based upon the actual cost of services provided by the Department as shown on official accounting records available at that time. To insure that funds are available in adequate amounts to cover monthly billing procedures, advance payments must be made in sufficient amounts to cover a minimum of 50 days quarantine time. This would include 1 month's operation of the quarantine facility plus the time required to process bills and receive collections. When monthly bills are produced, it takes approximately 15 to 29 days for such bills to be processed and mailed to the cooperator and for collections to be received and deposited. It is proposed to require a deposit equal to 60 days quarantine time in order to provide a safety factor for unusual expenses or unforeseen delays in the billing and collection of receipts.

The Cooperative and Trust Fund Agreement would also require that as funds from the deposit are obligated monthly, billing for costs incurred based on official accounting records will be issued to restore the deposit to its original level. This is required because the operation of the quarantine facility is an ongoing venture and it is believed that maintaining a running balance system for each facility would be the best funding method to use. It should provide adequate funds to insure the payment of expenses, while not requiring extensive amounts of capital to be furnished by the importer over an extended period of time. The Cooperative and Trust Fund Agreement would also provide that an accounting be made to the cooperator on a quarterly basis or within 30 days following receipt of a written request from the cooperator. This should provide adequate means to the importer to insure that funds deposited with the Deputy Administrator are properly being spent.

Accordingly, Part 92, Title 9, Code of Federal Regulations, is proposed to amended in the following respects:

§ 92.11 [Amended]

1. In § 92.11(e), the first sentence would be amended by deleting the last comma and the phrase ", prior to the issuance of the permit", and a new sentence would be added following the amended first sentence to read:

* * * * *

(e) *Birds.* * * * When approved quarantine facilities provided by the importer and approved by the Deputy Administrator are to be used, a Cooperative and Trust Fund Agreement as set forth in § 92.11(f)(7) of the regulations shall be executed by the importer and the Department and appropriate funds deposited with the Deputy Administrator pursuant to the Cooperative and Trust Fund Agreement, prior to the issuance of the permit.

* * * * *

2. In § 92.11(f), the introductory paragraph would be amended and a new subparagraph (7) would be added to read:

* * * * *

(f) *Standards for approved quarantine facilities and handling procedures for importation of birds.* To qualify for designation as an approved quarantine facility [8] and retain such approval, the facility and its maintenance and operation must meet the minimum requirements of subparagraphs (1) through (6) of this paragraph (f). The cost of the facility and all costs associated with the maintenance and operation of such facility shall be borne by the importer in accordance with the provisions of subparagraph (7) of this paragraph.

* * * * *

(7) *Cooperative and Trust Fund Agreement for services required by importer at approved quarantine facilities for the importation of birds.* (i) When an approved quarantine facility for the importation of birds is provided by the importer and is approved by the Deputy Administrator as provided in paragraph (e) of this section, a Cooperative and Trust Fund Agreement as set forth in subdivision (iii) of this subparagraph shall be executed by the importer and the Department and, in conjunction therewith, the importer shall deposit with the Deputy Administrator, Veterinary Services, funds adequate to cover all costs incurred by the Department in providing services required for two complete quarantine periods in accordance with the provisions of the Cooperative and Trust Fund Agreement. Amounts collected for service rendered in conjunction with this Cooperative and Trust Fund Agreement shall be deposited so a to be available for defraying the expenses involved in the Service.

(ii) The Deputy Administrator is authorized to provide services required by the importer in conjunction with the importations made through approved quarantine facilities for the importation of birds when he determines that the importer has executed a Cooperative and Trust Fund Agreement specified in subdivision (iii) of this subparagaph and has deposited funds in connection therewith as provided in such agreement.

(iii) *Cooperative and Trust Fund Agreement.*

Cooperative and Trust Fund Agreement between ———— (name of importer) and U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services.

This Agreement, is made and entered into by and between ———— (name of the importer) ———— (approved quarantine facility) ———— (address of quarantine facility), hereinafter referred to as the Cooperator, and the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, hereinafter referred to as the Service.

Whereas, the Service is authorized pursuant to section 2 of the Act of February 2, 1903, as amended, section 11 of the Act of May 29, 1884, as amended, and section 4 of the Act of July 2, 1962 (21 U.S.C. 111, 114a and 134c, respectively) to regulate the introduction of animals into the United States in order to prevent the introduction of animal and poultry diseases into the United States; and

Whereas, the Cooperator represents parties interested in the importation of certain birds from countries presently under restrictions for such importation; and

Whereas, the Cooperator is equipped with quarantine facilities approved in accordance

with Part 92, 9 CFR, for use in importing birds; and

Whereas, the Cooperator has requested the Service to conduct inspections, perform laboratory procedures, complete examinations, and supervise the isolation, quarantine, and care and handling of birds to insure that they meet the Department's quarantine requirements before release into the United States; and

Whereas, it is the intention of the parties hereto that such cooperation shall be for their mutual benefit and the benefit of the people of the United States.

Now therefore, for and in consideration of the promises and mutual covenants herein contained, the parties hereto do hereby mutually agree with each other as follows:

(A) *The Cooperator agrees:*

(1) To provide quarantine facilities which have been approved according to standards for approved quarantine facilities and handling procedures for importation of birds as provided in part 92 of 9 CFR.

(2) To deposit with the Service upon execution of this agreement the amount of $—— (equal to the approximate cost to the Department for two 30-day quarantine periods) to be used by the Service to defray all expenses incurred by the Service in providing services required, and as funds from that amount are obligated, monthly bills for costs incurred based on official accounting records will be issued to restore the deposit to its original level.

(3) To provide for the maintenance and operation of the approved quarantine facilities in accordance with standards for approved quarantine facilities and handling procedures for importation of birds as provided in part 92 of 9 CFR.

(B) *The Service agrees:*

(1) To furnish the services of technical and/or professional personnel needed to conduct inspections, perform laboratory procedures, complete examinations, and supervise the isolation, quarantine, and care and handling of birds being imported to insure that they meet the Department's quarantine requirements before release into the United States.

(2) To provide the Cooperator on a quarterly basis, or within 30 days following receipt of a written request from the Cooperator, with an accounting of funds expended in providing services under paragraph B.1. of this agreement. Any unobligated balance upon termination or expiration of this agreement shall be returned to the Cooperator.

(C) *It is mutually understood and agreed:*

(1) That the Comptroller General of the United States or any of his duly authorized representatives and accredited representatives of the U.S. Department of Agriculture or cognizant audit agency shall, until expiration of 3 years after final payment under this agreement, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Cooperator or any of its subcontractors engaged in the performance of any transactions related to this agreement.

(2) During the performance of this cooperative work, the Cooperator agrees to be bound by the equal opportunity and nondiscrimination provisions as set forth in exhibit B and nonsegregation of facilities provisions as set forth in exhibit C, which are attached hereto and made a part hereof.

(3) No member of or delegate to Congress or resident commissioner, shall be admitted to any share or part of this agreement or to any benefit to arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

(4) This agreement shall become effective upon date of final signature and shall continue indefinitely. This agreement may be amended by agreement of the parties in writing. It may be terminated by either party upon 30 days written notice to the other party.

Date ——————————

Cooperator ——————————

U.S. Department of Agriculture, Animal and Plant Health Inspection Service.

Date ——————————

Acting Administrator.

Since it appears that Department funds will not be available to provide the services it presently provides approved bird quarantine facilities as of October 1, 1978, and it will be necessary to provide funds for such activities as of October 1, 1978, if uninterrupted service is to be provided approved bird quarantine facilities, a 15-day comment period is established for this proposed rulemaking.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 821, Hyattsville, Md., during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays), in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 24th day of August 1978.

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

M. T. GOFF,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 78-24262 Filed 8-24-78; 11:29 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 762 3120]

SAMUEL E. WOMACK ET AL., t.a. NURSERY BARN ET AL.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require three McMinnville, Tenn., firms engaged in the advertising and mail-order sale of viable trees and nursery stock, to cease misrepresenting or making unsubstantiated claims regarding the growth, survivial, and maturity of their stock; or the existence of Government standards and inspections for such products. They would be required to make specified disclosures in future advertising; include all conditions and qualifications attached to advertised guarantees; enclose a copy of such guarantee with each purchase; fulfill obligations under those guarantees promptly; and make full refunds to customers whose orders have not been shipped in time for planting cycle. the order would additionally require the companies to make proper restitution to all eligible customers from July 1, 1975, whose orders had never been sent, or had failed to survive shipment.

DATE: Comments must be received on or before October 26, 1978.

ADDRESS: Comments should be directed to Office of the Secretary, Federal Trade Commission, Sixth and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

S. E. Combs, Regional Director, Atlanta Regional Office, Federal Trade Commission, 1718 Peachtree Street NW., Room 1000, Atlanta, Ga. 30309, 404-881-4836.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the FTC Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

Document No. 71700039

[File No. 762 3120]

SAMUEL E. WOMACK ET AL.

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

In the matter of Samuel E. Womack and James E. Savage, jointly or individually trading and doing business as

Nursery Bar, Savage Farms Nursery, McMinnville Tree Farm, American Nursery & Seed Co., Morrison Nursery Co.; and S. W. Advertising Co., Inc. (formerly Savage-Womack Advertising Co., Inc.), Womack Nursery Co., Inc., and Samuel E. Womack, individually and as an officer of said corporations, and Morrison Nursery Advertising Co., Inc., and James E. Savage, individually and as an officer of Morrison Nursery Advertising Co., Inc.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Samuel E. Womack and James E. Savage, doing business jointly as Nursery Bar, McMinnville Tree Farm, American Nursery & Seed Co., and Morrison Nursery Co. and further, individual respondent James E. Savage, doing business as Savage Farms Nursery, and further Samuel E. Womack as an officer of S. W. Advertising Co., Inc. (formerly Savage-Womack Advertising Co., Inc.), and as an officer of Womack Nursery Co., Inc., and James E. Savage as an officer of Morrison Nursery Advertising Co., Inc., Tennessee corporations, and it now appearing that all such parties inclusive of Samuel E. Womack and James E. Savage as individuals and as corporate officers, hereinafter referred to as proposed respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated:

It is hereby agreed by and between Samuel E. Womack and James E. Savage as individuals doing business as set forth above and as officers of the proposed corporate respondents, and S. W. Advertising Co., Inc. (formerly Savage-Womack Advertising Co., Inc.), Morrison Nursery Advertising Co., Inc., and Womack Nursery Co., Inc., by their duly authorized officer, and counsel for the Federal Trade Commission that:

1. Proposed individual respondents trade and do business under the trade names set forth above with business premises located on Highway 55 in McMinnville, Tenn. Additionally, proposed individual respondent James E. Savage trades and does business under the trade name Savage Farm Nursery with premises in McMinnville, Tenn. Further, proposed individual respondent Samuel E. Womack is an officer of S. W. Advertising Co., Inc. (formerly Savage-Womack Advertising Co., Inc.), and of Womack Nursery Co., Inc. Proposed individual respondent James E. Savage is an officer of Morrison Nursery Advertising Company, Inc. They formulate, direct, and control the policies, acts, and practices of said corporations. All proposed respondents operate from premises located on Highway 55, McMinnville, Tenn., with the exception of Savage Farms Nursery, located in McMinnville, Tenn., on premises apart from those described above.

Proposed respondents S. W. Advertising Co., Inc. (formerly Savage-Womack Advertising Co., Inc), Morrison Nursery Advertising Co., Inc., and Womack Nursery Co., Inc., are corporations organized, existing, and doing business under and by virtue of the laws of the State of Tennessee, with offices and principal place of business located on Highway 55 in McMinnville, Tenn., and are engaged exclusively in the creation, preparation, and placement of advertisements for individual respondents doing business as hereabove recited and under the exclusive control and direction of the individual respondents.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby, and they understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order and that they may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

It is ordered, That respondents, S. W. Advertising Co., Inc. (formerly Savage-Womack Advertising Co., Inc.), Morrison Nursery Advertising Co., Inc., and Womack Nursery Co., Inc., corporations, their successors and assigns, and their officers, and Samuel E. Womack and James E. Savage, individually and as officers of said corporations, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale, or distribution of trees, nursery stock, or any other product in commerce, or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

A. Representing in writing, orally, visually, or in any other manner, directly or by implication, that:

1. Advertised trees or nursery stock of any kind will grow and survive anywhere in the United States or in any specific geographic area of the United States unless respondents have a reasonable basis to conclude that such representation has a basis in fact and supported by reputable industry authority;

2. Trees, such as red maple (*Acer rubrum*), thornless honey locust (*Gleditsia triacanthos intermis*), and weeping willow (*Salix babylonica*) or any other tree or nursery stock, under normal growing conditions, will grow 5 to 6 feet per year or at any other growth rate or will be mature shade trees or mature nursery stock in 5 years or in any other time period

unless respondents have a reasonable basis to conclude that such representation has a basis in fact and is supported by reputable industry authority;

3. Rosebushes have been officially inspected for compliance with a Government viability standard or that such a standard exists;

4. A prompt refund or replacement will be made unless respondents can establish the maintenance of business records sufficient to support a showing of compliance with all such representations; and

5. A full and complete guaranty or warranty without conditions or qualifications exists unless such is the fact.

B. Failing to include in each shipment of trees and nursery stock a written copy of any written guaranty or warranty advertised by respondents disclosing all terms and conditions, if any, and identity and address of guarantor.

C. Failing to promptly and fullly perform all of their obligations under the terms of all warranties, whether expressed or implied.

D. Failing to disclose clearly and conspicuously in all advertisements representing a written guaranty or warranty the manner in which respondents will perform and all the conditions, including the allocation of cost and expense, necessary for the prompt payment of a refund or replacement. Such disclosure shall be prominently displayed in close proximity to the representation of a guaranty or warranty and in all advertisements broadcast by radio or television, the above-required disclosure shall be read at the end of the advertisement at a rate of speed at least as slow as the slowest part of the advertisement. Nothing in this order shall be construed to relieve respondents of their duty to comply with all present and future laws, regulations, and rules dealing with warranties and guaranties.

E. Limiting any guaranty or offer to refund or replacement to the time of arrival of the ordered merchandise.

F. Mislabeling rosebushes and failing to employ and utilize reasonable business systems and procedures to insure the correct labeling of the varieties of rosebushes shipped to the buyer.

G. Failing in each advertisement to disclose clearly and conspicuously the planting period appropriate for the geographic area in which the advertisement is published.

H. Failing to make shipment of viable trees and nursery stock for timely arrival; that is, in time for receipt during the current or next planting period appropriate for the geographic area in which the buyer orders shipment.

I. Failing to pay, without prior demand, and no later than twenty (20) days after the conclusion of the appropriate planting period for the ordered trees and nursery stock, a refund of all moneys received from the buyer in the event timely shipment of viable trees and nursery stock is not made as referenced in paragraph H. If partial orders are timely shipped, this paragraph shall require the refund of moneys received only for the portion of the order not timely shipped.

J. Failing to include in all print (including but not limited to direct mail solicitations) and electronic media advertising wherein no express warranty or an express warranty offering other than a full refund of moneys paid, is made the following verbatim notice:

WARNING: Due to the natural character of trees and nursery stock, mail-order shipments may contain trees and nursery stock which are dead or nonviable and will not survive. Loss of a portion of any order of trees and nursery stock when ordered through the mail is not uncommon. Consult the warranty offered by any mail-order nurseryman to determine the degree of protection afforded against such loss.

Said notice shall be prominently and conspicuously placed and in 10-point boldface print in proximity to such warranty and shall not be contradicted directly or by implication by any other statement in the advertisement.

It is further ordered:

A. That if respondents advertise at any time within two (2) years of the date this order becomes final in any newspaper, magazine, or other printed media (exclusive of direct mail solicitations) or on radio, television, or other electronic media, for the sale of trees and nursery stock, respondents shall place or cause to be placed, in a clear and conspicuous manner, in such media and in each print and electronic media were respondents advertised during the period of July 1, 1975, to the date this order becomes final, the following quoted notice, causing said notice to appear or be broadcast in each said media on at least four (4) separate instances:

NOTICE TO PAST PURCHASERS of American Nursery & Seed Co., Nursery Barn, McMinnville Tree Farm, and Morrison Nursery Co. In order to satisfy our past guarantees, we will honor and pay within 30 days of receipt all requests for refunds for purchases since July 1, 1975, if you received trees and nursery stock which did not survive or failed to receive your order. Please send proof of purchase with any request.

_____

(Signature of applicable individual respondent)

B. That respondents shall pay, within thirty (30) days of receipt of request for refund, the full purchase price as evidenced by the purchaser's proof of purchase, without deduction, to all purchasers who purchased trees and nursery stock from respondents during the period July 1, 1975 to the date this order becomes final: *Provided, however,* That the total sum to be paid in restitution under this paragraph of the order shall not be greater than two hundred thousand dollars ($200,000). Respondents shall evenly divide the refund payment responsibility for all requests for refunds for American Nursery & Seed Co., Nursery Barn, McMinnville Tree Farm, and Morrison Nursery Co. Said payments of requested refunds shall be limited to those requests for refunds received within ninety (90) days of the date this order becomes final and when requests are accompanied by proof of purchase in the form of a canceled check or money order receipt or both: *Provided further,* This obligation to refund shall be extended for each respondent beyond the date this order becomes final when that respondent begins advertising as described in paragraph A above, and in that event, this obligation shall be limited to requests for refunds received within thirty (30) days of the last date of media advertising required in paragraph A above, when accompanied by proof of purchase in the form of a canceled check or money order receipt or both.

C. That respondents shall maintain and allow inspection and copying by the Federal Trade Commission records which show reasonable efforts to comply with the provisions of foregoing paragraphs A through B.

It is further ordered, That respondents shall, for a period of three (3) years subsequent to the date of this order:

A. Maintain business records which show the efforts taken to insure continuing compliance with the terms and provisions of this order and any evidence of the results of such efforts, including all customer orders, complaints received and disposition of same, records of all requests for refunds and replacements and disposition of same. Said records shall, upon reasonable notice, be made available to the Federal Trade Commission for inspection and copying.

B. Maintain records or other documentary proof establishing timely and accurate shipment of viable trees and nursery stock or other merchandise. Said records shall, upon reasonable notice be made available to the Federal Trade Commission for inspection and copying.

C. Maintain and furnish to the Federal Trade Commission, upon request, copies of all disseminated advertisements, along with:

1. Records disclosing the date(s) such advertisements were published;

2. Records disclosing the name and address of the newspaper, broadcast

media, in which said advertisement was published; and

3. Scripts of each advertisement published.

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

It is further ordered, That each individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of ten (10) years from the effective date of this order, each individual respondent shall promptly notify the Commission of each affiliation with a new business or emplomент or use of new trade style. Each such notice shall include respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of the respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

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

Document No. 71700044

SAMUEL E. WOMACK, ET. AL

[File No. 762 3120]

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Womack Nursery Co., Inc., S. W. Advertising Co., Inc., and Morrison Nursery Advertising Co., Inc., three (3) Tennessee corporations and Messrs. Samuel E. Womack and James E. Savage as corporate officers and individually trading and doing business as:

NURSERY BARN

SAVAGE FARMS NURSERY

MCMINNVILLE TREE FARM

AMERICAN NURSERY & SEED CO.

MORRISON NURSERY CO.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns the advertising and mail order sale of trees and nursery stock under the names recited above. All of the foregoing concerns operated and continue to operate from facilities in McMinnville, Tenn.

The complaint charges the parties with unfair and deceptive acts and practices by misrepresenting:

1. The growth and survival potential of trees and nursery stock;
2. Governement inspection and verification of rose bushes;
3. Guarantees as unconditional when conditions and limitations were imposed; and
4. Refunds or replacements would be made, if not satisfied.

Other alleged unfair and deceptive practices charged in the complaint are failure to:

1. Notify the purchasers of inability to make shipments for appropriate planting time;
2. Make refunds of purchase price when order is not timely shipped;
3. Correctly label the variety of rose bush shipped;
4. Include copies of warranties with shipments;
5. Ship viable nursery stock and trees; and
6. Disclose in all advertising the inherent risk of receiving dead or nonviable trees and nursery stock when ordering by mail.

The consent order requires respondents: (1) To stop the use of growth, survival, and maturity claims unless such claims are substantiated by reputable industry authority; (2) to stop making claims that Government inspection verifies rose bushes to be living plants; (3) to disclose all conditions and qualifications attached to any advertised guarantee; (4) to honor and tender payment of refunds or replacement items when such a guarantee is represented; (5) to include a copy of any represented guarantee in each shipment of trees and nursery stock; (6) to stop using an "on arrival" guarantee in the advertising, offering for sale, and sale of trees and nursery stock; (7) to take reasonable measures to insure that rose bushes are correctly labeled; (8) to pay a refund of all moneys received from the purchaser where shipment is not made in time for planting in the planting cycle; (9) to disclose in future advertising this notice: "WARNING.—Due to the natural character of trees and nursery stock, mail order shipments may contain trees and nursery stock which are dead or nonviable and will not survive. Loss of a portion of any order of trees and nursery stock when ordered through the mail is not uncommon. Consult the warranty offered by any mail order nurseryman to determine the degree of protection afforded against such loss"; and (10) to adopt reasonable business procedures to reasonably insure the shipment of viable trees and nursery stock.

The consent order also provides for consumer restitution in the form of a refund of all moneys paid by purchasers of any of the businesses listed above who purchased trees and nursery stock since July 1, 1975, and who failed to receive their merchandise or the merchandise failed to survive. Said refunds to eligible consumers shall not exceed $200,000 in total payments. Proof of purchase in the form of a canceled check or money order receipt is all that is required and it is recommended and strongly urged that purchasers fitting the description above who wish to request a refund forward such request to the following office for processing:

Division of Consumer Affairs, Ellington Agricultural Center, P.O. Box 40627, Nashville, Tenn. 37204.

Those not wishing to forward their requests in the above manner may write the parties directly at the following address:

Mr. Samuel E. Womack, c/o Womack Nursery Co., Inc., Highway 55, McMinnville, Tenn. 37110

or

Mr. James E. Savage, c/o Savage Farms Nursery, P.O. Box 125, McMinnville, Tenn. 37110.

When corresponding with Messrs. Womack and Savage, it is suggested that certified mail be used.

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-24295 Filed 8-28-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR PARTS 182, 184]

[Docket No. 78N-0199]

PECTINS

Affirmation of GRAS Status as a Direct and Indirect Human Food Ingredient

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule affirms the generally recognized as safe (GRAS) status of pectins including high-ester pectin, low-ester pectin, amidated pectin, pectinic acid, and pectinates as direct human food ingredients. The safety of these ingredients has been evaluated as part of a comprehensve safety review of all GRAS ingredients currently being conducted by the agency. The proposal would list these ingredients as substances affirmed as GRAS that may be directly added to human food.

DATE: Comments by October 30, 1978.

ADDRESS: Written comments (preferably four copies) to the hearing clerk (HFA-305), food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-4750

SUPPLEMENTARY INFORMATION: A comprehensive safety review of human food ingredients classified as GRAS or subject to a prior sanction is being conducted by the Food and Drug Administration (FDA). The Commissioner of Food and Drugs has issued several notices and proposals initiating this review (see the FEDERAL REGISTER of July 26, 1973 (38 FR 20040)). Pursuant to this review, the safety of pectins has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the Commissioner proposes to affirm the GRAS status of these ingredients.

Pectin is a complex polysaccharide composed chiefly of linear (1 → 4)-linked α-D-galactopyranosyluronic acid units. Some of the carboxyl groups are present as the methyl ester, some are in the form of an amide, some are neutralized with cations, and some are free acids. According to definitions adopted by the American Chemical Society, products which are essentially completely deesterified and composed mostly of polygalacturonic acids with varying degrees of neutralization are referred to as pectic acids. Salts of pectic acids are termed pectates. The term pectinic acids designates polygalacturonic acids containing more than a negligible content of methyl ester groups with varying degrees of neutralization. The salts of pectinic acid are called pectinates. The term pectin designates those water-soluble pectinic acids of varying methyl ester content and degree of neutralization that are capable of forming gels with sugar, acid, or divalent cations under suitable conditions. When ammonia is used to deesterify high-ester pectins, some amidation occurs producing the amidated pectin. It should be pointed out that the terms "pectin", "pectins", and "pectinated" are used interchangeably in the preamble of this document to describe the pectinic substances capable of forming gels under suitable conditions. However, in the regulation section, "pectins" is used in a generic manner to describe high-ester pectins, low-ester pectins, amidated low-ester pectins, pectinic acid, and pectinates.

Pectin is found in the roots, stems, and fruits of plants, both in cell walls and in intercellular layers. Citrus peel and apple pomace are the most important of the raw materials for pectin manufacture. Sugarbeet and sunflower pectins are produced to a limited extent in some countries. The commercial preparation of pectin involves the extraction of plant materials rich in pectic substances with hot acidulated water or complexing agents, filtration of the extract, and precipitation of the pectin with ethanol, isopropanol, or polyvalent salts. The clarified extract is also spray- or roller-dried or concentrated to give liquid pectin. Pectins are manufactured chiefly for their unique ability to form gels with sugars, acids, or divalent cations. Over 75 percent of all manufactured pectin is used in fruit jams, jellies, marmalades, and similar products, but pectin preparations are also used as thickening agents in frozen dessert mixes, processed fruits, juices, drinks, and confections.

Sodium pectinate is listed in § 182.1775 (21 CFR 182.1775) as a multiple-purpose GRAS substance under a regulation published in the FEDERAL REGISTER of January 31, 1961 (26 FR 938). The following food standards provide for the optional use of pectin: Sections 135.20, 135.30, 135.65, 135.70, and 135.90 (21 CFR 135.20, 135.30, 135.65, 135.70, and 135.90) for use in fruit sherbets, ice cream, nonfruit sherbets, nonfruit water ices, and water ices, respectively. Pectin is also provided for by §§ 145.116, 145.125, 145.131, 145.136, 145.171, 145.176, and 145.181 (21 CFR 145.116, 145.125, 145.131, 145.136, 145.171, 145.176, and 145.181) for use in artificially sweetened canned apricots, canned cherries, artificially sweetened canned figs, artificially sweetened canned fruit cocktail, artificially sweetened canned peaches, artificially sweetened canned pears, and artificially sweetened canned pineapple, respectively. Additionally, pectin is provided for by §§ 150.110, 150.140, 150.141, 150.160, and 150.161 (21 CFR 150.110, 150.140, 150.141, 150.160, and 150.161) for use in fruit butter, fruit jelly, artificially sweetened fruit jelly, fruit preserves and jams, and artificially sweetened fruit preserves and jams, respectively.

A representative cross section of food manufacturers was surveyed to determine the specific foods in which pectin and pectinates were used and the level of usage. Information from surveys of consumer consumption was obtained and combined with the manufacturing information to obtain an estimate of consumer exposure to pectin and pectinates. No data were obtained which would show how the food uses of pectin have changed in the past decade. However, recent industry estimates indicate that the total amount of pectin currently used in foods in the United States is 7.8 million pounds.

Pectins have been the subject of a scientific literature search since 1920. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 493 abstracts were reviewed and 46 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (hereinafter referred to as the Select Committee) selected by the Life Sciences Research Office of the Federation of American Socieites for Experimental Biology.

Kertesz reported that a high ester pectin (88.4 percent galacturonic acid, 10.3 percent CH_3O) added to the diet of dogs and human subjects was decomposed in the alimentary canal to such degree that none could be isolated from the feces by precipitation with acidified alcohol. Saliva collected from human subjects, dogs, and cows had no effect on the viscosity of the pectin after incubation for several weeks at pH 3.4 and 6.4. Similarly, jejunal juice collected from an isolated auto-transplanted segment in a dog did not decompose the high ester pectin. Pectin administered to a dog by stomach tube was essentially completely recovered (98.8 percent) through an enterostomy in

the lower end of the jejunum after 160 minutes. Viscosity of the recovered pectin was unchanged. In vitro experiments showed no decomposition of pectin after 12 days incubation with trypsin, pepsin, rennet or pancreatic amylase. A suspension of human feces, however, decomposed the pectin as evidenced by low precipitability with calcium ion after one hour incubation. Addition of 1 percent of an active pectinase caused no further decrease in the quantity of calcium precipitate recovered.

Werch and Ivy studied the digestibility of a citrus pectin (72.8 percent anhydrogalacturonic acid and 9.5 percent CH_3O) in dogs and humans. Recovery of pectin in the feces of four dogs fed 20 g of pectin daily for 7 days in a low fiber diet was 3.4 percent by precipitation as calcium pectate and 8.9 percent by uronic acid analysis. Analysis of material from ileostomy bags of two dogs fed 20 g pectin mixed with cubed beef gave a recovery of 84.9 percent by the calcium pectate method and 88.3 percent by the uronic acid method. Pectin recovery from the feces of six human subjects fed 50 g pectin daily for 3 days as a component of a low fiber diet was 1.2 and 8.7 percent, respectively, by the same two methods. Recovery increased to 4.2 and 13.8 percent by the calcium pectate and uronic acid methods, respectively, when the pectin was fed to the human subjects during fasting. Fed to two humans who had been subjected to ileostomy operations, pectin recovery from the ileum excreta was 96.5 and 96.3 percent, respectively, by the two analytical methods.

Formic acid and acetic acids were the principal products iolated from a 1 percent solution of citrus pectin (72.8 percent uronic acid and 9.5 percent CH_3O) after incubation for two days with a suspension of dog feces. Yields were 0.3 g and 1.6 g per 10 g pectin, respectively. Only small quantities (19 mg per 10 g pectin) of galacturonic acid were found. Filtrates from washings of the stomach, duodenum, jejunum, and three portions of the ileum of two dogs did not cause decomposition of pectin during a 2-week incubation period.

Addition of 30 g citrus pectin to the low fiber diet fed to six male students caused no increase in urinary excretion of galacturonic acid, reducing substances, formic acid, or acetic acid during the third and fourth days of the diet. Similarly, no significant increase occurred in fecal excretion of formic and acetic acids.

Gilmore reported the digestibility of low ester citrus pectin (3 to 5 percent methoxyl) was less than that of a high ester citrus pectin (N.F. grade, 10 to 12 percent CH_3O) as determined by recovery of galacturonic acid in the feces. Less than 1 percent of the high ester pectin, but 20 to 23 percent of the low ester pectin, was recovered from the excreta of weanling male Sprague-Dawley rats fed the pectins as 5 percent (about 5 g per kg body weight) of their diets. Furfural determinations were made on tissues of animals after 2, 4, 6, and 8 weeks of feeding as an indirect measure of possible absorption of pectin. There was a small but steady increase in furfural yield from the livers of rats fed high ester pectin but a decrease in the livers of those fed the low ester pectin. Furfural yield per 100 ml of blood paralleled these patterns. Gilmore concluded the evidence for absorption of pectin was weak.

Gaedeken determined the net energy yield of a high ester pectin by gravimetric measurement of gaseous exchange in respiration studies of eight resting adult male Wistar rats. Apparent digestibility coefficients were over 90 percent for pectin at the 12- and 24-percent levels (about 6 and 12 g per kg body weight) in the diet. However, net energy yield per gram of pectin was only 0.2 kcal for the 12-percent pectin ration and 0.8 kcal for the 24-percent pectin ration, representing 5.6 and 20.3 percent utilization, respectively, of the gross energy of pectin.

Viola et al. concluded that both 65-percent-esterified and 55-percent-esterified citrus pectins were almost completely unabsorbed when fed as 5 and 10 percent (about 5 and 10 g per kg body weight) of the diet to weanling Charles River rats. Absorption was determined by comparison of pectin intake with the excess fecal weight of rats on the pectin diet over that on the basal diet which contained 5 or 10 percent starch. An apparent digestible energy of −1.6 kcal per g was calculated for both pectins from bomb calorimetric measurements on food and feces for the pectin and basal diets.

Using methodology similar to that of Viola et al., Booth and coworkers found the digestibility of pectin N.F. to be 19 percent in rats. They concluded, however, from a slight net loss in body weight after return to the basal diet, that pectin was not utilized.

It would appear from the above experiments that pectin is degraded by the microflora in the colon and the degradation products are largely excreted in the feces.

With the exception of two reports concerning intravenous administration of pectin, which the Select Committee does not consider relevant to the evaluation of use in foods, no reports on acute toxicity have been located.

Groups of six Charles River weanling rats were fed diets containing 10 percent casein and 5 or 10 percent (about 5 and 10 g per kg body weight) of a slow-setting pectin (55 percent esterified) or a medium-rapid setting pectin (65 percent esterified) for 10 days. Food intake and growth were not depressed at the 5-percent level, but both were significantly reduced on diets containing 10 percent of the pectins. Food intake and weight gain relative to the controls for the slow-setting pectin were 82.5 and 71.5 percent, respectively; those for the medium rapid-setting pectin were 70.5 and 52.0 percent, respectively. Apparent digestibility of protein was depressed in rats on the 10-percent pectin diets (79 percent as compared to 92.5 percent for the basal diet). Calcium retention was about 50 percent for the pectin diets at both the 5- and 10-percent levels as compared to 75 percent for the basal diet.

No growth depression was reported in groups of four to six weanling rats fed, for 8 weeks, diets containing 22 percent casein and 2.5, 5, or 10 percent N.F. citrus pectin (about 2.5 to 10 g per kg body weight). No gross deleterious effects were observed.

Groups of 50 weanling male Sprague-Dawley rats were fed diets containing 25 percent casein and 5 percent (5 g per kg body weight) citrus pectin N.F. (10 to 12 percent methoxyl) or low methoxyl citrus pectin (3.5 to 5 percent methoxyl) for 8 weeks. Those fed the pectin N.F. consumed less diet and gained less weight than rats fed the basal diet. At 6 weeks the serum albumin of animals fed pectin N.F. had decreased, alpha-2 and gamma globulins had increased, and there was a marked retention of copper by the kidneys. At 8 weeks the cooper level had decreased but was still greater than the level in control animals. Serum albumin in rats receiving the low methoxyl pectin tended to decrease throughout the study and at 8 weeks the alpha-2 globulin was markedly increased. Magnesium, phosphorus, copper, and zinc in the livers increased during the last 4 weeks in the animals fed low methoxyl pectin.

Til et al. fed amidated pectin (21 percent amidated) to four groups of 10 male and 10 female rats in diets containing 0, 5, 10, and 15 percent (0, 5, 10, and 15 g per kg body weight) pectin for 90 days. Hematological parameters determined on blood collected during week 12 included hemoglobin content, packed cell volume, and counts of erythrocytes and total and differential leucocytes. Urine examinations, including pH, glucose, protein, occult blood, ketones, and microscopic constituents were conducted on pooled samples from each group in week 13. Serum enzymes, albumin, and total protein were determined on blood collected at sacrifice. Heart, kidneys, liver, spleen, brain, gonads, thymus, thyroid, and adrenals of all animals were weighed, and those from the control and 15 percent pectin groups were sectioned for microscopic examination. Also sectioned and examined were the following organs: Lung, trachea, salivary glands, prostate, epididymis, uterus, urinary bladder, skeletal muscle, thoracic aorta, esophagus, gastrointestinal tract, pancreas, and axillary and mesenteric lymph nodes. Microscopic examination of the groups fed intermediate levels of pectin was limited to the cecum and the stomach. Growth was slightly decreased at the 15-percent level. Food efficiency and food intake were not affected at any level. Total serum protein and albumin were reduced at the 15-percent level, but the other clinical biochemical parameters and urinalysis were essentially normal. Cecal weights were increased at all levels and were dose-related. There was no gross or histologic evidence of pathology except for a slight degree of hyperkeratosis of the forestomach in some animals that was seen at the 10- and 15-percent levels.

Cohen et al. fed groups of nine 2-month-old Sprague-Dawley rats diets containing 80 percent rat chow and 20 percent (about 10 g per kg body weight) of an experimental carbohydrate including N.F. citrus pectin, sucrose, and cerelose (glucose hydrate). Weight gain after 6 months was lower (20 percent) on the pectin diet than on the control chow diet, but protein efficiency ratio was comparable for the two diets. The relative liver weights (liver weight as percent of body weight) of rats sacrificed after 18 months was slightly lower for the pectin-treated animals (3.13) than for the controls (3.60). Serum cholesterol in the treated animals at 18 months was lower (127 mg per dl) than in the controls (202 mg per dl).

Palmer et al. reported results of a long-term study in which male Wistar rats were fed either low methoxyl pectin, pectin N.F., or cellulose at the 10-percent level in a basal diet of rat chow. The caloric content of the cellulose in the control diet was adjusted by admixture with dextrose to that of pectin which was taken as 0.62 kcal per g. The pectin N.F. contained about 59 percent ester groups, and the low methoxyl pectin contained about 17 percent amide and 29 percent ester groups. For comparison of growth rates, 20 rats were fed each diet and water ad libitum. Pectin fed rats did not grow as rapidly as control rats. Food efficiency however, was similar for all diets. Stable weights of about 540, 570, and 620 g were reached on

the low methoxyl pectin, pectin N.F., and control diets, respectively. Rats from three additional groups of 64 animals each were fed the same diets and autopsied at 30, 90, 180, 300, 450, and 736 days. Comparison of organ weights (expressed as percent of body weight) at 90 and 736 days showed no significant differences ($P=0.05$) among the three groups in weights of liver, spleen, kidney, adrenal, thymus, heart, and testes. Findings at 30, 180, 200, and 450 days were not reported. While the studies were conducted for 736 days, necropsies and histopathological evaluations were performed only at the end of 90 days. Eight rats from each of the control and treated groups were examined. Tissue changes observed in the livers, spleens, and kidneys of control and treated rats were interpreted to be reversible in nature and not to be of experimental significance owing to comparable incidence and severity. No significant differences were found in hemoglobin, hematocrit, total or differential leucocyte counts, or serum cholesterol levels in rats on the three diets. During the 2-year study, 11 rats died of natural causes in the control groups (13 percent), 17 in the low methoxyl pectin group (20 percent), and 8 in the pectin N.F. groups (10 percent).

Keys et al. fed four groups of six men two pairs of American type diets. One diet in each pair was supplemented with 15 g per day (210 mg per kg body weight) of citrus pectin N.F. The two pairs of diets differed in the source of part of the carbohydrate; in one pair a considerable amount of legume carbohydrate was isocalorically matched by sugar in the other pair. Fat supplied about 40 percent of calories in all diets: About 20 percent was from saturated fats, 18 percent from monounsaturated, and 2 percent from polyunsaturated fats. The groups were fed each of the two pectin diets and their respective control diets for successive 3-week periods. At the end of the dietary periods, serum cholesterol levels were 5 percent lower for those receiving the pectin diet than for the controls.

In chickens, swine, and rabbits, it has been shown that 5 percent citrus pectin added to basal diets supplemented with cholesterol lowered serum cholesterol levels. Hypocholesterolemia occurred in weanling rats fed pectin at the 3-percent level in a semipurified or a practical diet if 1 percent cholesterol was added to the diets, but there was no effect when cholesterol was omitted from the diets.

No teratogenic effects were found in a study in which groups of 17 to 19 female Charles River rats were fed diets containing either 2 or 5 percent concentrations of amidated pectin during gestation days 6 through 15. Control rats were fed either 2 or 5 percent nonamidated pectin (high methoxyl pectin). Maternal body weights, body weight gains, and food consumption were similar for all groups. Similar numbers of corpora lutea, implantation sites, resorption sites, and fetuses were displayed by all dams. Fetal body weights as well as external, internal, and skeletal development were similar for all groups.

No reports were available to the Select Committee on the possible carcinogenic or mutagenic properties of pectins.

All of the available safety information on pectin and pectinates has been carefully evaluated by qualified scientists of the Select Committee. It is the opinion of the Select Committee that:

Pectin is a constituent of the cell walls of all green land plants. Among food sources, fruits and vegetables have the highest content and may contain 0.5 to 4 percent of pectin substances on a fresh weight basis. Extensive studies on pectins and pectinates demonstrate that they are largely decomposed by the microflora in the colon of man and experimental animals. The breakdown products do not appear to enter metabolic pathways to an appreciable extent because pectin in the diet is not available as a source of energy. Animal feeding studies have shown no toxic effects when pectins and pectinates, including amidated pectins, are fed at levels many times greater than the estimated human intake of pectin added to foods.

The Select Committee concludes that there is no evidence in the available information on pectin and pectinates, including amidated pectins, that demonstrates or suggests reasonable grounds to suspect a hazard to the public when pectin or pectinates are used at levels that are now current or that might reasonably be expected in the future. Based upon his own evaluation of all available information on pectin and pectinates, the Commissioner concurs with this conclusion. The Commissioner therefore concludes that no change in the current GRAS status of pectin and pectinates is justified.

However, the Commissioner realizes that the various terms for pectin substances cause confusion to many people. While some consider pectin and pectinates as two different classes of pectinic substances, others use these two terms interchangeably. Some refer to pectin as the high-ester pectins and pectinates as the low-ester pectins, but quite often the term pectin is used in a generic manner to describe both groups.

For regulatory purposes the Commissioner is proposing to adopt the following definition for pectin. Pectin is designated to describe partially methylated polygalacturonic acid or its salt capable of forming gels under suitable conditions. This proposed definition will encompass high-ester pectins, low-ester pectins, amidated pectins, pectinic acid, and pectinates (including the more refined definition of the last term as used by scientists). All these pectins will be affirmed as GRAS under the same regulation, and the separate listing for sodium pectinate is not necessary.

Copies of the scientific literature review on pectins and the report of the Select Committee are available for review at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161, as follows:

Title	Order No.	Price code	Price*
Pectin (scientific literature review)	PB-230-306/AS	A04	$5.25
Pectin and Pectinates (select committee report)	PB-274-477/AS	A02	4.00

*Price subject to change.

This proposed action does not affect the present use of pectins for pet food or animal feed.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409(d), 701(a), 52 Stat. 1046, 1055, as amended, 70 Stat. 919 as amended, 72 Stat. 1784-1788, as amended (21 U.S.C. 321(s), 341, 348(d), 371(a), 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.1775 [Deleted]

1. by deleting § 182.1775 *Sodium pectinate.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. In part 184 by additing new § 184.1775 to read as follows:

§ 184.1775 Pectins.

(a) The pectins are a group of complex, high molecular weight polysaccharides found in plants and composed chiefly of partially methylated polygalacturonic acid units. Portions of the carboxyl group occur as methyl esters, and the remaining carboxyl groups exist in the form of the free acid or as

its ammonium, potassium or sodium salts, and in some types as the acid amide. Thus, the pectins regulated in this section are the high-ester pectins, low-ester pectins, amidated pectins, pectinic acids, and pectinates. Pectin is produced commercially from extracting citrus peel, apple pomace, and beet pulp with hot dilute acid (pH 1.0-3.5, 70-90° C). The extract is filtered, and pectin is then precipitated from the clear extract with ethanol or isopropanol, or as the copper or aluminum salt. The acid extract is sometimes spray- or rolled-dried, or it is concentrated fourfold to be sold as liquid pectin.

(b) The ingredients meet the specifications of the Food Chemical Codex, 2d Ed. (1972)[1] as amended in the second supplement.

(c) The ingredients are used in food as emulsifiers as defined in § 170.3(o)(8) of this chapter and stabilizers and thickeners as defined in § 170.3(o)(28) of this chapter.

(d) The ingredients are used in food in accordance with § 184.1(b)(1), at levels not to exceed good manufacturing practice. Current good manufacturing practice results in a maximum level, as served, of 0.4 percent for condiments and relishes as defined in § 170.3(n)(8) of this chapter; 0.6 percent for frozen dairy desserts and mixes as defined in § 170.3(n)(20) of this chapter; gelatins, puddings, and fillings as defined in § 170.3(n)(22) of this chapter; sweet sauces, toppings, and sirups as defined in § 170.3(n)(43) of this chapter; 1.0 percent for jams and jellies as defined in § 170.3(n)(28) of this chapter; 0.5 percent for milk products as defined in § 170.3(n)(31) of this chapter; 1.5 percent for soft candy as defined in § 170.3(n)(38) of this chapter and 0.25 percent or less in all other food categories.

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of these ingredients in food under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulations proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act (21 U.S.C. 342), and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under part 181, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in resonse to this proposal.

Interested persons may, on or before October 30, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order.

Dated: August 21, 1978.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-24029 Filed 8-28-78; 8:45 am]

[1] Copies may be obtained from National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4413]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City Of Salem, Utah County, Utah

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 Salem, Utah County, Utah. 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.

ADDRESS: 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, 30 West 100 South Street, Salem, Utah. Send comments to: Honorable Vaudm Hanks, Mayor, city of Salem, P.O. Box 338, Salem, Utah 84653.

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 Salem, Utah, 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
Salem Pond	Intersection of 400 West St. and 200 South St.	4584
	200 ft west of intersection of Main St. and 300 South St.	4584
Maple Canyon and Snell Hollow.	Intersection of 300 South St. and 200 East St.	2*

* Depth.

(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 dele-

gation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 9, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-23973 Filed 8-28-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4414]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Bellows Falls, Windham County, Vt.

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 Bellows Falls, Windham County, Vt. 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.

ADDRESS: 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 Municipal Building, Bellows Falls, Vt. Send comments to: Mr. Peter Lahaise, Village Manager, Village of Bellows Falls, P.O. Box 370, Bellows Falls, Vt. 05101.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5531 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 the village of Bellows Falls, Vt., 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
Connecticut River.	Bridge St.—25 ft downstream from centerline.	256
	Boston & Maine RR. (Stone Arch Bridge)—225 ft upstream from centerline.	292
	New England Power Co. dam—100 ft upstream from centerline.	295

(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: August 9, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-23974 Filed 8-28-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4415]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Hartford, Windsor County, Vt.

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 Hartford, Windsor County, Vt. 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 Hartford Municipal Building, White River Junction, Vt. Send comments to: Stephen V. P. Mairs, Chairman of the Board of Selectmen of Hartford, Stacy Lane, White River Junction, Vt. 05001.

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 Hartford, Windsor County, Vt., 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
Connecticut River.	Just upstream of Interstate 89 bridge.	351
	Just downstream of U.S. Route 4 bridge.	354
White River	Just upstream of Hartford Bridge.	360
	Just upstream of Interstate 89 bridge.	398
	Approximately 150 ft upstream of West Hartford Bridge.	403
Ottauquechee River.	Approximately 700 ft upstream of Taftsville Station Dam.	654

(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: August 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-23975 Filed 8-28-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4416]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Rockingham, Windham County, Vt.

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 Rockingham, Windham, County, Vt. 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.

ADDRESS: 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 Municipal Building, Bellows Falls, Vt. Send comments to: Mr. Peter Lahaise, Town Manager, Town of Rockingham, P.O. Box 370, Rockingham, Vt. 05101.

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 Rockingham, Vt., 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
Connecticut River.	Confluence with Williams River.	297
	Confluence with Commissary Brook.	300
Saxtons River	Barbers Park Rd.—centerline.	396
	Hall Bridge Rd.—centerline.	409
	Confluence with Leach Road tributary.	524
	Confluence with Weaver Brook.	578
Weaver Brook	State Route 121—60 Ft*.	589
	Mill dam—50 ft*	594
Williams River	U.S. Route 5—150 ft*	302
	Brockways Mill Rd.—25 ft downstream of centerline.	443
	Brockways Mill Rd.—90 ft*.	452
	Williams Rd.—centerline.	469
	Lower Bartonsville Rd.—centerline.	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: August 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-23976 Filed 8-28-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4417]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Herndon, Fairfax County, Va.

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 Herndon, Fairfax County, Va. 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.

ADDRESS: 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 Herndon Town Hall, Elden Street, Herndon, Va. 22070. Send comments to: Mr. Robert S. Nue, Town Manager of Herndon, P.O. Box 427, Herndon, Va. 22070.

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 Herndon, Fairfax County, Va. 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
Sugarland Run	Downstream corporate limit.	290
	Madison St. extended	314
	Elden St	322
	Abandoned railroad grade (downstream).	331
	Abandoned railroad grade (upstream).	341
	Dulles Airport access road.	350
Folly Lick Branch	Downstream corporate limit.	297
	Young Ave. at confluence of Spring Branch.	317
	Abandoned railroad grade (downstream).	346
Spring Branch	At mouth	317
	Third St	324
	Park Ave. (downstream).	339
	Park Ave. (upstream)	342
	Willow St	349
	Abandoned railroad grade.	353

(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: August 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-23977 Filed 8-28-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4418]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Forks, Clallam 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 town of Forks, Clallam 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.

ADDRESS: 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, 1st Avenue Northeast, Forks, Wash. Send comments to: Hon. Wes De Pew, Mayor, Town of Forks, P.O. Box 1998, Forks, Wash. 99331.

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 Forks, 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 § 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
Mill Creek	Mill Creek Rd.	273
	Most upstream corporate limits.	296
Ford Creek	9th St. NE	319
	East Division Rd.—75 ft*	335
Warner Creek	Confluence with Mill Creek.	273
	7th Ave. SW.—40 ft*	284
	5th Ave. SW. (first crossing).	286
	5th Ave. SW. (second crossing)—40 ft**.	288
	G St. SW.—25 ft*	291
	U.S. Highway 101	299

*Upstream
**Downstream

(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: August 9, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-23978 Filed 8-28-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4419]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Ranson, Jefferson County, W. Va.

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 Ranson, Jefferson County, W. Va. 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.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Ranson Town Hall, Third and Mildred Streets, Ranson, W. Va. 25348. Send comments to: Hon. J. Kelly Lance, Jr., Mayor of Ranson, Ranson Town Hall, Third and Mildred Streets, Ranson, W. Va. 25348.

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 Ranson, Jefferson County, W. Va., 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
Evitts Run	Downstream corporate limits.	495
	Chessie System bridge downstream.	500
	Upstream corporate limit.	503

(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: August 9, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-23979 Filed 8-28-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4478]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Roanoke, Va.

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 Roanoke, Va. 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.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Municipal Building, 215 Church Street, Roanoke, Va. Send comments to: Mr. Warren E. Trent, Director of Flood Control for the city of Roanoke, Municipal Building, 215 Church Street, Roanoke, Va. 24001.

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 Roanoke, Va. 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
Roanoke River	Upstream Tayloe Ave	908
	Upstream Main St. (U.S. 220).	945
	Upstream corporate limit.	984
Tinker Creek	Upstreamside Orange Ave.	925
	Downstreamside Preston Ave.	980
Glade Creek	Upstream Vinton Mill Rd.	913
	Downstreamside Berkley Rd.	927
Glade Creek tributary.	Upstream State 653	937
	Downstreamside U.S. 460.	999
Lick Run	Upstream 8th St	919
	Upstream Orange Ave	940
Trout Run	Upstream 5th St	931
	Upstream 7th St	941
Barnhardt Creek	Downstreamside U.S. 11.	997
	Upstream U.S. 11	1,002
	Upstreamside Glenmoor Dr.	1,018
Mudlick Creek	Downstream Mudlick Rd.	981
	Upstreamside Grandin Rd.	1,003
Carvin Creek	Upstream Hollins Rd. (State 601).	983
	Downstream Hershberger Rd.	985
Carnard Branch	Upstream Riverland Rd.	918
	Upstream Findlay Rd	958
Gumspring Branch.	Upstream garden City Dr.	980
	Upstream Tipton Ave	1,068
Murray Run	Upstream Brandon Ave.	940
	Upstream West Dr	980

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Upstreamside Ogden Rd	1,068
Ore Branch	Upstream Wiley Dr	937
	Upstream Broadway Ave.	961
Ore Branch tributary.	Upstreamside State 419	1,097
	Upstreamside Franklin Rd. (U.S. 220).	1,107
Peters Creek	Upstream Norfolk & Western RR.	967
	Upstream Peachtree Dr	1,024

(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. 78-24254 Filed 8-28-78; 8:45 am]

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-322-76]

INCOME TAX

Source of Income of Certain Dividends from a DISC

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the source of income of certain dividends from a domestic international sales corporation (DISC). Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations would provide the public with the guidance needed to comply with that act. The regulations affect all DISCs and all taxpayers who are shareholders of DISCs.

DATES: Written comments and requests for a public hearing must be delivered or mailed by October 30 1978. The amendments are porposed to be effective generally for taxable years beginning after December 31, 1975.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, LR-322-76 Attention: CC:LR:T, Washington, D.C. 200224.

FOR FURTHER INFORMATION CONTACT:

Diane L. Renfroe of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Consititution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3459, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 861(a)(2)(D) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to sections 1063, 1065, and 1101 of the Tax Reform Act of 1976 (90 Stat. 1525). These sections added deemed distributions from a DISC taxable as dividends under section 995 (b)(1) (D), (E), (F)(ii), and (F)(iii). The amendments are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

SINGLE RULE

The proposed regulations revise paragraph (a)(5)(iii)(*b*) of § 1.861-3 to set forth a single rule for determining the source of income of deemed distributions under section 995(b)(1) (D), (E), and (F).

RULES UNCHANGED

The proposed regulations do not change the rules set forth in § 1.861-3 (a)(5)(i) for determining the source of income of deemed distributions under section 995 (b)(1) (A), (B), and (C). The proposed regulations also do not change the rule set forth in § 1.861-3 (a)(5)(iv) for determining the source of income of distributions that reduce under § 1.996-3(b)(3) accumulated DISC income.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations was Diane L. Renfroe of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR part 1 are as follows:

Section 1.861-3 is amended as follows:

1. Paragraph (a)(5)(i)(*a*), (iii), and (v)(*b*) are revised.

2. Paragraph (a)(5)(ii) is amended by adding a new (*c*) preceding the flush material.

3. Paragraph (a)(5)(iv) is amended as follows:

a. (*a*) is amended by deleting "described in subdivision (iii)(*a*) of this subparagraph" and inserting the words "nonqualified export" between the words "is attributable to" and "taxable income".

b. The first sentence of (*b*) is amended by deleting "described in subdivision (iii)(*a*) of this subparagraph", inserting the words "nonqualified export" between the words "is attributable to" and "taxable income", deleting the word "such" that is between the words "attributable to" and "taxable income" and inserting in its place "nonqualified export".

4. Paragraph (a)(5)(vi) is amended as follows:

a. Example 1(a) is amended by deleting "giving rise to gross receipts which are not qualified export receipts" from the third sentence, inserting the words "nonqualified export" in that sentence between the words "and $1,000 of" and "taxable income", deleting "50 percent" from the last sentence and inserting in its place "$9,500/$19,000".

b. Example 1(b) is amended by deleting "had no taxable income described in subdivision (iii)(*a*) of this subparagraph." from the first sentence, inserting in its place "did not have any nonqualified export taxable income.", deleting "from transactions which gave rise to gross receipts which are not qualified export receipts (as described in subdivision (iii)(*a*) of this subparagraph)" from the last sentence, and inserting the words "nonqualified export" in the last sentence between the words "attributable to" and "taxable income".

c. Example (2) is amended by deleting the period at the end of the last sentence and inserting in its place", i.e., $1,000 × $9,500/($19,450-450).".

d. Example (3)(a) is amended by deleting "had no taxable income described in subdivision (iii)(*a*) of this subparagraph." from the third sentence, inserting in its place "did not have any nonqualified export taxable income.", deleting "described in subdivision (iii)(*a*) of this subparagraph" from the last sentence, and inserting the words "nonqualified export" in the last sentence between the words

"attributable to" and "taxable income".

(e) Example (3)(e) is amended by deleting "described in subdivision (iii)(*a*) of this subparagraph" from the flush material, and inserting "nonqualified export" in the flush material between the words "i.e., $1,000—$587.50, of" and "taxable income."

f. A new Example (4) is added.

5. Paragraph (d) is amended by adding a sentence after the first sentence. The revised and added provisions read as follows:

§ 1.861-3 Dividends.

(a) *General.* * * *

(5) *Certain dividends from a DISC or former DISC*—(i) *General rule.* A dividend described in this subparagraph is a dividend from a corporation that is a DISC or former DISC (as defined in section 992(a)) other than a dividend that—

(*a*) Is deemed paid by a DISC, for taxable years beginning before January 1, 1976, under section 995(b)(1)(D), and for taxable years beginning after December 31, 1975, under section 995(b)(1) (D), (E), and (F) to the extent provided in subdivision (iii) of this subparagraph or * * *

(ii) *Definitions.* * * *

(*c*) "Nonqualified export taxable income" means the taxable income of a DISC from any transaction which gives rise to gross receipts (as defined in § 1.993-6) which are not qualified export receipts (as defined in § 1.993-1) other than a transaction giving rise to gain described in section 995(b)(1) (B) or (C). * * *

(iii) *Determination of source of income for deemed distributions, for taxable years beginning before January 1, 1976, under section 995(b)(1)(D) and for taxable years beginning after December 31, 1975, under section 995(b)(1) (D), (E), and (F).* (*a*) If for its taxable year a DISC does not have any nonqualified export taxable income, then for such year the entire amount treated, for taxable years beginning before January 1, 1976, under section 995(b)(1)(D) and for taxable years beginning after December 31, 1975, under section 995(b)(1) (D), (E), and (F) as a deemed distribution taxable as a dividend will be treated as gross income from sources without the United States.

(*b*) If for its taxable year a DISC has any nonqualified export taxable income, then for such year the portion of the amount treated, for taxable years beginning before January 1, 1976, under section 995(b)(1)(D) and for taxable years beginning after December 31, 1975, under section 995(b)(1) (D), (E), and (F) as a deemed distribution taxable as a dividend that will be treated as income from sources within the United States shall be equal to the amount of such nonqualified export taxable income multiplied by the following fraction. The numerator of the fraction is the sum of the amounts treated, for taxable years beginning before January 1, 1976, under section 995(b)(1)(D), and for taxable years beginning after December 31, 1975, under section 995(b)(1) (D), (E), and (F) as deemed distributions taxable as dividends. The denominator of the fraction is the taxable income of the DISC for the taxable year, reduced by the amounts treated under section 995(b)(1) (A), (B), and (C) as deemed distributions taxable as dividends. However, in no event shall the numerator exceed the denominator. The remainder of such dividend will be treated as gross income from sources without the United States.

* * * * *

(v) *Special rules.* For purposes of subdivisions (iii) and (iv) of this subparagraph—

(*a*) * * *

(*b*) The portion of any deemed distribution taxable as a dividend, for taxable years beginning before January 1, 1976, under section 995(b)(1)(D) and for taxable years beginning after December 31, 1975, under section 995(b)(1) (D), (E), and (F) or amount under § 1.996-3(b)(3) (i) through (iv) that is treated as gross income from sources within the United States during the taxable year shall be considered to reduce the amount of nonqualified export taxable income as of the close of such year.

(vi) *Illustrations.* * * *

Example (4). (a) Z is a corporation which uses the calendar year as its taxable year and which elects to be treated as a DISC beginning with 1972. W is its sole shareholder. At the end of the 1976 Z has previously taxed income of $12,000 and accumulated DISC income of $4,000, $900 of which is attributable to nonqualified export taxable income. In 1977, Z has $20,050 of taxable income from qualified export receipts, of which $550 is from gross income from producer's loans described in section 995(b)(1)(A); Z has $950 of taxable income giving rise to gross receipts which are not qualified export receipts, of which $450 is gain described in section 995(b)(1)(B). Of its total taxable income of $21,000 (which is equal to its earnings and profits for 1977), $1,000 is attributable to sales of military property. Z has an international boycott factor (determined under section 999) of 0.10, and made an illegal bribe (within the meaning of section 162(c)) of $1,265. The proportion which the amount of Z's adjusted base period export receipts bears to Z's export gross receipts for 1977 is 0.40 (see section 995(e)(1)). Z makes a deemed distribution taxable as a dividend of $1,000 under section 995(b)(1)(G) (relating to foreign investment attributable to producer's loans) and actual distributions of $32,000.

(b) The deemed distributions of $550 under section 995(b)(1)(A) and $450 under section 995(b)(1)(B) are treated in full under subdivision (i) of this subparagragh as gross income from sources within the United States.

(c) Under these facts, Z has also made the following deemed distributions taxable as dividends to W under the following subdivisions of section 995(b)(1):

(D)	$500, i.e., ½×$1,000.
(E)	7,800, i.e., 0.40×[$21,000−$(550+450+500)].
(F) (i)	5,850, i.e., ½×[$21,000−$(550+450+500+7,800)].
(ii)	585, i.e., $5,850×0.10.
(iii)	1,265
Total	16,000

(d) The portion of the total amount of these deemed distributions ($16,000) that is treated under subdivision (iii)(*b*) as gross income from sources within the United States is computed as follows:

(1) The amount of nonqualified export taxable income is $500, i.e., taxable income giving rise to gross receipts which are not qualified export receipts ($950) minus gain described in section 995(b)(1) (B) or (C) ($450).

(2) $500× $16,000/ $[21,000−(550+450)] =$400.

The remainder of these distributions, $15,600 ($16,000 minus $400), is treated under subdivision (iii)(*b*) of this subparagraph as gross income from sources without the United States.

(e) The earnings and profits accounts of Z at the end of 1977 are computed as follows:

	Total earnings and profits	Previously taxed income	Accumulated DISC income attributable to taxable income from transactions which give rise to gross receipts which—	
			Are qualified export receipts	Are not qualified export receipts
(1) Balance: Jan. 1, 1977	$16,000	$12,000	$3,100	$900
(2) (Earnings and profits for 1977, before actual and sec. 955(b)(1)(G) distributions	21,000	17,000	3,900	[1]100
(3) Balance: Dec. 31, 1977	37,000	29,000	7,000	1,000
(4) Distribution under sec. 995(b)(1)(G)		1,000	(875)	[2](125)
(5) Balance	37,000	30,000	6,125	875
(6) Actual distribution	(32,000)	(30,000)	(1,750)	[3](250)
(7) Balance: Jan. 1, 1978	5,000		4,375	625

[1]The total of nonqualified export taxable income ($500) minus the portion of such income, under subdivision (iii)(*b*) of this subparagraph, deemed distributed pursuant to section 995(b)(1) (D), (E), and (F) ($400), as computed under (d)(2) of this example.

[2]Under subdivision (iv)(*b*) of this subparagraph, $1,000/$8,000×$1,000.

[3]Under subsivision (iv)(*b*) of this subparagraph, $1,000/$8,000×$2,000 (amount of actual distribution that reduces accumulated DISC income).

* * * * *

(d) *Effective date.* * * * For purposes fo paragraph (a)(5) of this section, any reference to a distribution taxable as a dividend under section 995(b)(1)(F) (ii) and (iii) for taxable years beginning after December 31, 1975, shall also constitute a reference to any distribution taxable as a dividend under section 995(b)(1)(F) (ii) and (iii) for taxable years beginning after November 30, 1975, but before January 1, 1976. * * *

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-24011 Filed 8-28-78; 8:45 am]

[4830-01]

[26 CFR Part 1]

[LR-1350]

INCOME TAX

Valuation Date for Pooled Income Funds and Applicability of Separate Share Rule to Successive Interests in Trusts

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a proposed amendment to the regulations regarding certain valuation dates under section 642(c) of the Internal Revenue Code of 1954. It also contains a proposed amendment eliminating the application of the separate share rule of section 663(c) of the Code to successive interests in point of time. The proposal limits the application of the separate share rule to those concurrent trust interests where distributions closely parallel a distribution pattern that could occur if separate trusts has been created. The amendments affect certain pooled income funds and certain individuals receiving income from nondiscretionary, multibeneficiary trusts.

DATES: The amendment to the regulations dealing with pooled income funds is proposed to be effective for transfers in trust made after July 31, 1969. The proposal involving separate shares will apply in the case of taxable years ending after December 30, 1978. Written comments and requests for a public hearing must be delivered or mailed by October 30, 1978.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-1350), Washington, D.C. 20224.

FOR FURTHER INFORMATION:

Fred E. Grundeman of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention CC:LR:T) (202-566-3287) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 642(c) and 663(c) of the Internal Revenue Code of 1954. The amendments are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

PROVISIONS OF THE REGULATIONS

POOLED INCOME FUNDS

To qualify as a pooled income fund, a trust's assets must be valued periodically. In 1975, the regulations were amended to provide that, where the normal valuation date falls on a Saturday, Sunday, or legal holiday, the valuation may be made on the next succeeding day which is not a Saturday, Sunday, or legal holiday. The proposed amendment to the regulations would allow this valuation to be made on the next preceding day which is not a Saturday, Sunday, or legal holiday, provided that the selected practice is followed consistently when applicable.

SEPARATE SHARE RULE

Section 663(c) provides a rule for purposes of applying sections 661 and 662 (relating to income and deductions of "complex" trusts). In the case of a single trust having more than one beneficiary, substantially separate and independent shares of different beneficiaries are treated as separate trusts. The regulations state that the applicability of the separate share rule will generally depend upon whether distributions of the trust are to be made in substantially the same manner as if separate trusts had been created. (§ 1.663(c)-3). Paragraph (e) of § 1.663(c)(3) states that the separate share rule may also apply to successive interests in point of time, as for instance in the case of a trust providing for a life estate to *A*, remainder to *B*. In that case, in the taxable year of a trust in which the beneficiary dies, items of income and deduction properly allocable under trust accounting principles to the period before the beneficiary's death are attributed to one share and those allocable to the period after the beneficiary's death are attributed to the other share.

Under this rule, in the year of termination the distributable net income attributable to the life income beneficiary is computed without taking into account any item of expense chargeable to corpus, while the distributable net income attributable to the remainderman will reflect all termination expenses.

On reconsideration of the regulation, the application of the separate share rule to successive interests appears to be inapproppriate, often inequitable, and not required by the statute. Therefore, the proposed amendment provides that the separate share rule will not apply to successive interests for taxable years ending after December 30, 1978.

DELETION OF SECTIONS MERELY REPRODUCING STATUTORY MATERIAL

As part of the effort to reduce the bulk of the Code of Federal Regulations several sections of the regulations which merely reproduce provisions of the Internal Revenue Code are being deleted.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed amendments, consideration will be given to any written comments that are submiited (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed amendments was Fred E. Grundeman of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the amended regulation, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to the regulations are as follows:

PARAGRAPH 1. Section 1.642(c)-5 is amended by revising the last sentence

of paragraph (a)(5)(vi) to read as follows:

§ 1.642(c)-5 Definition of pooled income fund.

(a) *In general.* * * *

(5) *Definitions.* * * *

(vi) * * * Where a valuation date falls on a Saturday, Sunday, or legal holiday (as defined in section 7503 and the regulations thereunder), the valuation may be made on either the next preceding day which is not a Saturday, Sunday, or legal holiday or the next succeeding day which is not a Saturday, Sunday, or legal holiday, so long as the next such preceding day or next such succeeding day is consistently used where the valuation date falls on a Saturday, Sunday, or legal holiday.

* * * * *

§ 1.663 [Amended]

PAR. 2. Sections 1.663(a), 1.663(b), and 1.663(c) are deleted.

§ 1.663(c)-3 [Amended]

PAR. 3. The first sentence of paragraph (e) of § 1.663(c)-3 is amended by striking out the first word and inserting in lieu thereof "For taxable years ending before December 31, 1978, the".

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-24204 Filed 8-28-78; 8:45 am]

[4830-01]

[26 CFR Part 1]

[EE-30-78]

INCOME TAX

Collectively Bargained Plans and Multiple Employer Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to qualified retirement plans which are collectively bargained or maintained by multiple employers. Changes in the applicable tax law were made by the Employee Retirement Income Security Act of 1974. The regulations would provide the public with additional guidance needed to comply with that Act and would affect employees covered by those plans.

DATES: Written comments and requests for a public hearing must be delivered or mailed by October 30, 1978. The regulations are proposed to be effective for plan years beginning after December 31, 1953. In applying some of the proposed regulations to plan years beginning before certain changes under the Employee Retirement Income Security Act of 1974 are effective, several transitional effective date rules are proposed.

ADDRESS: Send comments and request for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE-30-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Richard J. Wickersham of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3250) (not a toll-free call).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 413 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 1014 of the Employee Retirement Income Security Act of 1974 (88 Stat. 924) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (684 Stat. 917; 26 U.S.C. 7805).

STATUTORY PROVISIONS

Section 413(a) of the Code describes certain plans, and their related trusts, which are maintained pursuant to certain collective bargaining agreements between employee representatives and employers. Section 413(b) of the Code prescribes certain rules which are applicable to the plans described in section 413(a) of the Code. Section 413(c) of the Code prescribes certain rules which are applicable to a plan maintained by more than one employer.

APPLICATION OF SECTION 413

Proposed § 1.413-1(a) provides rules under section 413 (a) and (b) of the Code for determining whether or not a particular retirement plan is subject to the special rules contained in Code section 413(b). A retirement plan must satisfy certain specific requirements in order to be subject to the special rules. Among the principal requirements are that the plan is maintained pursuant to a collective bargaining agreement or agreements between employee representatives and employers and that the plan is a "single plan" within the meaning of section 414(l) of the Code pertaining to plan mergers, consolidations, etc. The special rules of section 413(b) of the Code relate to participation, discrimination and termination, exclusive benefit, vesting, funding, liability for funding tax, deduction limitations, and employees of labor unions and plans.

APPLICATION OF SECTION 413(c)

Proposed § 1.413-2(a) provides rules to determine whether or not a retirement plan is maintained by more than one employer and therefore subject to the special rules contained in Code section 413(c). In general, a retirement plan is subject to these special rules if the plan is a single plan, as described above, and maintained by more than one employer. Any plan which is treated as a plan maintained by more than one employer under the proposed regulations is subject to the special rules of section 413(c) of the Code, relating to participation, exclusive benefit, vesting, funding, liability for funding tax, and deduction limitations.

SPECIAL DISCRIMINATION AND TERMINATION RULES

Proposed § 1.413-1(c) provides rules under section 413(b)(2) of the Code. These rules relate to the application of the discrimination rules of section 401(a)(4) of the Code and of the vesting on termination, partial termination, or discontinuance of contributions rules of section 411(d)(3) of the Code. In general, the proposed regulations provide that these discrimination and vesting rules are to be applied as if all of the participants in a collectively bargained plan described in section 413(a) of the Code, who are (1) subject to the same benefit computation formula, and (2) employed by employers who are parties to the collective bargaining agreement, are employed by a single employer.

EXCLUSIVE BENEFIT

Proposed §§ 1.413-1(d) and 1.413-2(c) provide rules under section 413(b)(3) and (c)(2), relating to the exclusive benefit rule applicable to tax-qualified retirement plans. In general, for purposes of applying this rule, the proposed amendments would treat all of the participants in a plan as if they are employees of each employer maintaining the plan.

EMPLOYEES OF LABOR UNIONS AND PLAN

Proposed § 1.413-1(i) provides rules under section 413(b)(8) of the Code, relating to employees of labor unions. These proposed rules relate to a collectively bargained plan described in section 413(a) of the Code. In general, the proposed regulations provide that employees of employee representatives (or of such a plan) are treated as employees of an employer maintaining such plan if certain requirements are satisfied.

These requirements are that these representatives (or the plan) satisfy the nondiscrimination requirements of section 401(a)(4) of the Code and the minimum participation and coverage requirements of section 410 of the Code with respect to their employees. If these requirements are not satisfied, these employees cannot be treated as employees of an employer maintaining the plan. In such a case, the coverage of these employees will result in the failure of the plan to satisfy the qualification requirements of section 401(a) of the Code.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations was Richard J. Wickersham of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR Part 1 are as follows:

PARAGRAPH 1. Section 1.413-1 is amended by adding new paragraphs (a), (c), (d) and (i) to read as follows:

§ 1.413-1 Special rules for collectively bargained plans.

(a) *Application of section 413(b) to certain collectively bargained plans—*(1) *In general.* Section 413(b) sets forth special rules applicable to certain pension, profit-sharing, and stock bonus plans (and each trust which is a part of such a plan), hereinafter referred to as "section 413(b) plans", described in paragraph (a)(2) of this section. Notwithstanding any other provision of the Code, a section 413(b) plan is subject to the special rules of section 413(b) (1) through (8) and paragraphs (b) through (i) of this section.

(2) *Requirements.* Section 413(b) applies to a plan (and each trust which is a part of such plan) if the plan is a single plan which is maintained pursuant to one or more agreements which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers. A plan which provides benefits for employees of more than one employer is considered a single plan subject to the requirements of section 413(b) and this section if the plan is considered a single plan for purposes of applying section 414(*l*) (see § 1.414(*l*)-1(b)(1)). For purposes of determining whether one or more plans (or agreements) are a single plan, under sections 413(a) and 414(l), it is irrelevant that there are in form two or more separate plans (or agreements). For example, a single plan will be considered to exist where agreements are entered into separately by a national labor organization (or one or more local units of such organization), on one hand, and individual employers, on the other hand, if the plan is considered a single plan for purposes of applying section 414(*l*).

(3) *Additional rules and effective dates.* (i) If a plan is a section 413(b) plan at a relevant time, the rules of section 413(b) and this section apply, and the rules of section 413(c) and § 1.413-2 do not apply to the plan.

(ii) The qualification of a section 413(b) plan, at any relevant time, under section 401(a), 403(a), or 405(a), as modified by sections 413(b) and this section, is determined with respect to all employers maintining the plan. Consequently, the failure by one employer maintaining the plan (or by the plan itself) to satisfy an applicable qualification requirement will result in the disqualification of the plan for all employers maintaining the plan.

(iii) Except as otherwise provided, section 413 (a) and (b) and this section apply to a plan for plan years beginning after December 31, 1953.

* * * * *

(c) *Discrimination; etc.*—(1) *General rule.* Section 401(a)(4) (relating to prohibited discrimination) and section 411(d)(3) (relating to vesting required on termination, partial termination, or discontinuance of contributions) shall be applied as if all the participants in the plan, who are subject to the same benefit computation formula and who are employed by employers who are parties to the collective bargaining agreement, are employed by a single employer.

(2) *Application of discrimination rules.* Under section 401(a)(4) and the regulations thereunder a plan is not qualified unless the contributions or benefits provided under the plan do not discriminate in favor of officers, shareholders, or highly compensated employees (hereinafter referred to collectively as "the prohibited group"). The presence or absence of such discrimination under a plan to which this section applies at any time shall not be determined on an employer-by-employer basis, but rather by testing separately each group of employees who are subject to the same benefit computation formula to determine if there is discrimination within such group. Consequently, discrimination in contributions or benefits among two or more different groups or among employees in different groups covered by the plan may be present without causing the plan to be disqualified. However, the presence of prohibited discrimination within one such group will result in the disqualification of the plan for all groups. Section 401(a)(4) and the regulations thereunder provide rules relating to the determination of which employees are members of the prohibited group and to the determination of discrimination in contributions or benefits which are applicable to a plan to which this section applies. The determination of whether or not an individual employee is a highly compensated employee shall be based on the relationship of the compensation of the employee to the compensation of all the other employees of all employers who are maintaining the plan and have employees covered under the same benefit computation formula, whether or not such other employees are covered by the plan or are covered under the same benefit computation formula, rather than to the compensation of all the other employees of the employer of such individual employee.

(3) *Application of termination, etc. rules.* Section 411(d)(3) and the regulations thereunder (relating to vesting required in the case of a termination, partial termination, or complete discontinuance of contributions) apply to a plan subject to the provisions of this section. The requirements of section 411(d)(3) shall be applied as if all participants in the plan who are subject to the same benefit computation formula and who are employed by employers who are parties to the collective bargaining agreement are employed by a single employer. The determination of whether or not there is a termination, partial termination, or complete discontinuance of contributions shall be made separately for each such group of participants who are treated as employed by a single employer. Consequently, if there are two or more groups of participants, a termination, partial termination, or complete discontinuance can take place under a plan with respect to one group of participants but not with respect to another such group of participants or for the entire plan. See § 1.411(d)-2 for rules prescribed under section 411(d)(3).

(4) *Effective dates and transitional rules.* (i) Section 413(b)(2) and this

paragraph apply to a plan for plan years beginning after December 31, 1953.

(ii) In applying the rules of this paragraph to a plan for plan years to which section 411 does not apply, section 401(a)(7) (as in effect on September 1, 1974) shall be substituted for section 411(d)(3). See § 1.401-6 for rules prescribed under section 401(a)(7) as in effect on September 1, 1974. See § 1.411(a)-2 for the effective dates of section 411.

(5) *Examples.* The provisions of this paragraph are illustrated by the following examples:

Example (1). Plan A is a defined benefit plan subject to the provisions of this section and covers two groups of participants, local unions 1 and 2. Each local union has negotiated its own bargaining agreement with employers X, Y, and Z to provide its own benefit computation formula. The following table indicates the composition of the plan A participants:

	Employer X	Employer Y	Employer Z	Total
Local union 1	20	10	70	100
Local union 2	30	70	100	200

Under the rules of subparagraph (2) of this paragraph, the determination of whether contributions or benefits provided under the plan discriminate in favor of the prohibited group is made by applying the rules of section 401(a)(4) separately to participants who are members of local union 1 and local union 2. Thus, plan A will satisfy the qualification requirements of section 401(a)(4) if, within local union 1 and local union 2, respectively, plan benefits do not discriminate in favor of participants who are prohibited group employees within local union 1 and local union 2. Under the rules of subparagraph (2) of this paragraph, the determination under section 401(a)(4) of whether or not any individual employee, included within the 300 participants in plan A, is a highly compensated employee is based on the relationship of the compensation of such individual employee to the compensation of all the employees of Employers X, Y, and Z, whether or not such employees are participants in plan A. Thus, if there are 20 participants who are prohibited group employees within the 100 participants of local union 1, discrimination is determined by comparing the benefits of the 20 prohibited group participants to the benefits of the other 80 participants within local union 1. The same comparison would have to be made for the local union 2 participants between the prohibited group participants and the other participants in local union 2. Discrimination in benefits, if any, between the participants in local union 1 and local union 2, or among the employees of X, Y, or Z, would not affect the qualification of plan A under section 401(a)(4).

Example (2). Assume the same facts as in example (1). Employer X withdraws from the plan. Under subparagraph (3) of this paragraph, whether or not as a result of the withdrawal there is a partial termination under section 411(d)(3) is to be determined by applying the requirements of such section separately to the local union 1 and local union 2 participants. See § 1.411(d)-2 for the requirements relating to partial terminations. The application of such requirements raises the following possibilities with respect to the plan: (1) A partial termination as to local union 1, (2) a partial termination as to local union 2, (3) a partial termination as to both local unions 1 and 2, or (4) no partial termination for either local union.

Example (3). Assume the same facts as in example (1). Plan A is amended to cease future benefit accruals under the plan for local union 1 participants. Under subparagraph (3) of this paragraph, whether or not as a result of the cessation there is a partial termination under section 411(d)(3) is to be determined by applying the requirements of such section separately to the local union 1 and local union 2 participants.

(d) *Exclusive benefit.* Under section 401(a), a plan is not qualified unless the plan is for the exclusive benefit of the employees (and their beneficiaries) of the employer establishing and maintaining the plan. Other qualification requirements under section 401(a) require the application of the exclusive benefit rule (for example, section 401(a)(2), which precludes diversion of plan assets). For purposes of applying the requirements of section 401(a) in determining whether a plan subject to this section is, with respect to each employer establishing and maintaining the plan, for the exclusive benefit of its employees (and their beneficiaries), all of the employees participating in the plan shall be treated as employees of each such employer. Thus, for example, contributions by employer A to a plan subject to this section could be allocated to employees of other employers maintaining the plan without violating the requirements of section 401(a)(2), because all the employees participating in the plan are deemed to be employees of A.

* * * * *

(f) through (h) [Reserved].

(i) *Employees of labor unions*—(1) *General rule.* For purposes of section 413(b) and this section, employees of employee representatives shall be treated as employees of an employer establishing and maintaining a plan to which section 413(b) and this section apply if, with respect to the employees of such representatives, the plan satisfies the nondiscrimination requirements of section 401(a)(4) (determined without regard to section 413(b)(2)) and the minimum participation and coverage requirements of section 410 (determined without regard to section 413(b)(1)). For purposes of the preceding sentence, the plan shall be deemed to be an employee representative. If employees of employee representatives, or the plan, are covered by the plan and are not treated as employees of an employer establishing and maintaining the plan under the provisions of this paragraph, the plan fails to satisfy the qualification requirements of section 401(a). In addition, in order for such a plan to be qualified, the plan must satisfy the requirements of section 413(b) (1) and (2), relating to participation and discrimination, respectively; see paragraphs (b) and (c) of this section.

(2) *Effective dates and transitional rules.* (i) Section 413(b)(8) and this paragraph apply to a plan for plan years beginning after December 31, 1953.

(ii) In applying the rules of this paragraph to a plan for plan years to which section 410 does not apply, section 401(a)(3) (as in effect on September 1, 1974) shall be substituted for section 410. See § 1.401-3 for rules prescribed under section 401(a)(3) as in effect on September 1, 1974. See § 1.410(a)-2 for the effective dates of section 410.

(3) *Examples.* The provisions of this paragraph are illustrated by the following examples:

Example (1). Plan A is a defined benefit plan, maintained pursuant to a collective bargaining agreement between employers, X, Y, and Z and labor union, L, which covers members of L employed by X, Y, and Z. In 1978, plan A is amended to cover, under the same benefit formula, all five employees of L who have satisfied the minimum age and service requirements of the plan (age 25 and 1 year of service). Assume that plan A is subject to section 413(b) and satisfies the requirements of section 413(b)(1) and (2). Assume further that with respect to employees of L, plan A (i) satisfies the nondiscrimination requirements of section 401(a)(4), (ii) meets the minimum participation requirements of section 410(a), and (iii) meets the minimum coverage requirements of section 410(b)(1)(A). Under the rules of subparagraph (1) of this paragraph, because such requirements are all satisfied, the employees of L are treated as employees of an employer establishing and maintaining plan A.

Example (2). Assume the same facts as example (1), except that plan A is amended to cover only one of the five employees of L, none of whom is covered by any other plan. Assume further that, under plan A, L does not satisfy the minimum percentage coverage requirement of section 410(b)(1)(A) with respect to employees of L. Assume further that the compensation of the one L employee who is covered by the plan is such that he is highly compensated relative to the

four employees of L not covered by the plan. Consequently, L does not satisfy the minimum coverage requirements of section 410(b)(1)(B), with respect to employees of L. Under the rules of subparagraph (1) of this paragraph, the employees of L cannot be treated as employees of an employer establishing and maintaining the A plan because such coverage requirements are not satisfied by L. Consequently, the A plan fails to satisfy the qualification requirements of section 401(a).

PAR. 2. Section 1.413-2 is amended by adding new paragraphs (a) and (c) to read as follows:

§ 1.413-2 Special rules for plans maintained by more than one employer.

(a) *Application of section 413(c)—(1) In general.* Section 413(c) describes certain plans (and each trust which is a part of any such plan) hereinafter referred to as "multiple employer plans." A plan (and each trust which is a part of such plan) is deemed to be a multiple employer plan if it is described in subparagraph (2) of this paragraph. Notwithstanding any other provision of the code (not specifically in conflict with the special rules hereinafter mentioned), a multiple employer plan is subject to the special rules of section 413(c) (1) through (6) and paragraphs (b) through (g) of this section.

(2) *Multiple employer plan.* A plan (and each trust which is a part of such plan) is a multiple employer plan if—

(i) The plan is a single plan, within the meaning of section 413(a) and § 1.413-1(a)(2), and

(ii) The plan is maintained by more than one employer.

For purposes of subdivision (ii) of this subparagraph, the number of employers maintaining the plan is determined by treating any employers described in section 414(b) (relating to a controlled group of corporations) or any employers described in section 414(c) (relating to trades or businesses under common control), whichever is applicable, as if such employers are a single employer. See § 1.411(a)-5(b)(3) for rules relating to the time when an employer maintains a plan. A master or prototype plan is not a multiple employer plan unless such a plan is described in this subparagraph. Similarly, the mere fact that a plan, or plans, utilizes a common trust fund or otherwise pools plan assets for investment purposes does not, by itself, result in a particular plan being treated as a multiple employer plan.

(3) *Additional rules.* (i) If a plan is a collectively bargained plan described in § 1.413-1(a), the rules of section 413(c) and this section do not apply, and the rules of section 413(b) and § 1.413-1 do apply to the plan.

(ii) The special rules of section 413(b)(1) and § 1.413-1(b) relating to the application of section 410, other than the rules of section 410(a), do not apply to a multiple employer plan. Thus, for example, the minimum coverage requirements of section 410(b) are generally applied to a multiple employer plan on an employer-by-employer basis, taking into account the generally applicable rules such as section 401(a)(5) and section 414 (b) and (c).

(iii) The special rules of section 413(b)(2) and § 1.413-1(c) (relating to (A) section 401(a)(4) and prohibited discrimination, and (B) 411(d)(3) and vesting required on termination, partial termination, or discontinuance of contributions) do not apply to a multiple employer plan. Thus, for example, the determination of whether or not there is a termination, within the meaning of section 411(d)(3), of a multiple employer plan is made solely by reference to the rules of section 411(d)(3) and 413(c)(3).

(iv) The qualification of a multiple employer plan, at any relevant time, under section 401(a), 403(a), or 405(a), as modified by section 413(c) and this section, is determined with respect to all employers maintaining the multiple employer plan. Consequently, the failure by one employer maintaining the plan (or by the plan itself) to satisfy an applicable qualification requirement will result in the disqualification of the multiple employer plan for all employers maintaining the plan.

(4) *Effective dates.* Except as otherwise provided, section 413(c) and this section apply to a plan for plan years beginning after December 31, 1953.

* * * * *

(c) *Exclusive benefit.* In the case of a plan subject to this section, the exclusive benefit requirements of section 401(a) shall be applied to the plan in the same manner as under section 413(b)(3) and § 1.413-1(d).

* * * * *

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-24205 Filed 8-28-78; 8:45 am]

[4830-01]

[26 CFR Part 301]

[LR-233-76]

DECLARATORY JUDGMENTS RELATING TO TRANSFERS OF PROPERTY FROM THE UNITED STATES

Notice of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations concerning declaratory judgments relating to certain transfers of property from the United States. This declaratory judgment procedure was created by the Tax Reform Act of 1976. The regulations would provide guidance to a person that seeks a declaratory judgment by the Tax Court concerning a determination or failure to make a determination by the Commissioner as to whether an exchange is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

DATES: Written comments and requests for a public hearing must be delivered or mailed by October 30, 1978. The regulations are proposed to be effective for pleadings filed after October 4, 1976, but only with respect to exchanges beginning after October 9, 1975.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-233-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Daniel Horowitz of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Regulations on Procedure and Administration (26 CFR Part 301) under section 7477 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 1042(d) of the Tax Reform Act of 1976 (90 Stat. 1637) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

EXPLANATION OF PROVISIONS

Section 1042 of the Tax Reform Act of 1976 added section 7477 to the Code. Under section 7477, a petitioner may file a pleading with the Tax Court for a declaratory judgment relating to a determination or failure to make a determination by the Commissioner as to whether an exchange described in section 367(a)(1) is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes. This pleading

may be filed only after the exchange has begun and then only by a petitioner which is a transferor or transferee of property transferred in the exchange. The Tax Court may render a declaratory judgment under section 7477 only in a case of actual controversy with respect to which the petitioner has exhausted the administrative remedies available to it within the Internal Revenue Service.

The proposed regulations provide the following definitions. An "exchange described in section 367(a)(1)" is an exchange in connection with which the petitioner has filed a ruling request pursuant to section 367(a)(1) and the regulations thereunder without regard to whether or not section 332, 351, 354, 355, 356 or 361 applies to the exchange. A "determination" is the Commissioner's determination for purposes of section 367(a)(1), made in response to the petitioner's protest to a ruling issued under section 367(a)(1), that the exchange is in pursuance of a plan having as one of its principal purposes the avoidance of federal income taxes, or of the terms and conditions pursuant to which the exchange will be determined not to be in pursuance of such a plan. The exchange has begun if the first transfer of property relating to the exchange has begun. In addition, the proposed regulations indicate the procedures which must have been completed for the petitioner to have exhausted the administrative remedies available to it within the Internal Revenue Service.

Comments and Requests for a Public Hearing

Before adoption of the final regulations proposed in this document, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of this regulation was Daniel Horowitz, of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendment to the Regulations

The proposed amendment to 26 CFR Part 301 is as follows:

Section 301.7477-1 is added immediately after § 301.7476-1 to read as follows:

§ 301.7477-1 Declaratory judgments relating to transfers of property from the United States.

(a) *Petition*—(1) *General rule.* A transferor or transferee of stock, securities or property transferred in an exchange described in section 367(a)(1) may petition the Tax Court for a declaratory judgment with respect to the exchange if—

(i) The pleading is timely filed; and

(ii) The exchange has begun before the pleading is filed.

(2) *Pleading timely filed.* The pleading is timely filed if it is filed before the 92d day after the day on which notice of the determination of the Commissioner is sent to the petitioner by certified or registered mail. In the absence of such notice, neither section 7477 nor this section imposes any time limit on the filing of the pleading.

(3) *Beginning of exchange.* An exchange shall be considered to begin with the beginning of the first transfer of property pursuant to the plan under which the exchange is to be made. A transfer of property shall be considered to begin on the earliest date as of which title, possession of, or right to the use of stock, securities, or property passes pursuant to the plan under which the exchange is to be made between parties to the exchange. A transfer shall not be considered to begin with a decision of a board of directors or similar action. A transfer shall be deemed to have begun even though it is made subject to a condition that, if there is a failure to obtain a determination that the exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes, the transaction will not be consummated and to the extent possible the assets transferred will be returned.

(b) *Judgment*—(1) *General rule.* The Tax Court my issue a declaratory judgment or decree within the scope described in section 7477(a)(2) if—

(i) There is a case of actual controversy, and

(ii) The petitioner has exhausted the administrative remedies available to it within the Internal Revenue Service,

with respect to a determination or a failure to make a determination.

(2) *Exhaustion of administrative remedies.* The petitioner shall be deemed to have exhausted the administrative remedies available to it within the Internal Revenue Service if—

(i) The petitioner has completed all applicable procedures published in regulations, the statement of procedural rules (26 CFR Part 601) or revenue procedures relating to the filing of a request for a ruling under section 367(a)(1) and, if such a ruling has been issued, to the filing of a protest to such a ruling;

(ii) The petitioner has submitted prompt and complete responses to any requests by the Internal Revenue Service for further information; and

(iii) The Internal Revenue Service has had a reasonable time to act upon the request for the ruling, any protest thereto and any additional information submitted in response to any request made therefor by the Internal Revenue Service. If there has been a failure to make a determination, the Internal Revenue Service shall be deemed not to have had a reasonable time to act before the expiration of 270 days after the day on which petitioner properly filed the request for a ruling. In no event, shall the Internal Revenue Service be deemed to have had a reasonable time to act if a failure to act has occurred because the petitioner did not proceed with due diligence.

(3) *Effect of judgment.* The declaratory judgment or decree of the Tax Court, when final under section 7481, shall be binding on the parties to the case for purposes of section 367(a)(1). However, if the facts of the exchange differ from those presented to the Court, the judgment shall be binding only to the extent appropriate under the legal doctrines of estoppel and stare decisis.

(c) *Definitions*—(1) *Exchange described in section 367(a)(1).* For purposes of this section, an "exchange described in section 367(a)(1)" is an exchange in connection with which the petitioner has filed a ruling request pursuant to section 367(a)(1) and the regulations thereunder without regard to whether or not section 332, 351, 354, 355, 356 or 361 applies to the exchange.

(2) *Determination.* For purposes of this section, a "determination" is the Commissioner's determination for purposes of section 367(a)(1), made in response to the petitioner's protest to a ruling issued under section 367(a)(1)—

(i) That an exchange described in section 367(a)(1) is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes, or

(ii) Of the terms and conditions pursuant to which such an exchange will be determined not to be in pursuance of such a plan.

(d) *Effective date.* The provisions of this section shall apply with respect to pleadings filed after October 4, 1976,

but only with respect to exchanges beginning after October 9, 1975.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-24348 Filed 8-28-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 79]

[FRL 935-4]

FUELS AND FUEL ADDITIVES TESTING REGULATIONS

Advance Notice of Proposed Rulemaking

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This notice announces that EPA will develop a set of regulations for testing of fuels and fuel additives as required by section 211(e) of the Clean Air Act as amended in 1977. The regulations will address health testing protocols, emission testing protocols, and cost-sharing provisions. The Agency seeks public comments and invites all interested persons from the general public, industry, State and local governments, public interest groups, and other Federal agencies to submit their views and opinions in writing.

DATES: Written comments should be received on or before October 30, 1978; those received later will also receive consideration.

ADDRESS: Comments should be submitted to: Office of Monitoring and Technical Support, Office of Research and Development, Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

H. Matthew Bills, Office of Monitoring and Technical Support, Office of Research and Development, Environmental Protection Agency, Washington, D.C. 20460, 202-426-4452.

SUPPLEMENTARY INFORMATION: Section 211(b)(2) (A) and (B) provides that the Administrator may require any fuel and fuel additive manufacturer to conduct tests to determine potential public health effects that may be caused by the use of its fuel and to furnish the description of any analytical technique that can be used to detect and measure any additive in fuel. Subsection 211(e)(1) requires the Administrator to promulgate test procedures and protocols in support of section 211(b)(2) (A) and (B). Subsection 211(e)(2) establishes the deadlines by which the manufacturer must provide the requisite information to the Administrator. Subsection 211(e)(3) provides that the Administrator may exempt any small business from the regulations, provide for costsharing with respect to the testing of any fuel or fuel additive, and exempt any person where additional testing would be duplicative.

To assist in the development of the proposed regulation EPA requests specific comments on the following topics:

(1) Concerning methods for assessing health effects:

a. To determine potential health effects, what tests should EPA require for fuel and fuel additives?

b. Should tests deal with combustion products and/or uncombusted materials?

c. How should the pollutants be administered to the host being tested, e.g., Ames test, Ethylene plant stress test, etc.?

d. In the event EPA establishes more than one testing protocol, should the test method selected receive prior EPA approval?

e. What constitutes an acceptable test?

f. In what form should EPA require fuel and fuel additive manufacturers to submit data?

g. When the fuels and/or additives are burned in a vehicle engine how should resulting pollutants be collected and measured?

h. To what degree should the exhaust pollutants be chemically or physically analyzed?

i. What criteria should be used to decide if the test is positive or negative?

(2) Concerning methods for assessing emission effects:

a. In the event EPA establishes more than one testing protocol, should the test method selected receive prior EPA approval?

b. In what form should EPA require fuel and fuel additive manufacturers to submit data?

c. What constitutes an acceptable test?

d. When the fuels and/or additives are burned in a vehicle engine how should the resulting pollutants be collected and measured?

e. What criteria should be used to decide if the test is positive or negative?

(3) What criteria should be used in determining a fuel and fuel additive manufacturer to be a small business?

(4) What criteria should be used in determining cost sharing for fuel and fuel additive testing?

(5) Should a manufacturer be excused from full health effects and emission testing where it can demonstrate conclusively that the fuel or fuel additive in question will not cause an adverse health effect or affect emission control device performance? If so, what should EPA require from the manufacturer to make such a showing? Should EPA develop screening test requirements as part of this process?

Testing rules promulgated, insofar as possible, will be consistent with other EPA testing rules established under other statutes, particularly those being developed under the Toxic Substances Control Act. Also, testing rules established by other Federal agencies will be considered.

In *Lubrizol Corp.* v. *EPA*, 562 F. 2d 807 (D.C. Cir. 1977), the U.S. Court of Appeals for the District of Columbia Circuit invalidated the fuel and fuel additive registration regulations (40 CFR Part 79) "insofar as they apply to motor oil and motor oil additives." On June 30, 1978, EPA amended the registration regulations to remove the language invalidated by the court (43 FR 28489). As was noted in the explanation that accompanied the amendments to the registration regulations, the 1977 amendments to the Clean Air Act were not before the court in *Lubrizol*. EPA believes that Congress in enacting the 1977 amendments intended that motor oil and motor oil additives be included among those substances subject to the section 211 testing requirements. Accordingly, EPA expects to propose that motor oil and motor oil additives be covered by the testing regulations. Statutory authority for the intended action is provided by sections 211 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7545, 7601(a).)

Dated: August 23, 1978.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 78-24265 Filed 8-28-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 78-49; RM-2921]

FM BROADCAST STATION IN BOCA CHICA KEY, FLA.

Petition for Rulemaking Denied and Proceeding Terminated

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This action denies the proposed assignment of channel 228A to Boca Chica Key, Fla., as a first FM channel. The need for an FM chanel assignment there was not established.

EFFECTIVE DATE: Nonapplicable.

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: August 16, 1978.

Released: August 22, 1978.

In the matter of amendment of § 73.202(b), Table of assignments, FM broadcast stations (Boca Chica Key, Fla.), BC Docket No. 78-49, RM-2921.

1. The Commission has under consideration its notice of proposed rulemaking, 43 FR 6633, proposing the assignment of channel 228A to Boca Chica Key, Fla., as its first FM channel assignment. John T. Galanses and Wayne R. Seifert ("petitioners") filed comments and reply comments. Florida Keys Broadcasting Corp. ("Florida Keys"), licensee of station WKIZ(AM) and WFYN(FM), key West, Fla., filed comments and reply comments in opposition.

2. Boca Chica Key (population 2,817) [1] is part of the lower keys division (population 10,352) of Monroe County (population 52,586), located in the southwest portion of Florida, approximately 8 kilometers (5 miles) northwest of Key West. Boca Chica Key has no local aural service. It receives service from two AM and two FM stations in Key West (population 29,312). (It would also receive service from an additional Key West FM station which is authorized but not yet in operation.)

3. In response to the petition the Commission issued the notice. However, petitioner was requested to provide additional information about Boca Chica Key and its status as a community so that a determination could be made as to the need for an FM assignment there. Petitioner also was asked to demonstrate that the proposal was intended to serve Boca Chica Key rather than nearby and much larger Key West.

4. In its comments, petitioner states that Boca Chica Key is a military base under the Department of the Navy [2] and that the housing and business areas that they referred to in previous filings are located nearby on Big Coppitt Key. Petitioner say information obtained from the Lower Keys Chamber of Commerce indicates that 2,000 persons reside on Big Coppitt Key. With this in mind, petitioners state that if the Commission finds it necessary, their proposal may be designated as "Naval Air Station, Boca Chica-Big Coppitt Keys, Fla." or some similar title. Petitioners cite several cases in support of making an assignment to a military installation.[3] Even so, the majority of petitioners' comments on this issue do not pertain to the Boca Chica military base directly but instead deal with the lower Keys division on which it is only a part. As for Boca Chica Key itself, we are only told that the military installation contains such facilities as a library, hospital, post office, bank, recreational facilities, theater, and chapel for its personnel.

5. In its opposition, Florida Keys alleges that no meaningful information has been submitted on the community status issue, and it urges the Commission to recognize the request as one for an additional FM assignment for nearby Key West. In this regard, Florida Keys points to information suggesting a significant decline in Boca Chica Key's population from a 1970 total of 2,817 to a recent estimate of 987 personnel living in military quarters there. Also, a newspaper article reports that the military installation is to be phased out as an active base by 1980-1981 and placed on "caretaker" status.

6. Petitioners respond that, according to letters from the Department of the Navy and the commanding officer of the Naval Air Station, the status of the military station is not scheduled to be changed that no decision to close the base has been made. Also, petitioners contend that population growth has occurred in the Boca Chica Key area and the lower Keys division generally, citing a 111-percent increase in the population of the lower Keys division from 1960 to 1970.[4]

7. In its reply, Florida Keys states that Boca Chica Key is merely a portion of the Naval Air Station, Key West, and consists of an airfield with facilities for the less than 700 military personnel now living on base.[5] As for the cases relied on by petitioner that support an FM assignment to a military installation, Florida Keys asserts that they are inapposite since, unlike Boca Chica Key, they concerned military bases that were much larger and therefore clearly contained the typical indicia of a community. Florida Keys asserts that Boca Chica Key itself has no businesses or recreational facilities and has only five organizations and churches listed among the 150 members of the Lower Keys Chamber of Commerce.

8. Under the Commission's policies, FM channels are assigned to specific communities to respond to demonstrated need. In this case, we do not believe that an adequate showing of need has been provided. Even if we assume that the nature of Boca Chica Key as a military installation presents no problem in terms of establishing its status as a separate community, its need for a channel is by no means clear. Boca Chica Key has suffered substantial decline in population since 1970, to less than 1,000 presently living on base. In fact, the air station May even be closed by the Navy Department. At the most, then, we have a conjectural community that has lost more than two-thirds of its population and may even cease to exist. It is close to and served by various stations in Key West. In view of these circumstances, we cannot find that an adequate showing of need for an FM channel assignment has been offered.

9. Accordingly, *It is ordered*, That the petition of John T. Galanses and Wayne R. Seifert to assign channel 228A to Boca Chica Key, Fla., is denied.

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

FEDERAL COMMUNICATIONS COMMISSION
NEAL K. MCNAUGHTEN,
Acting Chief,
Broadcast Bureau.

[FR Doc. 78-24283 Filed 8-28-78; 8:45 am]

[1] Population data are taken from the 1970 U.S. Census, as corrected by the Census Bureau.

[2] The official title of the military base is the Naval Air Station (NAS), Key West, according to an attached letter and map submitted by petitioner.

[3] The cases include *Campbell and Shaftall* (concerning Fort Campbell, Ky.), 7 F.C.C. 2d 658 (1967); *Ft. Leonard Wood, Mo.*, 7 F.C.C. 2d 836 (1967); and Camp Lejeune, N.C. (notice), 42 FR 45002 (1977).

[4] Census data shows about an 80-percent increase between the 1960 figures of 5,733 and the 1970 figure of 10,352.

[5] This latest population figure comes from information provided to Florida Keys by Captain McCardell, Commanding Officer of the Naval Air Station, Key West. All other personnel of the air station (total 3,399) are said to be living in Key West. It is also noted by Florida Keys that no civilian population is found on Boca Chica Key.

[4910-22]

DEPARTMENT OF TRANSPORTATION

Federal Highway Adminstration

[49 CFR Part 395]

HOURS OF SERVICE OF TRUCK AND BUS DRIVERS

Hearings

AGENCY: Federal Highway Adminstration, DOT.

ACTION: Notice of hearings.

SUMMARY: This notice provides a schedule of hearings on the proposed revision of the Federal motor carrier safety regulations pertaining to hours of service of commercial vehicle drivers operating in interstate and foreign commerce as contained in the advance

notice of proposed rulemaking (BMS docket No. 70-1, notice No. 78-11, 43 FR 21905), and informs the public that no additional requests to speak will be accepted.

DATE: See supplementary information below.

FOR FURTHER INFORMATION CONTACT:

Gerald J. Davis, Chief, Driver Requirements Branch, Regulations Division, Bureau of Motor Carrier Safety, 202-426-9767; or Gerald M. Tierney, Attorney, Motor Carrier and Highway Safety Law Division, Office of the Chief Counsel, 202-426-0346, Federal Highway Administration, U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

ADDRESS: See supplementary information below.

SUPPLEMENTARY INFORMATION: On May 22, 1978, an advance notice of proposed rulemaking, BMCS docket No. MC-70-1; notice No. 78-11, was published at 43 FR 21905, proposing a revision of the Federal motor carrier safety regulations pertaining to the hours of service limitations for commercial vehicle drivers engaged in interstate and foreign commerce. Hearing locations were identified with the dates to be announced later. The hearing dates and locations have been confirmed and are scheduled to begin at 9 a.m. except as otherwise advised, as follows:

New York City, N.Y., September 20-22, 1978, Conference Room 305C, 26 Federal Plaza.

Chicago, Ill., September 25-29, 1978, Homewood Sheraton, 17400 South Halsted, Homewood, Ill.

Portland, Oreg., October 16-18, 1978, Auditorium, Bonneville Power Adminstration, 1002 Northeast Holladay Street.

Los Angeles, Calif., October 19-20, 1978, Room 8544, U.S. Federal Building, 300 North Los Angeles Street.

Dallas, Tex., October 23-27, 1978, Conference Room, 1100 Commerce Street.

Atlanta, Ga., November 6-10, 1978, Ramada Inn-Atlanta Central, I-85 and Monroe Drive.

Washington, D.C., November 13-17, 1978, Auditorium, Federal Aviation Adminstration, 800 Independence Avenue SW.

Because of the many requests to be heard that have previously been filed, no additional requests can be accepted. Persons wishing to comment in writing may, however, do so on or before November 22, 1978.

(49 U.S.C. 304, 49 U.S.C. 1655, 49 CFR 1.48.)

Issued on August 14, 1978.

KENNETH L. PIERSON,
Acting Director, Bureau of Motor Carrier Safety.

[FR Doc. 78-24309 Filed 8-28-78; 8:45 am]

[7035-01]

[49 CFR Parts 1047, 1082]

[MC-C-3437]

MOTOR TRANSPORTATION OF PROPERTY INCIDENTAL TO TRANSPORTATION BY AIRCRAFT

Extension of Time for Filing of Public Comments

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time for filing of public comments in this proceeding.

SUMMARY: This proceeding was instituted by a notice of proposed rulemaking published in the FEDERAL REGISTER on May 25, 1977, at 42 FR 26667. By notice in the FEDERAL REGISTER on July 20, 1978, at 43 FR 31182, public comments were requested on a report prepared by the Commission's Bureau of Economics entitled "Air Terminal Areas and Intermodal Movement of Air Cargo." Both the report and the comments received will be made part of the record in this proceeding. Due to a slight delay in the issuance of the report, we previously extended briefly the period for filing comments. At the request of several interested parties, and in order to insure all a full opportunity to prepare their comments, an additional brief extension is being given.

DATES: Comments on the report should now be submitted to the Commission on or before September 15, 1978.

ADDRESS: Send comments to Interstate Commerce Commission, 12th and Constitution Avenue, Washington, D.C. 20423. Copies of the Bureau's report can be obtained from the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Robert G. Rhodes, 202-275-7684.
Michael Erenberg, 202-275-7292.

Decided: August 21, 1978.

By the Commission, Robert J. Brooks, Director, Office of Proceedings.

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

[FR Doc. 78-24370 Filed 8-28-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 230]

WHALING

Taking of Bowhead Whales by Indians, Aleuts, or Eskimos for Subsistence Purposes

AGENCY: National Oceanic and Atmospheric Administration, National Marine Fisheries Service.

ACTION: Proposed rulemaking.

SUMMARY: At its 30th annual meeting held in London on June 26-30, 1978, the International Whaling Commission (the "IWC") adopted an amendment to the Schedule of the International Convention for the Regulation of Whaling, 1946 (the "Convention") which increased the quota for the taking of the Bering Sea stock of bowhead whales for calendar year 1978 from 12 landed or 18 struck, whichever occurs first, to 14 landed or 20 struck, whichever occurs first. By letter dispatched July 21, the IWC formally notified member countries of the action taken; under the rules of procedure of the IWC, the increased 1978 quota will becomes effective, in the absence of objection, on October 19, 1978.

On April 3, 1978, the National Oceanic and Atmospheric Administration (NOAA) promulgated regulations under the Whaling Convention Act of 1949, 16 U.S.C. 916, et seq., which allocated the then available 1978 quota among the nine Alaskan villages which engage in subsistence whaling (43 FR 13883, amended May 24, 1978, 43 FR 22213). This amendment revises the allocation for 1978 to include the two extra bowhead whales which may be landed or struck in 1978.

DATES: Comments may be submitted on or before September 8, 1978.

ADDRESSES: Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

William P. Jensen, Marine Mammal and Endangered Species Division, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235, telephone 202-634-7461.

SUPPLEMENTARY INFORMATION: Prior to 1977, the IWC exempted the Native subsistence harvest of bowhead whales from its otherwise total prohibition on the hunting of bowheads. In

1977, the IWC removed that exemption and established a 1978 quota of 12 landed or 18 struck, whichever occurred first. In response to the action of the IWC, the United States, in cooperation with Alaskan Eskimos and other interested groups, mounted research, management, and weapons improvement programs. The results of those programs are set forth in extensive detail in a publication entitled "A Special Report to the International Whaling Commission: Bowhead Whales" (U.S. Department of Commerce, NOAA, June 1978) (the "Report").

The Report concludes that, based upon observations made in spring 1978, the population of the stock of bowhead whales which migrates past Alaskan Eskimo whaling villages is in the range of 1,783-2,865 whales, with 2,264 bowheads considered the best available estimate—1,734 whales were actually sighted. These figures were considerably higher than the population estimates of approximately 1,300 in the herd which were used by the IWC in establishing the 1978 quota.

At the 30th annual meeting of the IWC, the U.S. Commissioner, on the basis of the results of the population figures appearing in this report, requested an increase in the bowhead quota for the 1978 calendar year, and the IWC agreed to such an increase.

The regulations promulgated on April 3, 1978, allocated the 1978 quota as follows:

(1) Kaktovik—One whale landed or two struck, whichever occurs first.
(2) Nuigsut—Zero whales landed and zero struck, whichever occurs first.
(3) Barrow—Three whales landed or four struck, whichever occurs first.
(4) Wainwright—Two whales landed or two struck, whichever occurs first.
(5) Point Hope—Two whales landed or two struck, whichever occurs first.
(6) Kivalina—One whale landed or two struck, whichever occurs first.
(7) Gambell—One whale landed or two struck, whichever occurs first.
(8) Savoonga—One whale landed or two struck, whichever occurs first.
(9) Wales—One whale landed or two struck, whichever occurs first.

Because of reassignments, permitted by the regulations, of the unused portion of a village's quota, the allocation pattern changed during the spring season. At the close of the season, the allocation was as follows:

	Landed	Struck
Gambell	1	5
Savoonga	1	1
Wales	0	0
Kivalina	0	0
Point Hope	2	2
Wainwright	2	2
Barrow	4	5
Kaktovik	1	2
Nuigsut	1	1

The actual landed and struck figures for the spring season, detailed in the report were as follows:

	Landed	Struck
Gambell	1	5
Savoonga	1	1
Wales	0	0
Kivalina	0	0
Point Hope	2	2
Wainwright	2	2
Barrow	4	5
Kaktovik[1]		
Nuigsut[1]		

[1] Kaktovik and Nuigsut whale in the fall only.

Traditionally only three villages—Barrow, Kaktovik, and Nuigsut—have whaled in the fall. For the fall of 1978, the village of Kaktovik has a current allocation of one whale landed or two struck, whichever occurs first, and the village of Nuigsut has a current allocation of one whale landed or two struck, whichever comes first. The allocation to Nuigsut results from the reassignment of an unused allocation which had been initially granted to the village of Wales. Barrow has no allocation left.

Over the course of the last 14 years, Nuigsut has taken but one whale, and Kaktovik has taken but nine; all of the latter were taken in just 4 of those 14 years. Although information on Barrow fall harvests is not available for a comparable 14-year period, during the past 5 years Barrow has taken a total of 16 whales, 10 of which were taken in 1976.

This amendment allocates the four landings or five strikes (two landings or three strikes remaining from the spring, plus two landings or two strikes added at the 30th IWC meeting) among Kaktovik, Nuigsut, and Barrow, as follows:

(1) Kaktovik—One whale landed or two struck, whichever occurs first.
(2) Nuigsut—One whale landed or one struck, whichever occurs first.
(3) Barrow—Two whales landed or two struck, whichever occurs first.

Because the fall hunt is imminent, it is imperative to allocate the fall bowhead quota immediately, in order for each whaling village to know how many landings and strikes it has available to it. As a result, for good cause shown, comments on these proposed regulations will be accepted until September 8, 1978.

NOTE.—The Department of Commerce has determined that no environmental impact statement needs to be prepared in connection with these regulations. The National Marine Fisheries Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Orders 11821 and 11949, and OMB Circular A-107.

Dated: August 24, 1978.

TERRY LEITZELL,
Assistant Administrator for Fisheries.

50 CFR Part 230 is proposed to be amended by revising § 230.74 to read as follows:

§ 230.74 [Amended]

(a) During the spring season of the calendar year 1978, the quota for bowheads is allocated among whaling villages as follows:
(1) Gambell—One whale landed or five struck, whichever occurs first.
(2) Savoonga—One whale landed or one struck, whichever occurs first.
(3) Wales—Zero whales landed or zero struck, whichever occurs first.
(4) Kivalina—Zero whales landed or zero struck, whichever occurs first.
(5) Point Hope—Two whales landed or two struck, whichever occurs first.
(6) Wainwright—Two whales landed or two struck, whichever occurs first.
(7) Barrow—Four whales landed or five struck, whichever occurs first.
(b) During the fall season of the calendar year, the quota for bowheads is allocated among whaling villages as follows:
(1) Kaktovik—One whale landed or two struck, whichever occurs first.
(2) Nuigsut—One whale landed or one struck, whichever occurs first.
(3) Barrow—Two whales landed or two struck, whichever occurs first.

During the fall season, and prior to October 19, 1978, these villages shall not exceed a combined quota of two whales taken or three struck, whichever occurs first. Beginning October 19, 1978, these villages shall not exceed for the fall hunt a combined quota of four whales landed or five struck, whichever occurs first.

[Former paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), respectively.]

(e) If for any reason the landing or struck quota for whaling villages is not reached, the part of the quota which remains may be reassigned by the Administrator, upon request of such village, to a second whaling village: *Provided,* That if any other whaling village has exceeded its quota at the time the reassignment is requested, the Administrator shall not reassign the quota if he determines that it is likely to result in the total number of whales landed or struck exceeding the bowhead quota then in effect under the Schedule to the International Convention for the Regulation of Whaling. In making such reassignment, the Administrator shall consult with representatives of as many whaling villages as time reasonably permits.

[FR Doc. 78-24353 Filed 8-28-78; 8:45 am]

notices

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

[3410-03]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

NATIONAL ARBORETUM ADVISORY COUNCIL

Intent To Reestablish Advisory Council

Notice is hereby given that the Secretary of Agriculture intends to reestablish the National Arboretum Advisory Council. The purpose of the Council is to provide the Secretary of Agriculture with an independent overview of the work of the arboretum by a body of qualified individuals who represent international organizations. The National Arboretum was created by act of Congress (Pub. L. 799, 69th Congress, 20 U.S.C. 191-194) on March 4, 1927, for purposes of research and education concerning tree and plant life.

The Council meets annually in May at the National Arboretum in Washington, D.C., to receive reports from the arboretum staff on research progress with trees and environmental plants, educational activities, site development, and long-range goals. The Council's findings are reported in writing to the Secretary of Agriculture.

It has been determined that the reestablishment of this Council is in the public interest in connection with the work of the U.S. Department of Agriculture.

Interested parties are invited to submit written comments, views, or data concerning this proposal to John L. Creech, Director, U.S. National Arboretum, Washington, D.C. 20002, by September 13, 1978.

Done at Washington, D.C., this 23rd day of August 1978.

JOAN S. WALLACE,
Assistant Secretary for Administration.

[FR Doc. 78-24288 Filed 8-28-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 32294]

UNITED STATES-BAHAMAS SERVICE INVESTIGATION

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on October 3, 1978, at 9:30 a.m. (local time), in room 1003, hearing room A, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on May 31, 1978, and other documents which are in the docket of this proceeding on file in the docket section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 23, 1978.

WILLIAM A. KANE, Jr.,
Administrative Law Judge.

[FR Doc. 78-24356 Filed 8-28-78; 8:45 am]

[6320-01]

[Order 78-8-100; Docket 33220, et al.]

YUCATAN SERVICE CASE

Order Instituting Investigation for New or Amended Certificates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 17th day of August 1978.

On January 20, 1978, representatives of the United States and Mexico signed an amendment to the Air Transport Agreement of August 15, 1960. The amended bilateral agreement provides U.S. air carriers the opportunity to serve the Yucatan Peninsula points of Merida, Cancun, and Cozumel from 11 U.S. points: Houston, Dallas/Fort Worth, Chicago, Detroit, Cleveland, New York, Washington/Baltimore, Atlanta, Miami, Tampa, and New Orleans. Previously, the only U.S.-carrier gateways to the Yucatan were Houston and New Orleans (to Merida, Cancun, and Cozumel), and Miami/Tampa (to Merida). However, of the seven new U.S. gateways named in the agreement, U.S. carriers may not inaugurate nonstop service to the Yucatan from five—Chicago, Detroit, Cleveland, New York, and Washington/Baltimore—until after October 1, 1980.[1]

The existing service from the United States to the Yucatan is quite limited. Direct flights are available from only four cities, generally by Mexican carriers on a monopoly basis.[2] However, the Board has recently taken two actions to expand U.S.-flag service both on an interim basis. By order 78-6-59, the Board approved Pan American World Airways' application to suspend service temporarily on its Miami/Tampa-Merida route and granted Eastern Air Lines exemption authority to provide replacement service pending completion of the proceeding instituted here.[3] Second, the Board has made a tentative decision to authorize certificated U.S.-flag service from Houston and New Orleans to Merida, Cancun, and Cozumel. On May 12, 1978, at a public meeting to consider a final Board decision in the *Houston/New Orleans-Yucatan Route Proceeding*,[4] we instructed our staff to prepare an order awarding the Houston-Yucatan route to Texas International Airlines and the New Orleans route to Eastern. Both awards are to be temporary.

Applications to serve some of the new United States-Yucatan routes provided in the amended bilateral have been filed by Northwest Airlines, Braniff Airways, and United Air Lines. Northwest (docket 32695) has applied to serve Merida, Cancun, and Cozumel from the coterminal points New Orleans, Detroit, Chicago, and Cleveland; Braniff (docket 32731) seeks authority to serve the same Yucatan points from Dallas/Fort Worth;[5] and United (docket 32913) seeks Yucatan authority from Chicago, Detroit, Cleveland, and New York. The Rhode Island De-

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[1] In addition, nonstop service by a U.S. carrier between Miami and Cancun/Cozumel may not begin until after October 1, 1980.

[2] There is no direct U.S.-flag service currently available from any U.S. point. (Pan American's once-weekly service from Miami to Merida was recently terminated, and Eastern has not yet instituted its replacement service.) Miami is, however, served by daily flights of Mexicana Airlines to Merida, Cancun, and Cozumel. The other U.S. points receiving direct service to the Yucatan are Houston (to Merida, Cancun, and Cozumel), Los Angeles (to Merida), and New Orleans (to Merida), all by foreign flag carriers, principally Mexicana and Aeromexico. Source: Official Airline Guide, August 1, 1978.

[3] Both Pan American's suspension and Eastern's exemption authority were granted until 90 days after final decision in this investigation.

[4] Docket 29789.

[5] Braniff has also applied for authority to serve any points involved in an application that is consolidated for consideration with Braniff's.

partment of Transportation, Division of Airports, has answered in support of United's application. No other answers were filed.

We have decided to institute the *Yucatan Service Case* to consider the need for certificated U.S.-flag service over the 11 United States-Yucatan routes named in the bilateral. In addition to examining the need for first-time service from the seven new United States-Yucatan gateways, this proceeding will consider deletion or suspension of Pan American's Miami/Tampa-Merida authority, and the renewal of any temporary awards granted in the *Houston/New Orleans-Yucatan* proceeding.

We recognize that some of the U.S. points at issue in this proceeding will not be available for U.S.-flag service for more than 2 years, while others are available immediately. However, rather than institute two separate proceedings, we believe it is in the public interest as well as an efficient use of Board resources to consider all the U.S.-gateway points to the Yucatan in a single proceeding. The Board will thereby have greater flexibility to examine the overall United States-Yucatan traffic flow and develop a pattern of service and route authority which offers the greatest potential benefit to the public. In addition, we believe that the short-term needs of the traveling and shipping public for U.S.-flag service to the Yucatan during the pendency of this board proceeding will be met by the service now authorized from Miami/Tampa and the soon-to-be-authorized service from Houston and New Orleans. Only two of the six points eligible for immediate U.S.-flag Yucatan service will be without it during this proceeding—Atlanta and Dallas/Fort Worth—and they can be served in the interim via the New Orleans and Houston gateways, respectively.

In cases such as this, where carrier selection is at issue,[6] it is our policy that the offer or failure to offer lower prices will be taken into account in determining whether the public convenience and necessity require the award of new or additional authority, and, if so, which carrier or carriers should be selected. We therefore expect this proceeding to include an examination of the need for and feasibility of various new price/quality options in addition to the traditional service benefits. Moreover, the parties and the administrative law judge should consider whether any new authority should be temporary and whether contingent backup awards should be made. At the same time, however, we are concerned with reducing the delay and costs of the evidentiary burdens typically associated with traditional carrier selection cases. Accordingly we invite the judge and the parties to explore ways to reduce the quantity of required exhibit material, eliminate duplication and excessive detail, standardize methodology, and focus on significant facts and assumptions. Ultimately, we leave the resolution of these matters to the administrative law judge.

The applications of Northwest, Braniff, and United in dockets 32695, 32731, and 32913 respectively are consolidated to the extent that they conform to the scope of this case. In order 78-6-59 we dismissed the Miami/Tampa-Merida portions of certificate applications of National, Eastern, Western, and Braniff[7] because they did not conform to the scope of the *Florida-Mexico City Investigation* instituted by that order. Accordingly, any of those carriers that wish to apply for the authority at issue here should file new applications and motions to consolidate.

Northwest, Braniff, and United have not submitted sufficient information for us to determine the environmental consequences of their requested certificate amendments. Therefore, we will require them to file environmental evaluations pursuant to part 312 of the Board's procedural regulations. These carriers and all other applicant carriers will be allowed 60 days from the service date of this order to file environmental evaluations.

Applications, motions to consolidate, and petitions for reconsideration shall be filed within 30 days of the date of service of this order, and responsive answers shall be filed within 10 days. The Board intends to reach a final decision (for Presidential review) on or before May 1, 1980.

It is therefore ordered that: 1. A proceeding entitled the *Yucatan Service Case*, docket 33220, be instituted, and set for hearing before an administrative law judge of the Board at a time and place to be designated;

2. The proceeding shall include consideration of the following issues:

(a) Do the public convenience and necessity require certification of one or more air carriers to engage in foreign air transportation on a subsidy-ineligible basis between Merida, Cancun, and Cozumel, Mexico, on the one hand, and the following U.S. points on the other:[8]

(1) Houston, Tex.;
(2) Dallas/Fort Worth, Tex.;
(3) Chicago, Ill.;
(4) Detroit, Mich.;
(5) Cleveland, Ohio;
(6) New York, N.Y.;
(7) Washington, D.C., and Baltimore, Md.;
(8) Atlanta, Ga.;
(9) Miami, Fla.;
(10) Tampa, Fla.; and
(11) New Orleans, La.

(b) If the answer to the subparagraph (a) is affirmative, in whole or in part, which air carrier(s) should be authorized to engage in such service, and what terms, conditions, and limitations, if any, should be placed on the operation of such carriers;

(c) Should Pan American World Airways' authority between Miami/Tampa, Fla. and Merida, Mexico be suspended or deleted; and

(d) Should any temporary authority awarded in the *Houston/New Orleans-Yucatan Route Proceeding*, docket 29789, be renewed, deleted, or otherwise modified;

3. The applications of Northwest Airlines in docket 32695, Braniff Airways in docket 32731, and United Air Lines in docket 32913 be consolidated into the proceeding to the extent they conform with its scope, and to the extent not consolidated, they be dismissed;

4. Northwest Airlines, Braniff Airways, United Air Lines and Pan American World Airways be made parties to this proceeding;

5. Northwest Airlines, Braniff Airways, United Air Lines, and all other carriers filing applications in this proceeding shall file environmental evaluations under section 312.12 of the Board's procedural regulations by October 23, 1978; and

6. Applications, motions to consolidate and petitions for reconsideration of this order shall be filed by September 25, 1978, and responsive answers shall be filed by October 5, 1978.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[9]
Secretary.

[FR Doc. 78-24357 Filed 8-28-78; 8:45 am]

[6335-01]

COMMISSION ON CIVIL RIGHTS

MASSACHUSETTS ADVISORY COMMITTEE

Amendment of Meeting Notice

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Massachusetts Advisory Committee (SAC) of the Commission originally

[6] It was the understanding of the contracting parties to the bilateral that only one U.S. carrier may be designated on each United States-Yucatan route. See, for example, the "Statement of Position of the Department of State" in dockets 32830 (Florida-Mexico City investigation) and 32665 (California/Southwest-Western Mexico route proceeding).

[7] Dockets 31449, 31990, 31992, and 32026 respectively.

[8] These routes correspond to routes D.1 through D.11, respectively, of the amended United States-Mexico Air Transport Agreement.

[9] All Members concurred.

scheduled for September 15, 1978 (FR Doc. 78-22645, on page 36129), has been changed to September 13, 14, 1978.

The meeting place will remain the same as for the time also.

Dated at Washington, D.C., August 24, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-24298 Filed 8-28-78; 8:45 am]

[6335-01]

NEW JERSEY ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Jersey Advisory Committee (SAC) of the Commission will convene at 7 p.m. and will end at 10:30 p.m. on September 22, 23, 1978.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern regional office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C. August 24, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-24299 Filed 8-28-78; 8:45 am]

[6335-01]

WISCONSIN ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Wisconsin Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 12 noon on September 19, 1978, Federal Building, 517 East Wisconsin Avenue, 1st floor, room 170, Milwaukee, Wis.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern regional office of the Commission, 230 South Dearborn, 32nd floor, Chicago, Ill. 60604.

The purpose of this meeting is to review objective and focus for vocational education study of Wisconsin finalize methodology and timetable.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., August 24, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-24300 Filed 8-28-78; 8:45 am]

[3510-24]

DEPARTMENT OF COMMERCE

Economic Development Administration

APPLIANCE HEATER CORP. ET AL.

Petitions for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions were accepted for filing from three firms: (1) Appliance Heater Corp., 281 Canal Street, P.O. Box 433, Shelton, Conn. 06484, a producer of heating elements for small appliances (accepted Aug. 17, 1978); (2) Carmen J. Inc., 350 North 16th Street, Philadelphia, Pa. 19103, a producer of slacks, skirts, and other sportswear for women (accepted Aug. 21, 1978); and (3) Baron Fashions, Inc., 13½ Van Houten Street, Paterson, N.J. 07505, a producer of women's coats (accepted Aug. 21, 1978). The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and section 315.23 of the adjustment assistance regulations for firms and communities (13 CFR part 315).

Consequently, the U.S. Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 78-24258 Filed 8-28-78; 8:45 am]

[3510-15]

Maritime Administration

U.S. MERCHANT MARINE ACADEMY ADVISORY BOARD

Public Meeting

Notice is hereby given of a meeting of the U.S. Merchant Marine Academy Advisory Board (the Board) on September 26, 1978 at 9 a.m., in the 19th Floor Conference Room, Kidder Peabody & Co., Inc., 10 Hanover Square, New York, N.Y.

The Advisory Board to the United States Merchant Marine Academy was established by the Secretary of Commerce under the authority of 46 U.S.C. 1126d to examine the course of instruction and overall management of the U.S. Merchant Marine Academy (the Academy) and advise the Assistant Secretary of Commerce for Maritime Affairs with respect thereto.

The Board consists of not more than seven members appointed by the Secretary of Commerce selected from segments of the maritime industry, labor, educational institutions and other fields relating to the objectives of the Academy.

The agenda for the meeting is:

1. Call meeting to order;
2. Approval of the minutes of the April 21, 1978 meeting;
3. Chair designation of new Board members project assignments;
4. Reports by Board members on present assignments;
5. Status report of ECPD accreditation;
6. Status report on facilities modernization program;
7. Status report on admissions and placements;
8. Status report of fiscal year 1979 budget;
9. Status report of proposed reorganization of education and training functions;
10. Status report on recommendations of disciplinary study; and
11. Setting of date for next meeting.

This meeting is open to public observation and comment. Approximately 80 seats will be available for the public on a first-come, first-served basis.

Copies of the minutes will be available upon request.

Inquiries may be addressed to the Committee Control Officer, Arthur W. Friedberg, Director, Office of Maritime Manpower, Room 3069A, Department of Commerce Building, Washington, D.C. 20230, telephone 202-377-3018.

So ordered by Assistant Secretary of Commerce for Maritime Affairs, Maritime Administration.

Dated: August 24, 1978.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-24364 Filed 8-28-78; 8:45 am]

[3510-17]

Office of the Secretary

[Department Organization Order 40-1; Amdt. 2; Transmittal 409]

INDUSTRY AND TRADE ADMINISTRATION

Department Organization Order Series

This order effective August 9, 1978 further amends the material appearing at 42 FR 64724 of December 28, 1977 and 43 FR 35522 of August 10, 1978.

Department organization order 40-1, dated December 4, 1977 is hereby further amended as shown below. The purpose of this amendment is to establish the Office of International Commercial Representation and prescribe its functions.

1. SEC. 4. *Deputy Assistant Secretary for Administrative Legislative Policy.* Paragraph .06 is added to read as follows:

".06 The Office of International Commercial Representation shall serve as the Department of Commerce representative to the Department of State and other Government agencies on matters relating to the management of Foreign Service programs and resources outside of the United States; develop, coordinate, and present Departmental views on the allocation of economic/commercial (E/C) resources abroad and the assignment of individual E/C officers, as these actions relate to Commerce programs and needs of U.S. business; and insure that all elements of the Department are informed of, and monitor compliance with, requirements, policies, interagency agreements, and programs relating to overseas E/C representation."

2. The organization chart attached to this amendment supersedes the organization chart dated December 4, 1977. A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

Effective date: August 9, 1978.

Approved:

GUY W. CHAMBERLAIN,
Acting Assistant Secretary for Administration.

[FR Doc. 78-24260 Filed 8-28-78; 8:45 am]

[3510-17]

[Department Organization Order 21-3; Transmittal 410]

OFFICE OF REGULATORY ECONOMICS AND POLICY

Department Organization Order Series

This order effective August 11, 1978 supersedes the material appearing at 41 FR 50322 of November 15, 1976.

SECTION *1. Purpose.*

.01 This order prescribes the responsibilities and functions of the Office of Regulatory Economics and Policy.

.02 Department organization order (DOO) 10-2 of November 18, 1977, assigned the functions and personnel of the Office of Regulatory Economics and Policy to the Office of Domestic Economic Policy Coordination. Pursuant to paragraph 5.d., DOO 10-2, the Office of Regulatory Economics and Policy is hereby reestablished as a separate office, reporting to the principal Deputy Assistant Secretary for Policy.

SEC. *2. Status and line of authority.* The Office of Regulatory Economics and Policy, a departmental office, shall be headed by a Director who shall report and be responsible to the principal Deputy Assistant Secretary for Policy. The Director shall be assisted by a Deputy Director who shall be the Director's principal assistant and shall assume the duties of the Director during the absence or disability of the Director, or in the event of a vacancy in that office.

SEC. *3. Functions.*

The Office of Regulatory Economics and Policy (the "Office") shall function as a coordination, analysis, and review group on regulatory policy matters of direct concern to the Secretary and the Assistant Secretary for Policy. In this capacity the Office shall:

a. Coordinate and review departmental activities associated with regulatory policy, to include activities of the Departmental Regulatory Policy Group (the Office Director will chair other Departmental committees relating to regulatory policy as may be appropriate);

b. Conduct studies, as directed, which will: identify significant impacts on the national economy of potential or actual Federal regulatory actions; and help identify alternative means of achieving desired national objectives in a way which will minimize adverse economic consequences;

c. Analyze the implications for the national economy of: proposed major new Federal statutes, regulations, programs, or other actions; and the elimination or modification of existing Federal statutes, regulations, programs, or other actions. This shall include quantitative and qualitative analyses of the direct and indirect, short and long term, domestic and international, impacts of regulatory programs and related activities on the economy, its producing and consuming sectors, and its geographic areas. Particular attention shall be given to the interrelationship among regulations, and to the costs and benefits of regulations. The Office shall perform this function in a lead role, on a departmentwide basis, through its staff or by coordinating the efforts of other departmental offices and operating units within Commerce;

d. Conduct studies, as directed, in anticipation of regulatory issues of significance to the Department;

e. Conduct analyses, as directed, which will: improve data essential for regulatory assessments; provide factual information and data essential to the development of departmental policy positions, and improve the methodology for assessing the costs and benefits of regulatory actions;

f. Conduct substantive reviews of departmental in-house and contractual studies which deal with regulations and related matters. Review study plans, studies in progress, and final reports for the adequacy of the methodology and the relationship of methodology to findings, recommendations, and policy implications; and

g. Conduct, or assist in, as appropriate, the representation of Commerce views to the Office of Management and Budget, and other organizations concerned with regulatory matters.

GUY W. CHAMBERLAIN, Jr.,
Acting Assistant Secretary for administration.

[FR Doc. 78-24259 Filed 8-28-78; 8:45 am]

[6330-01]

THE COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts will meet in open session on Tuesday, September 26, 1978, at 10 a.m. in the Commission Office at 708 Jackson Place NW., Washington, D.C. 20006, to discuss various projects affecting the appearance of Washington, D.C.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

This notice confirms notice of December 27, 1977, published at 42 FR 64651.

Dated in Washington, D.C., August 23, 1978.

CHARLES H. ATHERTON,
Secretary.

[FR Doc. 78-24306 Filed 8-28-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

CLOSED MEETING ACTIVITIES OF ADVISORY COMMITTEES

Public Availability of Reports

Pursuant to section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, and Office of Management and

Budget Circular No. A-63, Revised, reports have been prepared on the former Energy Research and Development Administration advisory committees which held closed or partially closed meetings in calendar year 1976 or 1977. Preparation of reports and publication of notice of availability for calendar year 1976 was not completed in 1977 due to the problems inherent in the reorganization to DOE.

Copies of the reports for both 1976 and 1977 have been filed and are available for public inspection at the Library of Congress, Exchange and Gift Division, Federal Advisory Committee desk; DOE public document room, room No. 1223, 20 Massachusetts Avenue NW., Washington, D.C.; and the Freedom of Information Public Reading Room, room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. Questions concerning these reports may be directed to Georgia Hildreth, Director, Advisory Committee Management, at 202-566-9996.

The names of the advisory committees are listed below:

Committee of Senior Reviewers.
General Advisory Committee.
High Energy Physics Advisory Panel.
Historical Advisory Committee.
Advisory Panel for Review of the Laser Isotope Separation Program.
Task Force on Demonstration Projects as a Commercialization Incentive.

Issued at Washington, D.C., on August 24, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-24257 Filed 8-28-78; 8:45 am]

[3128-01]

Office of Fusion Energy

ALTERNATE CONCEPTS DEVELOPMENT PROGRAM

Meeting

SUMMARY

On October 16-18, 1978, beginning at 9 a.m., a public meeting will be held by the Concept Review Committee of the Office of Fusion Energy, Department of Energy, at DOE, Germantown, Md. for the purpose of gathering and discussing information on candidates for "level 1" alternate concepts. By alternate concept is meant a plasma confinement approach which does not fall within the mainline tokamak or mirror fusion programs, and which appears to show promise for a fusion reactor. A level 1 alternate concept is a concept for which proof-of-principle level tests, as defined below, will be carried out. Background information and details of the meeting follow.

I. BACKGROUND

The Office of Fusion Energy (ETM) is planning to broaden the base of the magnetic fusion program by fostering development of several of the most promising alternate fusion concepts. As part of this development effort, ETM plans to test one or two concepts experimentally at the proof-of-principle (POP) level. This document describes procedures to be used for concept selection, and is not to be construed in any way as a formal Request for Proposals. After concepts have been selected, all DOE procurement procedures and other regulations will be followed in selecting contractors to perform actual POP experiments. For present purposes, a POP experiment can be regarded as a hydrogen plasma confinement experiment in which nearly all of the relevant physics parameters such as collisionality, beta, etc., are near enough to the reactor plasma regime to allow a reasonable extrapolation. Such judgments are subjective, and specific requirements will vary from concept to concept. Typical plasma conditions for such an experiment might be an ion temperature in the keV range and an $n\tau$ product of 10^{12} to 10^{13} cm^{-3} sec. The fabrication of POP experiments in this alternate concepts development program would be initiated in fiscal year 1979 and completed by late fiscal year 1982 or early 1983. Alternate concepts which are to be tested at the POP level will be referred to as "level 1" concepts.

In addition to level 1 concepts, one or more concepts currently in a less developed research stage, which are not ready for a POP experiment, may also be selected for an accelerated development program. These concepts are identified as level 2 concepts. Some research on new concepts, or concepts in a more exploratory stage, i.e. level 3 concepts, will also be supported. An expected result of this selection process is that research on concepts considered less promising will be reduced or terminated.

ETM's alternate concepts program is the responsibility of the Division of Applied Plasma Physics (DAPP), and within DAPP, of the newly formed Advanced Fusion Concepts (AFC) Branch. Level 2 and level 3 concept selections will be carried out by the AFC branch during coming months as part of its overall program responsibility in the alternate concepts area. Candidate concepts for level 2 and level 3 development will include, but not be limited to, all confinement approaches presently supported in AFC programs. The selection process for POP level 1 experiments is described below.

II. CONCEPTS TO BE CONSIDERED FOR ADVANCEMENT TO THE POP LEVEL

The selection of concepts for advancement to the POP stage will be made from among those concepts which possess sufficient definition of critical issues to allow specifications of definitive tests. The methods and criteria by which this selection will be made are described in the following sections. It should be noted that the selection process described here is to be a selection of concepts to be developed, and not a selection of either particular experiments or particular contractors. Presentation by interested parties is invited as one type of input for ETM in formulating its policies regarding the development of alternate concepts. Appropriate supporting experiments, theory, component development, and reactor studies will be initiated as necessary to develop complete POP level 1 programs after concepts have been selected.

Only concepts that currently have a physics data base which is deemed sufficient to allow design of a POP experiment which has a reasonable probability of providing a definitive test of that concept will be considered at this time. A concept requiring an intermediate experiment to define critical issues before a POP sized experimental test of these issues could be designed will not be considered as a candidate. (Such concepts may fit naturally into AFC development plans as level 2 or level 3 activities.) In addition, any concept determined by previous DOE, ERDA, or AEC review to be technically unsound or not having sufficient potential for a viable fusion reactor will not be considered.

III. PROCEDURES TO SELECT CONCEPTS

Evaluation and recommendations of candidate concepts will be made by a Concept Review Committee consisting of members of DOE's Office of Fusion Energy. The Committee will be chaired by the Director of the Division of Applied Plasma Physics. Various Federal Government representatives (for example representatives from Energy Technology, Office of Energy Research and National Science Foundation) will be invited to attend ex-officio. The Committee plans to make its recommendations to the Program Director, Office of Fusion Energy, by October 27, 1978. A more detailed schedule is given below in section VI.

A small group of technical consultants will aid the Committee, primarily in evaluating physics and technology issues. With the aid of the consultants, each concept will be evaluated by the Committee. The Committee will then formulate recommendations on initiation of an alternate concepts level 1 program to the ETM program director. It should be noted that the

recommendations formulated by the Committee may include significant changes in the development plans for the selected concepts from those suggested by the proponents, in order to optimize the overall fusion R&D effort.

IV. Instructions for Presentations to the Committee

As input to its decisions, the Committee will consider plans and suggestions for concept development which are presented to it by proponents of the various candidate concepts. Presentation of material to the Committee will occur by two means: Written submissions and oral presentations before the Committee during the October 16–18 meeting. Written submissions should reach the Committee by October 7, 1978. Technical considerations and time constraints may limit the number and duration of oral presentations to the Committee.

All of the selection criteria mentioned in section V of this notice should be dealt with in the written submissions. It may be possible to cover only a part of these criteria in the time available for oral presentations. The oral presentations should therefore be organized to present the most important information for the concept; belaboring obvious points (whether strengths or weaknesses) will not be the most effective use of time. A suggested format for oral and written presentations is given below:

Format Guidance for Presentations to Committee

- Brief description of the reactor embodiment, to be extracted from the 1977 Alternate Concepts report, if applicable. To include:
  - (a) Specific reactor advantages;
  - (b) Plasma parameters; and
  - (c) Operational scenario (start-up, refueling, quenching, etc.).
- Description of the present state of research and the existing physics data base, including international efforts. To include:
  - (a) Experiments currently in operation, and their parameters;
  - (b) Experiments currently approved and under fabrication (expected plasma parameters and dates);
  - (c) Status of theory; and
  - (d) Scaling laws—overview.
- Discussion of primary physics problems that need to be investigated in the next stages of development.
- Description of the POP experiment facility:
  - (a) Preliminary conceptual design;
  - (b) Device parameters;
  - (c) Expected plasma parameters;
  - (d) Required technology and auxiliary systems; and
  - (e) Cost and schedule.
- Experimental program:
  - (a) Specific physics issues to be investigated;
  - (b) Ability to achieve definitive test of critical physics issues; and
  - (c) Upgrades or modifications which might follow.
- Discussion of relation of this POP experiment to the mainline fusion programs, i.e. tokamaks and mirrors.
- Suggested future devices and overall concept development plan.

Concept development plans should include a description of past, present, and planned devices for the concept under consideration, with a clear description of critical issues to be addressed in each device. In addition, there should be an assessment of the world-wide research effort in the concept area, and a specification of the cost, schedule, performance parameters, and hardware description of the proposed experimental facility. Clearly, a detailed POP experimental device design will not be available for this evaluation unless it was prepared at an earlier date for another purpose. Therefore, only a rough estimate of device characteristics and operating parameters may exist. However, the estimates must be justified on the basis of previously measured experimental data or reasonable theoretical estimates. The device hardware and associated power supplies must be specified sufficiently well to allow judgment of component development requirements.

All persons attending the meeting will have until October 23, 1978, to submit written comments on any of the concepts presented at the public meeting.

V. Concept Evaluation Criteria

The review of candidate concepts will be based on examination of the reactor desirability of the concept, confidence in achieving the critical physics tests, confidence in fabrication and operation of components of the POP experimental device to specification, and the relationship of the suggested POP experiment to the overall program plan for the concept. Cost and schedule information will also be considered.

One source of information for the Committee will be the Alternate Concepts Evaluation conducted by ETM in 1977 (ETM report "An Evaluation of Alternate Magnetic Fusion Concepts—1977", DOE/ET-0047 (May 1978)). New information developed since the 1977 evaluations, and also studies of alternate concepts by other groups such as the Electric Power Research Institute (EPRI), will be considered by the Committee. In conducting its review, the Committee will give appropriate weighting to the varying state of existing knowledge for the concepts. The committee will consider the various items of requested information from presenteres (see section IV above) in this light. The evaluation criteria to be used by the Committee fall into three categories: Technical issues (see V.A, V.B, V.C) resource considerations (V.D), and programmatic issues, including a concept development plan (V.E). In more detail:

A. Reactor Desirability

The concepts should exhibit features that could be developed into an attractive fusion reactor system. Reactor desirability will be an important criterion in the selection process. The time table for completing the concept review procedure is relatively short and there will be no opportunity to generate new reactor studies. Therefore, the evaluation will be made on the basis of existing information. The recent alternate concepts report, DOE/ET-0047, which will be available to the Committee, contains reactor descriptions of the concepts evaluated as well as the results of the evaluation itself. Consideration will not be restricted to concepts covered in the report.

B. Evaluation of the Ability to Achieve Tests of Critical Physics Issues

The evaluation by the Committee of the confidence which can be placed on the proposed POP experiment to address critical physics issues for the concept in a definitive way will be based on examination of physics assumptions with respect to the present data base and existing theory as well as the possible limits imposed on the performance of the experiment by its technology. The issues to be examined include equilibrium and stability, transport, heating, impurities, and fueling.

C. Evaluation of Technology Confidence

The evaluation of the technology confidence for the concept will be based on an examination of individual components for development requirements beyond proven technology. Intermediate (non-reactor-relevant) technology will be acceptable (but not preferred) for the POP experiment if a reasonable program plan can be presented to indicate how the reactor-relevant technology can be developed.

D. Cost and Schedule

Fabrication schedules will be examined particularly for critical path items that may potentially result in delays. Rough cost estimates of the POP experiments, including development costs, will be examined for realism to assess potential funding implications.

E. RELATIONSHIP TO CONCEPT DEVELOPMENT PLAN

Each proposed POP experiment will be evaluated on the basis of its relationship to past, present, and planned experiments described in the requested development plan for the concept. Some questions to be considered by the Committee are: Does the suggested experiment constitute a true POP test? What supporting experiments in the U.S. or other countries are operational or planned that can contribute to the development of the concept? Recognizing that significant information about a concept can be gained from experiments on a different concept, can the proposed experiment be expected to provide a significant extension of plasma parameters and new physics knowledge beyond that obtained in other experiments which are either operational or under fabrication?

VI. SCHEDULE FOR CONCEPT SELECTION

All persons or organizations wishing to make an oral presentation to the Committee at the October 16-18, 1978 meeting, are requested to notify ETM in writing by September 5, 1978, so that a timely agenda can be prepared. This notification should include a short (no more than one page) summary description of the POP experiment to be described to the Committee with basic objectives, parameters, cost, and schedule. An agenda will be prepared based upon the responses. Technical considerations and time constraints may limit the number and duration of oral presentations. A fairly tight schedule for oral presentations at the October meeting is anticipated. Participants will be notified by mid-September.

An estimate of the attendance at the October meeting, including observers, is needed. If you plan to attend, please notify ETM by September 15 so that plans can be made for a suitable meeting room.

REVIEW SCHEDULE

• ETM initial mailing of announcement	Aug. 11, 1978.
• ETM announcement in FEDERAL REGISTER	Approximately Aug. 28, 1978.
• Persons desiring to make oral presentations notify ETM and submit summary descriptions of POP experiment	Sept. 5, 1978.
• Tentative agenda established	Sept. 15, 1978.
• Persons planning to attend notify ETM	Do.
• ETM receives written submissions for committee	Oct. 7, 1978.
• Public meeting—committee hears oral presentations	Oct. 16-18, 1978.
• ETM receives comments from attendees	Oct. 23, 1978.
• Committee makes recommendations to ETM director	Oct. 27, 1978.

Communictions may be addressed to William R. Ellis, Chief, Advanced Fusion Concepts Branch, Division of Applied Plasma Physics, Office of Fusion Energy, U.S. Department of Energy, Washington, D.C. 20545, telephone: FTS 233-3563, Commercial Area Code 301-353-3563, or to any member of the Advanced Fusion Concepts Branch if Dr. Ellis is unavailable.

Issued in Washington, D.C., August 24, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-24368 Filed 8-28-78; 8:45 am]

[3128-01]

Office of Energy Technology

FOSSIL ENERGY ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Fossil Energy Advisory Committee will meet Thursday, September 21, 1978, from 9 a.m. to 5 p.m. at the University of Wyoming student union west ballroom (Laramie Energy Technology Center), Laramie, Wyo. In the event of inclement weather (snowstorms have occurred in Laramie as early as September) the meeting will be held in room 269 (auditorium), 1823 Stout Street, Denver, Colo. Information concerning the location of the meeting can be obtained on September 20 by calling Betty Frazier in Dr. Decora's office at the Laramie Energy Technology Center, 307-328-4212.

The purpose of the committee is to provide the Department of Energy with advice in developing through research, new and more efficient methods of mining, preparing and utilizing coal.

The tentative agenda for the meeting is as follows:

9-9:15—Opening remarks: Dr. William E. Shoupp, Chairman, Fossil Energy Advisory Committee.

9:15-9:30—Introduction and welcoming remarks: Mr. George Fumich, Jr., Program Director for the Fossil Energy Program.

9:30-10:15—Oil shale, in situ technology, aboveground retorting, refining: Dr. Paul Weiber, Mr. Jerry Ramsey, Mr. Richard E. Hildebrand. Resource description; state of the art; DOE program; economic projections; and timing.

10:15-10:45—FEAC discussion on oil shale, in situ technology, mining, aboveground retorting, and refining.

10:45-11:15—Environmental concerns relating to oil shale: Mr. James C. Johnson.

11:15-11:30—FEAC discussion on environmental concerns relating to oil shale.

11:30-12—Commercialization: Mr. Hugh D. Guthrie, Brian M. Harney. Resource description; state of the art; DOE program; economic projections; and timing.

12-12:30—FEAC discussion on commercialization.

12:30-1:45—Lunch.

1:45-2:15—Underground coal gasification: Mr. Edward J. Burwell. Resource description; state of the art; DOE program; economic projections; timing; and environmental concerns.

2:15-2:45—FEAC discussion on underground coal conversion.

2:45-3:15—Report of the Subcommittee on Hot Gas Cleanup Technology: Mr. Larry E. Swabb, Chairman, Subcommittee on Hot Gas Cleanup Technology.

3:15-4:30—FEAC structured comments on DOE synfuels program. Coal gasification, liquefaction and, development projects/third-generation technology.

4:30-4:45—Review and response to FEAC comments and impact of fossil energy program on oil supply: Mr. George Fumich, Jr., Program Director for Fossil Energy.

4:45-5—General discussion; public comment.

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Director, Advisory Committee Management, 202-566-9996, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained by contacting the Advisory Committee Management Office at the above number or Betty Frazier, Office of the Executive Secretary for the Committee, at 202-376-4644.

The transcript of the meeting will be available for public review at the Freedom of Information Public Reading Room, room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:40 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on August 24, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-24256 Filed 8-28-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 956-2]

APPROVAL OF ALTERNATE WATER POLLUTANT TESTING PROCEDURE

Hydrogen Ion (pH) and Ammonia

In accordance with section 136.5, 40 CFR Part 136, "Guidelines for Test Procedures for the Analysis of Pollutants" (FEDERAL REGISTER, Vol. 41, No. 232, Wednesday, December 1, 1976, pp. 52780-52786), the Technicon Instrument Corp. applied for apaproval of new test procedures for the measurement of hydrogen ion (pH) and ammonia. The automated pH electrode procedure is industrial method No. 378-75W/A, October 1976. The automated ammonia electrode procedure is industrial method No. 379-74W/E, February 19, 1976. Manual distillation of samples prior to ammonia measurement may be required as stated in footnote 4, FR 41, No. 232, Wednesday, December 1, 1976, p. 52785.

After a thorough review and evaluation by the Environmental Protection Agency (EPA) of information submitted by the applicant in accordance with § 136.5, the EPA has designated the Technicon methods as approved alternate procedures for nationwide use. All information submitted by the applicant is on file and available for public inspection, to the extent consistent with 40 CFR Part 2 (EPA's regulation implementing the Freedom of Information Act) at the Environmental Monitoring and Support Laboratory, Cincinnati, 26 West St. Clair Street, Cincinnati, Ohio 45268.

As an approved alternate test procedure, the Technicon Instrument Corp. methods are acceptable for use by any person required to use procedures under § 304(h) of the Clean Water Act of 1977. For such use, the procedure must be used in strict accordance with the methods descriptions. The approved methods descriptions are available from Technicon Industrial System, Technicon Instrument Corp., Tarrytown, N.Y. 10591.

Additional information concerning this action may be obtained by writing to the Director, Environmental Monitoring and Support Laboratory, 26 West St. Clair Street, Cincinnati, Ohio 45268.

Dated: August 23, 1978.

STEPHAN J. GAGE,
Assistant Administrator for Research and Development.

[FR Doc. 78-24286 Filed 8-28-78; 8:45 am]

[6560-01]

[FRL 955-4]

CLEAN AIR SCIENTIFIC ADVISORY COMMITTEE OF THE SCIENCE ADVISORY BOARD

Announcement of Membership

Under section 106 of the Clean Air Act Amendments of August 7, 1977, the Clean Air Scientific Advisory Committee of the Science Advisory Board was established.

The Committee will provide independent advice on the scientific and technical aspect of the criteria for air quality standards, research related to air quality, sources of air pollution, and the strategies to attain and maintain air quality standards and to prevent significant deterioration of air quality.

The following persons have been appointed by the Administrator to serve on the Clean Air Scientific Advisory Committee of the Science Advisory Board:

Dr. Sheldon K. Friedlander—Chairman.
Dr. Mary O. Amdur
Dr. Domingo M. Aviado
Dr. Robert Dorfman
Dr. Harry H. Hovey, Jr.
Dr. Judy A. Bean Kondo
Dr. Donald H. Pack

As required by law, the membership includes a Chairman and six members, including at least one member of the National Academy of Sciences, one physician, and one person representing State air pollution control agencies.

RICHARD M. DOWD,
Staff Director, Science Advisory Board.

AUGUST 21, 1978.

[FR Doc. 78-24285 Filed 8-28-78; 8:45 am]

[6560-01]

[FRL 956-1]

NEW HAMPSHIRE DRINKING WATER

Determination of Primary Enforcement Responsibility

This public notice is issued under section 1413 of the Safe Drinking Water Act as amended and 40 CFR Part 142, National Interim Primary Drinking Water Regulations Implementation.

A submission, dated August 31, 1977, has been received from the executive director of the New Hampshire Water Supply and Pollution Control Commission requesting a determination that that agency qualifies for primary enforcement responsibility for public water systems in the State of New Hampshire, in accordance with the provisions of the Act.

On February 13, 1978, I determined that the New Hampshire Water Supply and Pollution Control Commission met all conditions of the Act and subsequent regulations for the assumption of primary enforcement responsibility for public water systems in the State of New Hampshire.

My preliminary determination was published at 43 FR 18611 on May 1, 1978, and opportunity was given to request a public hearing or to submit written comments on the State's application. Such a request was subsequently received and a public hearing was convened on July 11, 1978, in Concord, N.H.

Of three statements received at the hearing, one supported the qualifications of the Water Supply and Pollution Control Commission and two, which dealt with questions of watershed management, did not pertain directly to the requirements for primary enforcement responsibility established by the Act. No additional comments were received during the public comment period.

Therefore, I am affirming my determination that the New Hampshire Water Supply and Pollution Control Commission has met all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for public water systems in the State of New Hampshire.

Dated: August 18, 1978.

WILLIAM R. ADAMS, Jr.,
Regional Administrator.

[FR Doc. 78-24284 Filed 8-28-78; 8:45 am]

[6560-01]

[FRL 955-3]

REGION IX: PREVENTION OF AIR POLLUTION EMERGENCY EPISODES

Guideline To Supplement the California Air Pollution Emergency Plan of March 24, 1977

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of a guideline.

SUMMARY: In March 1977, the California State Air Resources Board (ARB) adopted a revision to the California air pollution emergency plan (hereafter called the "State guideline"). The intended effect of the State guideline, as revised, is to provide guidance to local air pollution control districts (APCD's) in the preparation of emergency episodes plans designed to prevent air pollutant concentrations from reaching levels that could cause significant harm to the public health. The State guideline was submitted to EPA by the ARB in June 1977 as a revision to the California State implementation plan. (SIP).

This State guideline was evaluated by EPA for consistency with Federal requirements and, with certain exceptions, is approved as partial guidance for APCD's to use in the preparation of episode plans. The evaluation is presented in more detail in the supporting "Evaluation Report and Technical Support Document" prepared by EPA and made available at the addresses indicated in the "Supplementary Information" section. To correct the deficiencies noted by comparing the guideline to EPA regulations, EPA has prepared a supplemental guideline which, when followed in conjunction with the State guideline, will provide complete guidance to the APCD's in the preparation of fully approvable emergency episode plans. Where deficiencies were found in the State submittal, EPA has added provisions to the existing sections of the State guideline or has added new sections. The deficiencies noted include (a) the lack of explicit stationary source and traffic abatement plan criteria, (b) the absence of provisions for initiating the abatement plan submittal process, (c) the absence of guidance in developing plans to prevent significant harm levels of nitrogen dioxide, particulate matter, and combined sulfur dioxide and particulate matter, and (d) the exclusion of certain areas of the State from the requirements to prepare episode plans in accordance with the guideline even though those areas have been designated priority I or II (40 CFR 52.221) elsewhere in the SIP and more recently have been designated by the State as nonattainment areas (43 FR 8962, March 3, 1978).

The following additions have been made in the State guideline to correct these deficiencies noted above.

(a) Table 1 has been revised to include episode criteria for the required areas and pollutants.

(b) Episode stage criteria have been added for particulate matter, nitrogen dioxide, combined sulfur dioxide and particulate matter, and 4-hour and 8-hour average carbon monoxide concentrations.

(c) A requirement has been added for the use of California ARB Executive Order G-63 in the preparation of source and traffic abatement plans and further specifies certain additional information to be included in such plans.

(d) The requirement for a "work holiday" to prevent the oxidant significant harm level has been added.

(e) A requirement has been added to specify what sources must submit abatement plans and when the plans are due.

(f) A requirement has been added for interdistrict coordination.

APCD's following this "supplemented" State guideline in the development of individual APCD-wide episode plans will be able to develop plans that satisfy both ARB and EPA requirements. Until all of the individual district episode plans have been approved by EPA, the California air pollution emergency plan will not be considered complete.

EPA has taken no action on the State guideline provisions for episodes involving sulfates, and oxidant in combination with sulfur dioxide, as there are no current Federal requirements relating to these pollutants.

This notice is to inform interested persons that the EPA supplement to the State guideline is available and may be obtained from the EPA region IX office. The EPA invites written public comments on the supplement.

EFFECTIVE DATE: August 29, 1978.

DATES: Written comments on the EPA supplement to the State guideline may be submitted up to 60 days following the date of publication of this notice.

ADDRESS: Send comments to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, Technical Assistance Team, EPA, Region IX, 215 Fremont Street, San Francisco, Calif. 94105.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn: Charlotte Hopper, 215 Fremont Street, San Francisco, Calif. 94105, 415-556-2002.

SUPPLEMENTARY INFORMATION: Section 110(a) of the Clean Air Act requires that State implementation plans (SIP's) contain air pollution emergency episode plans. The original SIP submitted by the State of California on February 21, 1972, failed to meet the requirements specified in 40 CFR 51.16.

On May 31, 1972 (37 FR 10851), EPA disapproved the emergency plan portion of the California SIP. In November 1973, the State of California adopted a revised episode plan, which was submitted to EPA on February 6, 1974. The EPA proposed conditional approval of this SIP revision on June 26, 1974 (39 FR 23069), but this proposal was never finalized.

In March 1975, the California Lung Association and others commenced a citizen suit against EPA and the California State Air Resources Board (ARB) requesting the U.S. District Court for the Central District of California to order EPA to promulgate and enforce an emergency episode plan for the South Coast Air Basin (SCAB) of California (*California Lung Association et al.* v. *Train*, Civil No. 75-1044-WPG). Pursuant to an agreed upon schedule, EPA and the ARB worked together toward Federal approval of an emergency episode plan for the SCAB. On April 12, 1976 (41 FR 15237), EPA approved, as a revision to the SIP, California's October 21, 1975, air pollution emergency plan for three pollutants: Oxidants, sulfur dioxide, and carbon monoxide. Three additional pollutants (nitrogen dioxide, particulate matter, and sulfur dioxide and particulate matter combined) were not addressed in the plan but are required by 40 CFR 51.16.

On June 27, 1977, pursuant to plaintiff California Lung Association's motion, the court ordered EPA to certify that the emergency episode plan approved on April 12, 1976, was fully adequate under the law in all respects (i.e., contained episode plans for all six pollutants), or to withdraw such approval (*California Lung Association et al.* v. *Costle*, Civil No. 75-1044-WPG). The EPA responded to this order with an affidavit, dated July 6, 1977, which stated that since the Agency's April 12, 1976, approval of the plan applied only to the three pollutants specifically set forth therein, EPA concluded, in accordance with the court's order, that the plan was not fully complete. Consequently, on August 11, 1977 (42 FR 40695), EPA rescinded the prior approval, reinstating the disapproval of the emergency episode plan portion of the California SIP.

On March 24, 1977, the ARB adopted a revised air pollution emergency plan which was submitted to EPA as a revision to the SIP on June 1, 1977. On August 8, 1977, the EPA Administrator submitted a second affidavit as required by the court, concerning this recent submittal, stating that EPA intended to approve most of this State guideline for use by the APCD's in developing episode plans. That affidavit also identified the deficiencies in the South Coast Air Quality Management District's Regulation VII (Emergencies) and EPA has taken final action to remedy those deficiencies since the lawsuit was directed primarily toward the South Coast Air Basin (43 FR 22719, May 26, 1978). Subsequently, the EPA developed a supplement to the State guideline to correct deficiencies noted in that document. The following paragraphs describe the State guideline, its deficiencies, and how these deficiencies have been remedied in the EPA supplement to the guideline.

The State guideline outlines requirements to be satisfied by local air pollution control districts (APCD's) in conjunction with industry, business, commerce, government, and the public to prevent air pollution concentrations from reaching levels which could cause significant harm to the public health, and to abate such concentra-

tions should they occur. The State guidelines specifies the pollutants (sulfur dioxide, oxidants, carbon monoxide, and sulfates) and the minimum geographical areas to which the guideline is applicable. It should be noted that EPA has taken no action on noncriteria pollutants, such as sulfates, since Federal significant harm level concentrations have not been established for these pollutants.

If excessive concentrations of pollutants, not specified in the State guideline, occur or are predicted to occur, the guideline provides for abatement actions and such other appropriate actions as may be required to be taken by the affected APCD after consultation with the ARB. The State guideline defines three episode stages, specifying pollutant concentrations and abatement actions for each stage. At each stage, provisions for the curtailment of stationary source and vehicle emissions are included to some degree. The stages may be declared for either attained or predicted levels. A "fourth stage" (air pollution disaster) may be declared by the Governor whenever medical authorities or local officials determine that a substantial number of persons are likely to suffer incapacitating effects from air pollution and that analysis of the data indicates that the condition is likely to continue or reoccur. This stage can be declared regardless of the measured concentration.

The APCD's are required to adopt necessary rules and regulations to implement the State guideline, and the ARB submits these regulations to EPA for inclusion in the California State Implementation Plan (SIP). The APCD's are responsible for declaring episodes, but the ARB may declare an episode after consultation with the APCD if the affected APCD fails to declare it immediately.

The State guideline requires abatement plans for both stationary and mobile sources. The stationary source abatement plans are required for industrial facilities or commercial establishments that may emit 100 tons per year or more of any pollutant specified in the guideline, or any source that may emit 100 tons per year of hydrocarbons (for the control of oxidant episodes). Traffic abatement plans are to be directed toward reduing the emissions from vehicular traffic and must include specific actions to be taken at each episode stage. The abatement plans are reviewed and approved by the APCD's. If the required abatement plans are not submitted to the APCD within the specified time limit, the facility will be considered in violation of the APCD's regulations.

The State guideline places implementation responsibility upon each APCD, and it provides a framework for the APCD to follow in developing rules and regulations governing individual abatement plan requirements and administrative procedures designed to prevent pollutant concentrations from reaching levels which could cause significant harm. EPA recognizes that the emergency episode plan portion of the California SIP will not be complete until implementing rules and regulations are in effect for each APCD required to have such a plan. The EPA, therefore, will review local regulations relative to the State guideline and the EPA supplement to the guidelines, on an individual APCD basis, and will promulgate replacement regulations to correct deficiencies, wherever necessary. A priority order for EPA review has been established to give areas of greatest population concentration and those most likely to experience episodes, initial consideration. This effort requires technical review of ambient air quality, emissions inventories, and potential abatement strategies for 42 APCD's, and the preparation, on a pollutant-by-pollutant basis, of as many as 116 separate episode plans. The review and promulgation will be completed within the next 24 months.

An extensive and detailed comparison of the State guideline and the requirements of 40 CFR 51.16 is found in the "Evaluation Report and Technical Support Document" and is available at the locations specified later in this notice. The following paragraphs briefly describe the deficiencies noted:

1. Three pollutants (nitrogen dioxide, particulate matter, and sulfur dioxide and particulate matter combined) are not included in the State guideline. The EPA guideline supplement establishes the episode criteria and plan requirements for these pollutants.

2. Section VII.C of the State guideline, which contains interdistrict coordination procedures, does not include mandatory emission control actions in the event of the interdistrict air pollution emergency episodes. The EPA guideline supplement makes interdistrict emission control actions mandatory.

3. Section VII.A of the State guideline requires that APCD rules and regulations concerning emergency episode plans be submitted to the ARB for approval. However, the criteria for approval are not specifically stated. The EPA guideline supplement requires that APCD plans to be consistent with the State guideline as supplemented by EPA.

4. Under sections I and VI.C.2 of the State guideline, the ARB is responsible for the enforcement of an APCD's regulations if the APCD does not take reasonable action to abate an episode. The ARB is required by the State of California Health and Safety Code to hold a public hearing before taking actions to enforce APCD regulations. Consequently, section VI.C.2 of the State guideline lacks provisions for immediate ARB enforcement of local APCD plans should the local districts fail to act in an emergency. This is inconsistent with §51.16(a) since the time delay could hinder the prevention or abatement of episodes. However, other State and Federal alternatives are available to remedy this situation. Under section VI.D of the State guideline, the Governor can declare a state of emergency and immediately take appropriate actions to control air pollution disasters. Section VI.C.2 states that the ARB can assume the enforcement responsibility for an APCD's episode regulations after holding a public hearing. Any episode occurring after the ARB has assumed this continuing jurisdiction can be dealt with immediately by the ARB. In addition, EPA has authority under section 303 of the Clean Air Act to act immediately if the State and local agencies are unable or unwilling to control an episode. These alternative actions should adequately provide for the prevention of significant harm level concentrations of the criteria pollutants.

5. Mandatory stage 3 traffic abatement actions to prevent the significant harm levels of photochemical oxidants (O_x) are not provided for in section VIII.B.1.c. (3) of the State guideline. The EPA guideline supplement calls for mandatory stage 3 O_x traffic abatement actions, to include, as a minimum, a "major national holiday" strategy. This strategy is applicable in priority I O_x areas and requires the general public, schools, commercial, industrial, and governmental activities throughout the area to operate as though the day were a major national holiday such as Christmas, New Year's Day, or Independence Day. It should be noted that the south coast air quality management district has already incorporated this type of episode abatement strategy into its rules and regulations. The EPA guideline supplement also calls for a major national holiday strategy for stage 3 NO^2 episodes.

6. Section VI.F of the State guideline does not explicitly establish minimum criteria for the content of individual stationary source or traffic abatement plans. The EPA guideline supplement provides for abatement plan criteria that include the requirements of ARB executive order G-63 (concerning criteria for approval of plans), and additional information concerning facility operations on major national holidays and the specific actions to be taken at each episode stage.

7. Section VII.A.1 requires the submittal of individual abatement plans to the APCD for review within 45 days after notification to the source that such plans are required. The APCD must review the individual abatement plans within an additional 45 days. However, the State guideline contains no provisions for initiating this notification process. Also, the State guideline does not specify the review procedure for the APCD evaluation of the abatement plans. The EPA guideline supplement calls for sources to submit their abatement plans within 45 days after adoption of an emergency episode plan by the APCD, and for the abatement plans to be consistent with the APCD rules and regulations.

8. Section V of the State guideline specifies 1-hour and 12-hour average carbon monoxide (CO) episode criteria. EPA, in 40 CFR 51.16, specifies significant harm levels (SHLs) for 1-,1-, and 8-hour periods. The 1-hour CO criteria are consistent with the EPA requirements, but the 4-hour and 8-hour criteria are not contained in the State guideline. The EPA guideline supplement augments the State guideline with 4-hour and 8-hour CO episode criteria consistent with those suggested in 40 CFR 51, appendix L.

9.§ 51.16 requires contigency plans for all priority I and II regions. A recently adopted regulation 40 CFR 81.305 (43 FR 8962, March 3, 1978) defines the areas within each region that are presently considered nonattainment with respect to the criteria pollutants. The State guideline, section III, however, specifies only certain areas and pollutants for which plans are to apply. Other nonattainment portions of priority I and II regions lie outside the areas of applicability designated in the State guideline. The EPA guideline supplement requires that episode plans be developed for all nonattainment priority I and II areas and pollutants.

The EPA guideline supplement is based on air quality data, emissions data, and control strategy analyses. These analyses are presented in the "Evaluation Report and Technical Support Document." Included in that document is also a recently completed report by Pacific Environmental Services, Inc., presenting the results of a study to develop an air pollution episode plan for nitrogen dioxide, particulate matter, sulfur dioxide, sulfur dioxide and particulate matter combined, carbon monoxide, and oxidants for areas of California outside the south coast air basin.

In translating the substance of the "Evaluation Report and Technical Support Document" into a guideline supplement, EPA has used the State guideline format to insure consistent instructions for the APCD'S to follow in developing their episode regulations. The terminology, numbering system and general procedural details are consistent with the State guideline, e.g., defining "Stage 1" rather than "Alert." The emission reduction requirements are generally consistent with the State guideline, including the content of individual abatement plans, source types that must prepare such plans, and actions to be taken for each episode stage.

Pursuant to section 110 of the Clean Air Act as amended in August 1977, and 40 CFR Part 51, EPA is required to approve or disapprove air pollution emergency episode rules and regulations as SIP revisions. The State guideline, with the EPA supplement, will be used as the basis for evaluating the air pollution emergency episode rules and regulations of the local APCD's. If the APCD regulations submitted to EPA by the California ARB, are determined to be deficient, EPA will propose and promulgate regulations to correct the deficiencies. The EPA hereby issues this notice announcing the availability of the EPA guideline supplement to the California air pollution emergency plan and advises the public that interested persons may submit written comments to EPA. This guideline supplement is immediately effective so that the provisions may be included by APCD's in their regulations as soon as possible. Comments must be received on or before October 30, 1978, to be considered. Comments received will be available for public inspection at the EPA region IX office and the EPA public information reference unit.

Copies of the State guideline, entitled "California Air Pollution Emergency Plan" (Mar. 24, 1977), EPA's supplemental guideline, and "Evaluation Report and Technical Support Document" are available for public inspection during normal business hours at the following locations:

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

Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105.

Environmental Protection Agency, Los Angeles Contact Office, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

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

Copies of EPA's supplemental guideline are available at each air pollution control district in California.

AUTHORITY: Section 110 of the Clean Air Act, as amended (42 U.S.C. 7410).

Dated: July 28, 1978.

FRANK M. COVINGTON,
Acting Regional Administrator.

[FR Doc. 78-24263 Filed 8-28-78; 8:45 am]

[6560-01]

[FRL 958-5]

Office of Enforcement

ARCONOL WAIVER REQUEST

Public Hearing

AGENCY: Environmental Protection Agency.

ACTION: The Environmental Protection Agency (EPA) is amending its earlier notice of a public hearing to consider waiver requests for Gasohol and MTBE (methyl tri butyl ether) which appeared at page 36686 in the FEDERAL REGISTER on August 18, 1978. The hearing will also consider the waiver request for Arconol, a tertiary butyl alcohol which is blended with gasoline.

SUMMARY: Section 211(f) of the Clean Air Act establishes prohibitions and limitations on the use of certain fuels and fuel additives including Arconol. Arconol is added to gasoline in amounts up to 7 percent by volume and is composed of 91-94 weight percent tertiary butyl alcohol, 5-7 weight percent butanes, 0.5-1 weight percent acetone, 0.05-1 weight percent methyl alcohol, and 0.8-1.2 weight percent water. Section 211(f)(4) provides for the granting of waivers to any of these prohibitions or limitations upon a showing by a fuel or fuel additive manufacturer that the fuel or fuel additive will not cause or contribute to a failure of any emission control device or system. Guidelines for the submission of waiver request have been previously published in the FEDERAL REGISTER, 43 FR 24131, June 2, 1978.

The Environmental Protection Agency (EPA) has received a request for a waiver for Arconol from Atlantic Richfield Company, Los Angeles, Calif. The purpose of this notice is to announce the addition of the waiver application for Arconol to the public hearing which will be held on September 6, 7, and 8 at the GSA Auditorium, 18th and F Streets NW., Washington, D.C.

Notice of intent to make comments or submit material should be made by September 5, 1978. Five copies of the proposed testimony and supporting materials should be submitted by this date. Send notice of intent to make comments or submit material to:

Director: Mobile Source Enforcement Division (EN-340), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Margaret Pena, Mobile Source Enforcement Division (EN-340), U.S. Environmental Protection Agency,

401 M Street SW., Washington, D.C. 20460, 202-426-4147.

Vehicle manufacturers are specifically invited to participate in this hearing. Due to the potential impact that any fuel or fuel additive, including Arconol may have on a vehicle manufacturer's ability to meet emission standards, it is anticipated that such participation will be conducive to a fully informed decision by the Administrator. It is recommended that vehicle manufacturers be prepared to discuss in detail the technical merits and deficiencies of the data presented to EPA in support of a waiver request.

A copy of the request for a waiver for Arconol is available for public inspection during normal working hours (8 a.m. to 4:30 p.m.) at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

Dated: August 25, 1978.

MARVIN B. DURNING,
Assistant Administrator for Enforcement.

[FR Doc. 78-24481 Filed 8-28-78; 12:28 pm]

[6730-01]

FEDERAL MARITIME COMMISSION

[Independent Ocean Forwarder License No. 1826]

A & H FREIGHT & TRAVEL, INC.

Order of Revocation

The bond issued in favor of A & H Freight & Travel, Inc., P.O. Box 3603, Riyadh, Saudi Arabia, FMC No. 1836, was canceled effective August 9, 1978.

By letter dated July 13, 1978, A & H Freight & Travel, Inc., was advised by the Federal Maritime Commission that independent ocean freight forwarder license No. 1826 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission general order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

A & H Freight & Travel, Inc., has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in manual of orders, Commission order No. 201.1 (revised) section 5.01(d) dated August 8, 1977;

It is ordered, That independent ocean freight forwarder license No. 1826 be and is hereby revoked effective August 9, 1978.

It is further ordered, That independent ocean freight forwarder license No. 1826 issued to A & H Freight & Travel, Inc., be returned to the Commission for cancellation.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon A & H Freight & Travel, Inc.

ROBERT G. DREW,
Director, Bureau of Certification and Licensing.

[FR Doc. 78-24350 Filed 8-28-78; 8:45 am]

[6730-01]

[FMC-142(a) (Rev. 2-74)]

AGREEMENT FILED

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126, or may inspect the agreement at the field offices located at New York, N.Y.; New Orleans, La.; San Juan, P.R.; and San Franicisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before September 8, 1978. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. 10352.

Filing party: Thomas K. Roche, Esq., P.O. Box 35, Oyster Bay, N.Y. 11771.

Summary: Agreement No. 10352, between Ivarans Rederi A/S and Nopal Atlantic Lines, a division of Oivind Lorentzen, Ltd., provides for the establishment of the Ivaran/Nopal management agreement, whereby Nopal appoints Ivaran to act as managers of Nopal's service in the trade between United States and Mexican ports on the Gulf of Mexico and ports on the east coast of South America, for the trial period commencing approximately September 18, 1978, and concluding prior to February 28, 1979, subject to the terms and conditions set forth in the agreement. In addition thereto, Ivaran will appoint Oivind Lorentzen, Inc., as U.S. general agent for Nopal's service.

By order of the Federal Maritime Commission.

Dated: August 24, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-24349 Filed 8-28-78; 8:45 am]

[6730-01]

[Independent Ocean Freight Forwarder License No. 1782]

CONFOR INTERNATIONAL CORP.

Order of Revocation

On June 19, 1978, Confor International Corp., 350 Broadway, New York, N.Y. 10013, voluntarily surrendered its independent ocean freight forwarder license No. 1782 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in manual of orders, Commission order No. 201.1 (revised), section 5.01(c), dated August 8, 1977:

It is ordered, That independent ocean freight forwarder license No. 1782 issued to Confor International Corp. be and is hereby revoked effective June 19, 1978, without prejudice to reapply for a license in the future.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Confor International Corp.

ROBERT G. DREW,
Director, Bureau of Certification and Licensing.

[FR Doc. 78-24352 Filed 8-28-78; 8:45 am]

[6730-01]

[Independent Ocean Freight Forwarder License No. 1282]

MODERN TRANSPORTATION SERVICES, INC.

Order of Revocation

On August 17, 1978, Modern Transportation Services, Inc., 8192 Newington Road, Newington, Va. 22122, voluntarily surrendered its independent ocean freight forwarder license No. 1282 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in manual of orders, Commission order No. 201.1 (revised), section 5.01(c), dated August 8, 1977;

It is ordered, That independent ocean freight forwarder license No. 1282 issued to Modern Transportation Services, Inc., be and is hereby revoked effective August 17, 1978, without prejudice to reapply for a license in the future.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Modern Transportation Services, Inc.

ROBERT G. DREW,
Director, Bureau of Certification and Licensing.

[FR Doc. 78-24351 Filed 8-28-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

SEMIANNUAL AGENDA OF REPORTS AND REGULATIONS

Credit Practices—Correction

AGENCY: Federal Trade Commission.

ACTION: Correction of publication date of staff report.

SUMMARY: The Commission's report to the President and to the Congress on regulatory reform, and the semiannual agenda of reports and regulations were published in the FEDERAL REGISTER of August 3, 1978, 43 FR 34353. This document corrects the date of publication of the staff report on Credit Practices to January 15, 1979.

FOR FURTHER INFORMATION CONTACT:

David H. Williams, 202-724-1100, Bureau of Consumer Protection.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-21551, published in the August 3, 1978, issue of the FEDERAL REGISTER, on page 34356 in column 3, on line 50, the date of publication of the staff report on Credit Practices is corrected to January 15, 1979.

JAMES M. TOBIN,
Acting Secretary.

[FR Doc. 78-24294 Filed 8-28-78; 8:45 am]

[6820-34]

GENERAL SERVICES ADMINISTRATION

PRIVACY ACT OF 1974

New System of Records

AGENCY: General Services Administration.

ACTION: Notification of new system of records.

SUMMARY: The purpose of this document is to give notice, pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, of intent to establish a new system of records that will be maintained by GSA. The system will consist of case files regarding complaints from citizens who are unable to resolve problems with government agencies. A new system report was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on July 28, 1978.

DATES: Any interested party may submit written comments regarding the proposal. To be considered, comments must be received on or before September 28, 1978. The new system of records shall become effective as proposed without further notice on October 1, 1978, unless comments are received which would result in a contrary determination.

ADDRESS: Address comments to General Services Administration (BR), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT:

Mr. William Hiebert, Records Management Branch, Paperwork Management Division, 202-566-0673.

BACKGROUND

The Federal Information Center (FIC) program is developing a pilot project to begin operations October 1, 1978. This project will involve the handling of complaints from citizens who are unable to resolve problems with government agencies. The complaints will be recorded and filed in case files. FIC staff members will communicate information provided by the clients to other Federal agency officials to resolve the complaints or problems. Detailed information describing the complaints and subsequent resolutions will be recorded in the proposed system of records, Federal Information Center (FIC) Client Case Files. The pilot program will be tested on a limited basis for 6 months, then on a fully advertised basis for 1 year in the State of Florida. In addition, nine other cities will conduct a test using the complaint-handling procedures and records except that they will not advertise or identify complaint handling as a special service. Data and experience drawn from this pilot program will be used to judge whether to expand the complaint handling service as a permanent part of the Federal Information Center program. The proposed new system of records is as follows:

GSA/AV-1 (23-00-0105)

System name:

Federal Information Center (FIC) Client Case Files.

System location:

This system is maintained in the Coordinator's Office, Federal Information Center Program, Washington, D.C. 20405, and in the Federal Information Centers in the following cities:

Miami, Fla.	St. Petersburg, Fla.
Boston, Mass.	Newark, N.J.
Pittsburgh, Pa.	Minneapolis, Minn.
St. Louis, Mo.	Fort Worth, Tex.
Salt Lake City, Utah	Sacramento, Calif.
Seattle, Wash.	

Categories of individuals covered by the system:

Individuals who contact the Federal Information Centers seeking assistance to fill a need or resolve a complaint about government programs and agencies.

Categories of records in the system:

1. Client case files that can concern any agency, organization, or program of the Government and that will describe the details of circumstances presented by clients which generated the FIC contact.
2. Statistical abstracts of individual case files.
3. FIC contact log containing dates of receipt and completion of cases, case file numbers, names of clients, and names of the officials and agencies contacted.
4. Relevant personal information provided by the client.

Authority for maintenance of the system:

Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 377; and Presidential memorandum of October 27, 1969, Better Service to the Public.

Routine uses of records maintained in the system, including categories of users and purposes of such uses:

Information in the records will be communicated to appropriate government agency officials for the purpose of solving complaints, mediating disagreements, or eliciting information on behalf of clients. Statistical reports which will not contain personal identifying information will be produced from the records and analyzed by the FIC program staff and may also be analyzed by an outside expert. Other routine uses are described in the appendix following the GSA notices.

Policies and practices for storing retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper.

Retrievability:

System is cross-indexed by client name, case number, and name of agency which solved the complaint or provided the necessary assistance.

Safeguards:

Records will be stored in lockable metal cabinets and will be available only to authorized persons.

Retention and disposal:

Disposition of records shall be in accordance with the HB, GSA Records

Maintenance and Disposition System (OAD P 1820.2).

System manager and address:

Coordinator, Federal Information Center Program, General Services Administration, GS Building, 18th and F Streets NW., Washington, D.C. Mailing address: General Services Administration (AVS), Washington, D.C. 20405.

Notification procedure:

Individuals may obtain information about whether they are part of this system of records from the official cited above.

Record access procedures:

GSA procedures for record access are contained in 41 CFR 105-64.

Contesting record procedures:

GSA rules for contesting records are contained in 41 CFR 105-64.

Record source categories:

Information in this system of records comes from FIC clients and government agency officials.

Dated: August 16, 1978.

NORMAN L. LINTON,
Acting Director of Administration.

[FR Doc. 78-24311 Filed 8-28-78; 8:45 am]

[4110-88]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory bodies scheduled to assemble during the month of October 1978:

Drug Abuse Training Review Committee, October 4 to 5; 9 a.m., Conference Room K, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.
Open: October 4; 9-10 a.m.
Closed: Otherwise.
Contact: Mr. James F. Callahan, Room 10A-46, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-6720.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to drug abuse training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda. From 9 to 10 a.m., October 4, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Administrator, Alcohol, Drug Abuse and Mental Health Administration, pursuant to the provisions of Title 5, United States Code 552b(c)(6) and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Mental Health Services Research Review Committee, October 4-6; 9 a.m., Holiday Inn—Georgetown, 2101 Wisconsin Avenue NW., Washington, D.C. 20007.
Open: October 4; 9 to 10a.m.
Closed: Otherwise.
Contact: Mr. James T. Cumiskey, Room 11C-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3764.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to mental health services research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 to 10 a.m., October 4, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 United States Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Epidemiologic Studies Review Committee, October 5-6; 9 a.m., Brent Room II, Old Town Holiday Inn, 480 King Street, Old Town Alexandria, Va. 22314.
Open: October 5; 9 to 10 a.m.
Closed: Otherwise.
Contact: Ms. Lavinia Walsh, Room 10C-09, Parklawn Building, 5600 Fishers Lane, Rockville, Mr. 20857, 301-443-3774.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research and training activities in the field of epidemiology and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 to 10 a.m. October 5, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 United States Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Experimental Psychology Research Review Committee, October 5-7; 9 a.m., Suite 605, Holiday Inn, 2505 Wisconsin Avenue N.W., Washington, D.C. 20007.
Open: October 5; 9 to 9:30 a.m.
Closed: Otherwise.
Contact: Mr. John T. Hammack, Room 10-95, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3936.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to experimental psychology research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 to 9:30 a.m., October 5, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 United States Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Research Scientist Development Review Committee, October 12-13; 9 a.m., Sheraton Inn, International Conference Center, Reston, Va. 22091.
Open: October 12; 9 to 11 a.m.
Closed: Otherwise.
Contact: Ms. Barbara Ann Spelman, Room 9C-18, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4347.

Purpose. The Committee is charged with the initial review of grant applications for Research Scientist Development Awards and Research Scientist Awards administered by the National Institute of Mental Health and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 to 11 a.m., October 12, the meeting will be open for discussion of administrative announcements and programs developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 United States Code and section

10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Alcohol Training Review Committee, October 12-13; 9 a.m., Conference Room K, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.
Open: October 13, 9 to 11 a.m.
Closed: Otherwise.
Contact: Ms. Jeanne Trumble, Room 14-C-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1056.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism, ADAMHA, relating to training activities, and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism.

Agenda. From 9 to 11 a.m., October 13, the Committee will be open for reports and announcement of administrative and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Administrator, Alcohol, Drug Abuse and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 United States Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Drug Abuse Research Review Committee October 16-20; 9 a.m., Conference Rooms K, L, and M, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.
Open: October 16; 9 to 9:30 a.m.
Closed: Otherwise.
Contact: Ms. Lucy Stevens, Room 9-46, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-6664.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to research activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda. From 9 to 9:30 a.m., October 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Administrator, Alcohol, Drug Abuse and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 United States Code and section 10(d) of the Pub. L. 92-463 (5 U.S.C. Appendix I).

Crime and Delinquency Review Committee, October 18-20; 9 a.m., Parliament B Room, Holiday Inn Georgetown, 2505 Wisconsin Avenue NW., Washington, D.C. 20007.
Open: October 18; 9 to 11 a.m.
Closed: Otherwise.
Contact: Ms. Carol Beall, Room 18C-04, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3728.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research and training activities in crime and and delinquency, individual violent behavior, and related law and mental health interactions, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 to 11 a.m., October 18, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 United States Code and section 10(d) of Pub. L. 92-463 (5 U.S.C Appendix I).

Metropolitan Mental Health Problems Review Committee, October 19-21; 9 a.m., Conference Room 8-12, The River Inn, 924 25th Street NW., Washington, D.C. 20037.
Open: October 19; 9 to 9:30 a.m.
Closed: Otherwise.
Contact: Ms. Phyllis Pinzow, Room 15-99, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3373.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to metropolitan mental health problems and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 to 9:30 a.m., October 19, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 United State Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Social Work Education Review Committee, October 23-24; 9 a.m.—Open, Conference Room C, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.
Contact: Dr. Milton Wittman, Room 8C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4187.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to social work education and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 a.m. October 23 through early afternoon, October 24, the meeting will be open for administrative announcements and discussion of review criteria in the light of new program initiatives and priorities of the Institute.

Board of Scientific Counselors, NIMH, October 27; 9:45 a.m., NIH Animal Center, Building 110, Poolesville, Md. 20837; October 28; 9 a.m., Building 36, Conference Room 1B-07, National Institutes of Health, Bethesda, Md. 20014.
Open: October 27; 9:45 to 10 a.m.
Closed: Otherwise.
Contact: Dr. John C. Eberhart, Room 1A-05, Building 36, National Institutes of Health, Bethesda, Md. 20014, 301-496-3501.

Purpose. The Board of Scientific Counselors provides expert advice to the Director, NIMH, on the mental health intramural research program through periodic visits to the laboratories for assessment of the research in progress and evaluation of productivity and performance of staff scientists.

Agenda. The Board will meet in Building 110, NIH Animal Center, Poolesville, Md., for approximately 15 minutes for a report by the Director and Deputy Director of Intramural Research, NIMH, on recent administrative developments. The remainder of the 2-day session will be devoted to the review of intramural research projects from the Laboratory of Brain Evolution and Behavior and the Clinical Neuropharmacology Branch, and the evaluation of individual scientific programs, and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 United States Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Community Alcoholism Services Review Committee, October 27-30; 8:30 a.m., Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Md. 20014.
Open: October 27; 8:30 to 10 a.m.
Closed: Otherwise.
Contact: Mr. Sidney Leopold, Room 11-10, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1374.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the

program areas administered by the National Institute on Alcohol Abuse and Alcoholism relating to alcoholism services activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda. From 8:30 to 10 a.m., October 27, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 United States Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact persons listed above. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the Committee members is Dr. Jacquelyn Hall, Acting Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15C-17, Parklawn Building, 301-443-4573. The NIAAA Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mr. Harry Bell, Associate Director, Office of Public Affairs, NIAAA, Room 11A-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3306. The NIDA Information Officer who will furnish summaries of the meeting and rosters of the Committee is Ms. Mary Carol Kelly, Program Information Officer for Drug Abuse, NIDA, Room 10-18, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-6245.

Dated: August 24, 1978.

ELIZABETH A. CONNOLLY,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-24297 Filed 8-28-78; 8:45 am]

[4110-88]

MINORITY ADVISORY COMMITTEES

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 US.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of September 1978:

Minority Advisory Committee, ADAMHA, September 13-15—Open meeting.

September 13; 1 p.m.—Conference Room 17-09B, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

September 14 and September 15; 9 a.m.—Conference Room 17-09B, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

Contact: Mr. Ernest Hurst, Room 13C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3838.

Purpose. The Minority Advisory Committee, ADAMHA, advises the Secretary, Department of Health, Education, and Welfare, and the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, on needs, programs, and activities regarding minority alcohol, drug abuse, and mental health matters, and makes recommendations for possible solutions which meet the needs and concerns of minority groups throughout the United States. The Committee functions in an advisory capacity to the Administrator, ADAMHA, on these matters which relate to the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health.

Agenda. This meeting will be open to the public. The Committee will discuss plans for implementing recommendations of the National Conference on Minority Group Alcohol, Drug Abuse and Mental Health issues and of the President's Commission on Mental Health. The agenda items also include completion of the 1978-79 Work Plan, the role of the Committee in the 1978 State and Territorial Alcohol, Drug Abuse, and Mental Health Conference, and a discussion with the Administrator.

Mr. James C. Helsing, Deputy Director, Office of Public Affairs, ADAMHA, will furnish, on request, summaries of the meeting and a roster of the Committee members. Mr. Helsing is located in Room 6C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3783.

Dated: August 24, 1978.

ELIZABETH A. CONNOLLY,
Committee Management Officer, Alcohol, Drug Abuse and Mental Health Administration.

[FR Doc. 78-24296 Filed 8-28-78; 8:45 am]

[4110-03]

Food and Drug Administration

[Docket No. 77P-0280]

LASER IMAGES, INC.

Approval of Variance for Laserium Projector

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces that a variance from a provision of the performance standard for laser products has been approved for a demonstration laser product manufactured by Laser Images, Inc., 6911 Hayvenhurst Avenue, Van Nuys, Calif. The variance will apply to a product identified as a Laserium projector designed to project variable, colored patterns on a diffusing display screen, usually in an auditorium. The principal use of this product is to provide entertainment to general audiences.

DATES: The variance becomes effective September 28, 1978, and shall end September 28, 1983. Written objections and supporting data by September 28, 1978.

ADDRESS: Written objections and supporting data may be sent to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Conklin, Bureau of Radiological Health (HFX-460), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: The variance is approved under § 1010.4 (21 CFR 1010.4), which establishes a procedure for the granting of variance electronic products for which there are performance standards promulgated under section 358 of the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f). Under section 358 performance standards have been promulgated for laser products (21 CFR 1040.10 and 1040.11).

The provisions of § 1040.11 (21 CFR 1040.11) establish special requirements for specific purpose laser products. The Laserium projector is regarded as a demonstration laser product, as defined in § 1040.10(b)(10) (21 CFR 1040.10(b)(10)), which is subject to the special requirements of § 1040.11(c). Section 1040.11(c) requires demonstration laser products to comply with all of the applicable provisions of the performance standard for laser products (§ 1040.10) for a class I or class II product. It also requires that demonstration laser products shall not permit human access, as defined in § 1040.10(b)(12), to laser radiation in excess of the accessible emission limits of whichever class applies to the product. Under the terms of this variance, the Laserium projector will deviate from these requirements in that the radiation emissions from such projector will exceed the specified emission

limits of class II when measured according to § 1040.10(e).

The applicant advises that the Laserium projector consists of a laser projector cabinet (containing the laser and projection optics), a control console and a surrounding protective barrier that is 4 feet in height and has an access door. The projector cabinet houses a nominal 1 watt ion laser with an attached optical system to separate spatially the laser radiation into the various spectral components and to project a variable pattern with each component onto a diffusing large-area display screen. The projector cabinet and control console are located on the floor, with the projector aperture (thus all laser beams emitting from the aperture) high above the audience floor or other standing surface. The applicant claims that during a performance, the Laserium projector is at all times under the control of an operator, who is a specially trained employee of Laser Images, Inc., and that if a member of the audience attempted to climb to the elevation of the projector aperture, the operator could immediately eliminate any radiation emitted from the projector through a control on the console.

The applicant has requested that the level of class III for all laser radiation emitted between 400 nanometers (nm) and 700 nm be permitted for the Laserium projector for applications as defined in § 1040.10(b)(10). In typical settings for use, such as a planetarium, each color component of the laser beam must be projected at a power level of several tens of milliwatts (mW) to retain the desired visibility to the audience upon scattering from the diffusing screen (although the viewed radiation is below the class I accessible emission limits). Class II levels of visible laser radiation, when projected the usual 25 to 100 feet distance and in a time-dependent pattern upon a large-area diffusing display screen, are stated by the applicant to be of low visibility. Thus, class III levels are required for the suitable functioning of the product.

The radiation emission limits in § 1040.11(c) are intended to protect audiences from injury by demonstration laser products. These limits were set at levels to prevent an inordinate hazard from a single exposure of the eye. This particular variance approval is important because the Food and Drug Administration is studying the application of demonstration laser products in audience entertainment when class III laser products are employed in artistic compositions.

The Director of the Bureau of Radiological Health has consulted with the applicant and staff members of the Bureau have inspected several of the Laser Images, Inc., installations to determine the radiation safety performance concepts that should be incorporated into the variance approval to provide alternate or suitable means of protection, equivalent to those required by § 1040.11(c).

The Commissioner of Food and Drugs advises that for purposes of classification of demonstration laser products, "human access" is interpreted to mean that all laser radiation emitted from the projector is accessible, and measurement of the radiation is to include the procedures in § 1040.10(e). However, the direct contribution of the operator to the radiation safety of the laser product has been considered in approving this variance. Because the operator can prevent human access to class III levels of radiation, certain restrictions are placed upon the operator and the operator's use of the Laserium projector. The adequate training and the conduct of the operator regarding radiation safety shall be the responsibility of Laser Images, Inc.

The concept of a protective housing to prevent human access to laser radiation is used extensively within the performance standard for laser products. Another concept, that of the use of a protective barrier, has been introduced in this variance. The purpose of the protective barrier, however, is to restrict or impede access (rather than to preclude or prevent access) by the audience or other unauthorized persons to the radiation, the projector cabinet, or the control console long enough for the operator to terminate emission of class III levels of laser radiation from the product.

Additional control of human access to class III levels of radiation emitted from the Laserium projector has been achieved by establishing 3 meters as a minimum height of the radiation above the floor or any surface upon which the audience may be likely to stand, e.g., bleachers but not the usual theater seats. Laser Images has stated in its application that physical constraints in certain facilities would prevent it from complying with the minimum height of 3 meters for all laser radiation in excess of the class II limits; thus, for these installations: (1) The minimum height is 2.5 meters; and (2) between a height of 2.5 and 3 meters, power levels up to 5 mW may exist for brief periods during a performance. Where it is shown that the need for noninterference with a previously existing use prevents elevation of the Laserium projector to provide the minimum height of 3 meters for the radiation in excess of class II limits, then the alternate provision of condition 8 of this variance may be used as the requirement for minimum height limits above audience areas. Where, however, a previously existing use ceases, or there was no previously existing use, or elevation of the projector would not result in interference with an existing use, then the minimum height requirement of 3 meters for all laser radiation in excess of the class II limits must be used. The Director of the Bureau of Radiological Health believes that at these heights substantial effort would be required by a person to expose directly any part of the human body to the laser radiation, especially the eyes. Gaining access to the radiation above the 3-meter minimum height would require that a person stand on an object such as a chair, a theater seat, a ladder, the back of another person, or that a person extend a long-handled highly reflective object into the laser beam. Access to the height-zone between 2.5 and 3 meters could be achieved more easily; however, compensating safety considerations have been imposed. The power levels that may be present in this zone have been restricted to be no greater than 5 mW, and power levels above the class II limit but less than or equal to 5 mW may not at any particular point produce a single exposure of more than 7 seconds duration nor a cumulative exposure of more than 30 seconds duration in each 5-minute interval. Because it would be extremely difficult to predict the time and location of the higher radiation levels in the randomly moving and varying patterns present in the 2.5 to 3 meter height-zone, the likelihood of exposure for even 7 seconds is believed to be remote. A greater minimum height would have been chosen if the product could emit radiation without an operator in attendance.

Therefore, the Director of the Bureau of Radiological Health has approved the requested variance for the Laserium projector under the following conditions:

1. All laser radiation generated by the Laserium projector and external to the protective housing shall be considered accessible for classification purposes under § 1040.10(d).

2. The Laserium projector shall not permit human access to laser radiation in excess of the accessible emission limits of class I in the wavelength range of greater than 250 nm but less than 400 nm and in the wavelength range of greater than 700 nm but less than 13,000 nm.

3. The Laserium projector shall comply with all of the applicable requirements as specified in § 1040.10 for laser products of its class, which shall be no higher than class III (§ 1040.10(c)). The measurement of laser radiation to determine if the class III accessible emission limits specified in table I-C of § 1040.10(d) are exceeded shall be in accordance with § 1040.10(e), except that the mea-

surement shall be made with a solid angle of acceptance of 2 pi steradians for the specified circular aperture stop, or their equivalent.

4. The Laserium projector shall have a protective barrier around the projector cabinet, control console, and operator work area to restrict access to the projector cabinet and control console by persons other than the operator or those authorized by Laser Images, Inc.

5. Access to the Laserium projector and the control console shall be restricted exclusively to the operator by use of key locks.

6. The Laserium projector shall have a separate emergency control for preventing and terminating generation of laser radiation. The operator shall use the emergency control in the event that a member of the audience or other unauthorized person attempts to intercept class III levels of laser radiation.

7. The laser and collateral radiation transmitted to any viewers or audience shall not exceed the limits of class I. This includes radiation reflected from (or transmitted through) the display screen, any other target area, or coming directly from the projector. The measurement of laser and collateral radiation to determine compliance with this condition shall be made at positions where the audience may be located.

8. Class III levels of laser radiation emitted from the projector shall: (a) Be no closer than a height of 3.0 meters above the floor or any surface upon which the audience may be likely to stand, except as provided in the second sentence of this paragraph; (b) be no closer than 2.5 meters from a protective barrier that restricts access to the laser radiation from other directions, such as horizontally or from above the radiation; and (c) terminate on a surface near the perimeter of the audience. Alternately, if physical constraints prohibit meeting the minimum, height of 3 meters, then: (a) Levels of laser radiation in excess of 5 mW shall be no closer than a height of 3.0 meters above the floor or any surface upon which the audience can be supported; and (b) levels of laser radiation in excess of 1 mW but less than or equal to 5 mW shall be no closer than a height of 2.5 meters above the floor or any surface upon which the audience can be supported and, at any point between 2.5 meters and 3.0 meters, be present no longer than 7 seconds or a cumulative total of 30 seconds out of each 5-minute interval.

9. The operator shall be within the operator work area enclosed by the protective barrier while the projector is capable of emitting laser radiation of the levels of class III.

10. Each authorized operator of the Laserium projector shall be an employee of Laser Images, Inc., which shall be responsible for the adequate training and the conduct of the operator regarding radiation safety of the Laserium projector.

11. The provisions of this variance approval are to be provided with the operator information required by § 1040.10(h).

Under the conditions prescribed, the applicant will use suitable means for providing radiation protection in accordance with § 1010.4(a)(2). Therefore, the variance is granted for a period of 5 years. The applicant is also directed to modify, in accordance with § 1010.4(d), the tags, labels, or other certification required by § 1010.2, under this variance, to state the following: "This product is in conformity with HEW performance standards for laser products, 21 CFR part 1040, except with respect to those characteristics authorized by variance No. 78001, effective September 28, 1978."

The Commissioner of Food and Drugs has reviewed the potential environmental impact of this variance and has concluded that the action will not significantly affect the quality of the human environment and that an environmental impact statement is not required. A copy of the environmental impact assessment report is on file in the office of the hearing clerk, Food and Drug Administration (address noted above).

Variance No. 78001 shall become effective September 28, 1978, and terminate September 28, 1983, unless written objections and supporting data are filed with the hearing clerk (HFA-305), Food and Drug Administration, on or before September 28, 1978, requesting that the variance be modified or not granted. Upon receipt of such objections and supporting data, the effective date of the variance will be stayed until the Director, Bureau of Radiological Health, rules on them. Under § 1010.4(c)(3), the applicant shall be notified by certified mail, and a notice of the stay shall be published in the FEDERAL REGISTER. The ruling on the objections shall be made on or before October 30, 1978 and shall be published in the FEDERAL REGISTER, and shall constitute final agency action subject to judicial review.

The application for this variance and all related correspondence, except information covered by the confidentiality provisions of section 360A(e) of the act (42 U.S.C. 263i(e)), have been placed on public display in the office of the hearing clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be seen Monday through Friday, from 9 a.m. to 4 p.m., except on Federal legal holidays.

Dated: August 18, 1978.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-24025 Filed 8-28-78; 8:45 am]

[4110-03]

[Docket No. 78N-0230]

NEW ANIMAL DRUG PRODUCTS CONTAINING SULFANITRAN, DIBUTYLTIN DILAURATE, DINITRODIPHENYLSULFONYLETHYLENEDIAMINE, AND 3-NITRO-4-HYDROXYPHENYLARSONIC ACID

Opportunity for a Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document gives opportunity for a hearing on a proposal to withdraw approval of a new aminal drug application (NADA) for two products containing sulfanitran, dibutyltin dilaurate, dinitrodiphenylsulfonylethylenediamine, and 3-nitro-4-hydroxyphenylarsonic acid. New information shows there is a lack of substantial evidence that the products are safe and effective under the conditions of use described in the labeling.

DATE: A written apprearance requesting a hearing must be submitted by September 28, 1978.

ADDRESS: Requests must be submitted to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 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: The Director of the Bureau of Veterinary Medicine of the Food and Drug Administration (FDA) (the Director) is providing an opportunity for a hearing on a proposal to withdraw approval of NADA 9-638, held by Salsbury Laboratories, 500 Gilbert Street, Charles City, Iowa 50616, for the products polystat and polystat-3. The original application was approved December 13, 1954 and there have been no supplements to that approval. Polystat contains 30 percent sulfanitran, 20 percent dibutyltin dilaurate, 20 percent dinitrodiphenylsulfonylethylenediamine, and 2.5 percent 3-nitro-4-hydroxyphenylarsonic acid. The difference between polystat and polystat-3 in formulation is that polystat-3 contains 5 percent 3-nitro-4-

hydroxyphenylarsonic acid instead of the 2.5 percent in polystat. The products are mixed in feed, 2 pounds in each ton of complete feed, and fed to chickens and turkeys as a claimed aid in preventing coccidiosis, large roundworms, and tapeworms; for increased rate of weight gain, improved feed efficiency, and improved pigmentation for growing chickens and turkeys; and as an aid in preventing hexamitiasis in turkeys.

In the FEDERAL REGISTER of September 12, 1970 (35 FR 14412), the Commissioner of Food and Drugs announced the conclusions of FDA and the National Academy of Sciences—National Research Council (the Academy), Drug Efficacy Study Group, relating to polystat-3. The Academy evaluated the product as:

(1) Effective as an aid in the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix,* and *E. acervulina* in chickins, and *E. meleagridis, E. melegrimitis,* and *E. gallopavonis* in turkeys.

(2) Effective as an aid in preventing hexamitiasis in turkeys.

(3) Probably not effective as an aid in preventing tapeworms and large roundworms in chickens and turkeys.

No evaluation was made of claims for use of the product as an aid in stimulating growth, increasing feed efficiency, and improving pigmentation in chickens and turkeys because the applicant did not submit data pertinent to these claims.

The Academy further stated that:

(1) Available data are inadequate to support efficacy of anthelmintic claims.

(2) Each active ingredient in a preparation contining more than one drug must be effective, or contribute to the effectiveness of the preparation, to warrant acceptance as an active ingredient.

(3) Claims for growth promotion or stimulation are disallowed and claims for faster gains and/or feed efficiency should be stated as "may result in faster gains and/or improved feed efficiency under appropriate conditions in chickens and turkeys."

The announcement stated that the findings were being published to inform the holders of NADA's of the findings of the Academy and FDA and to inform all interested persons that such articles must be the subject of approved NADA's. Six months were provided in which to submit substantial evidence of effectiveness.

The Academy reviewed only polystat-3 because this was the product submitted for review. The findings of the Academy and the notice on polystat-3 apply equally to polystat, because the only significant difference between the two is the level of 3-nitro-4-hydroxyphenylarsonic acid. No data demonstrate that reducing the level of 3-nitro-4-hydroxyphenylarsonic acid in the combination will affect the effectiveness of the product for any of the claims questioned by the Academy. The firm has not submitted an efficacy data to substantiate the claims made in the labeling since publication of the drug efficacy study announcement, nor has the firm submitted any data to establish that each active ingredient in the preparations is effective or contributes to the effectiveness of each preparation as stated in the drug efficacy study notice and as required by § 514.1(b)(8)(v) of the animal drug regulations (21 CFR 514.1(b)(8)(v)).

In addition to the deficiencies regarding efficacy, no data have been submitted to support the withdrawal period for dibutyltin dilaurate, sulfanitran, and either level 3-nitro-4-hydroxyphenylarsonic acid in combination.

Section 108(b)(2) of the Animal Drug Amendments of 1968 (Pub. L. 90-399 (82 Stat. 353)) provides that any approval prior to the effective date of the amendments of a new animal drug through approval of an NADA, master file, antibiotic regulation, or food additive regulation, continues in effect until withdrawn. Many such approvals were made long ago and may never have been used by the holder of the approval. Consequently, the current FDA files may be incomplete and may fail to reflect the existence of some approvals. Therefore, the burden of coming forth with proof of an unnamed approval is properly placed on the holder.

The Director does not know of approvals affected by this notice other than the one named above. 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 of 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 an existence of such approval is presented, this notice shall also constitute a notice of opportunity for a hearing with respect to that approval under the same requirements as for the approvals named in this notice.

Section 512 of the Federal Food, Drug, and Costmetic Act (21 U.S.C. 360b) requires that new animal drugs be safe and effective under the conditions of use prescribed, recommended, or suggested in the labeling.

On the basis of all the data and information available to him, the Director is unaware of any adequate and well-controlled clinical investigations establishing effectiveness for the drug claims questioned in the Academy's findings. in addition, no data are available establishing efficacy of the individual components of the combination drug product as required by § 514.1(b)(8)(v) of the animal drug regulations. Furthermore, residue data supporting a withdrawal period have never been submitted.

On the basis of the new evidence cited herein which was not contained in the application when the application was approved, evaluated together with the evidence available when such applications were approved, the Director is unaware of data establishing that the drugs are shown to be safe for use under the conditions of use upon the basis of which the application was approved that meet the requirements of section 512(e)(1)(B) of the act and § 514.115 of the animal drug regulations.

Therefore, notice is given to Salsbury Laboratories 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 the applications named above because new information before him concerning such products, evaluated together with the evidence available to him at the time of the approval of such products, shows there is a lack of substantial evidence that the products will be safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling.

In addition to the grounds for the proposed withdrawal of approval, this notice of opportunity for a hearing encompasses all issues relating to the legal status of the drug products subject to it, e.g., any contention that such product 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 section 512 of the act, section 108 of Pub. L. 90-399, and the regulations promulgated thereunder (Part 514 (21 CFR Part 514)), the holder of the approvals for the drug products named above and all other persons subject to this notice are hereby given an opportunity for a hearing to show why approval of the products should not be withdrawn and an opportunity to raise, for administrative determination, all issues related to the legal status of the drug products named above. Any other interested person may also submit comments on this notice within the time and pursuant to the requirements specified in this notice.

The holder of the approvals and any other persons subject to this notice shall file, on or before September 28, 1978, a written appearance electing whether or not to avail themselves of

an 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.

The failure of the holder of an approval to file timely written appearance and request for hearing as required by § 514.200 (21 CFR 514.200) constitutes an election not to avail itself of the opportunity for a hearing, and the Director will summarily enter a final order withdrawing the approval.

A request for a hearing may not rest upon mere allegations or denials, but must set forth the specific facts showing that there is a genuine and substantial issue of facts that requires a hearing. If it conclusively appears from the face of the data, information, and the factual analysis in the request for hearing that there is no genuine and substantial issue of fact that precludes the refusal to approve the application or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person who requests a hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice must be filed in four copies with the Hearing Clerk, Food and Drug Administration, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905. Responses to this notice may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, between 9 a.m. and 4 p.m., Monday through Friday.

If a hearing is requested and is justified by the applicant's response to this notice of opportunity for a 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 begin will be issued as soon as practical.

Any hearing on the proposal to withdraw this approval will be open to the public. If, however, the Director finds that portions of the application that serve as a basis for such hearing contain information concerning data that are entitled to protection as a trade secret, that part of the hearing will not be public, unless the respondent so specifies.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b)) and under authority delegated to the Commissioner (21 CFR 5.1), and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84).

Dated: August 21, 1978.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-24026 Filed 8-28-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 34266]

NEW MEXICO

Application

AUGUST 18, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 7 W.,
Sec. 18, lot 6, SE¼NW¼, NE¼SW¼ and NW¼SE¼.

This pipeline will convey natural gas across 0.370 of a mile of public land in Rio Arriba County, N.M.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-24208 Filed 8-28-78; 8:45 am]

[4310-84]

[NM 34264, 34265, 34267]

NEW MEXICO

Applications

AUGUST 17, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for two 4½-inch and one 8⅝-inch natural gas pipelines rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 19 S., R. 28 E.,
Sec. 35, SW¼SW¼.
T. 20 S., R. 28 E.,
Sec. 6, SW¼NE¼ and W½SE¼;
Sec. 11, E½W½;
Sec. 14, NE¼NW¼.
T. 26 S., R. 37 E.,
Sec. 11, E½SW¼.

These pipelines will convey natural gas across 1.724 miles of public lands in Eddy and Lea Counties, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-24207 Filed 8-28-78; 8:45 am]

[4310-84]

Bureau of Land Management

[NM 34155 and 34156]

NEW MEXICO

Applications

AUGUST 18, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corp. has applied for six 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 5 W.,
Sec. 5, SE¾NW¼;
Sec. 35, E½SW¼.
T. 31 N., R. 5 W.,
Sec. 8, SW¾SE¼;
Sec. 17, N½NE¼;
Sec. 29, NE¼NE¼.
T. 29 N., R. 6 W.,
Sec. 1, lot 7 and SE¼NW¼.
T. 31 N., R. 6 W.,
Sec. 26, SE¼SE¼;
Sec. 35, NE¼NE¼;
T. 31 N., R. 8 W.,
Sec. 6, lot 1, SE¼NE¼ and E½SE¼.

These pipelines will convey natural gas across 1.519 miles of public lands in Rio Arriba and San Juan Counties, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be ap-

proved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. 6770, Albuquerque, N. Mex. 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-24307 Filed 8-28-78; 8:45 am]

[4310-84]

[ES 17763, Survey Group 101]

WISCONSIN

Filing of Plat of Survey

On July 7, 1977, a plat of dependent resurvey and survey of omitted lands in section 22, T. 33 N., R. 2 E., Fourth Principal Meridian, Wis., was accepted. It will be officially filed in the Eastern States Office, Silver Spring, Md., as of 10 a.m. on September 22, 1978.

The plat represents retracement of the boundaries of the section and reestablishment of portions of the record meander lines. In order to determine the extent of lands omitted from the original survey, the plat of section 22 represents the survey of the present meander lines of Kennedy Lake.

The new acreages and lottings, which are shown below, describe lands omitted from the original survey. They encompass the areas between the reestablished original meander lines, which are now recognized as fixed boundary lines, and the present meander lines of Kennedy Lake. They are described as follows:

FOURTH PRINCIPAL MERIDIAN, WISCONSIN

T. 33 N., R. 2 E.
Sec. 22: Lot 7 (20.30 acres), Lot 8, (41.90 acres).

The area described aggregates 62.20 acres, more or less.

Lots 7 and 8, section 22, are of a rolling nature. Most of section 22 has vegetation comprised of second growth timber consisting of ash, aspen, balsam, basswood, birch, cedar, maple, spruce, and tamarack. The soil content of lot 8 is gravelly clay loam, while that of lot 7 is muskeg.

Lot 8, section 22, was determined to be over 50 percent upland in character within the meaning of the Swamplands Act of September 28, 1850. It is, therefore, held to be public land.

For a period of 90 days from September 22, 1978, claimants under the act of February 27, 1925 (43 Stat. 1013; 43 U.S.C. 994), have a preferred right of application to lot 8, section 22. Claimants under the act of August 24, 1954 (68 Stat. 789; 43 U.S.C. 1221-1223) have 1 year from September 22, 1978 to apply for the subject lot. Except for valid existing rights, these lots will not be subject to application, petition, selection, or to any other type of appropriation under any other public land laws, until a further order is issued.

Lot 7, section 22, has been determined to be more than 50 percent swamp in character within the purview of the Swamplands Act of September 28, 1850. Title to this lot inured to the State of Wisconsin as of that date. Therefore, lot 7 is open only to selection by the State under that act.

All inquiries relating to these lands should be sent to the Director, Eastern States, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Md. 20910.

DAVID P. LODZINSKI,
Acting Director, Eastern States.

[FR Doc. 78-24209 Filed 8-28-78; 8:45 am]

[4310-31]

DEPARTMENT OF THE INTERIOR

Geological Survey

[Int DES 78-35]

ENVIRONMENTAL IMPACT STATEMENT

Availability of Draft Statement Coal Creek Mine, Campbell County, Wyo.

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental impact statement on the proposed Coal Creek surface coal mining operation by the Atlantic Richfield Co. in Campbell County, Wyo. The draft statement assesses the environmental impacts of the lessee's plan for the surface mining of federally owned coal and the concurrent reclamation and revegetation of surface lands. The proposed action is on Federal coal lease W-3446, located 25 miles (40km) southeast of Gillette, Wyo., in Campbell County.

The draft environmental impact statement is available for public review in the U.S. Geological Survey Public Inquiries Office, 169 Federal Building, 1961 Stout Street, Denver, Colo. 80202; the U.S. Geological Survey Library, Building 25, Denver Federal Center, Denver, Colo. 80225; the U.S. Geological Survey Library, Room 4A100, National Center, Reston, Va. 22092; the Converse County Library, 300 Walnut Street, Douglas, Wyo. 82633; the George Amos Memorial Library, 412 South Gillette Avenue, Gillette, Wyo. 82716; the Library of Natrona County, 307 East Second, Casper, Wyo. 82601; and the State Library, State of Wyoming, Supreme Court Building, Cheyenne, Wyo. 82002.

A limited number of copies are available on request from the U.S. Geological Survey, Land Information and Analysis Office, Federal Center, Stop 701, Denver, Colo. 80225; and, over the counter only, from the U.S. Geological Survey Public Inquiries Office, 169 Federal Building, 1961 Stout Street, Denver, Colo. 80202.

The Department will accept written comments on the draft statement for a period of 45 days subsequent to the date of this notice, and will consider any comments received in preparing the final environmental statement on this proposal. Written comments should be addressed to Director, U.S. Geological Survey, National Center, Mail Stop 108, Reston, Va. 22092.

The proposed mining and reclamation plan assessed in this statement was one of the mining proposals identified in the preparation of the regional analysis (part I) of the Department's final environmental statement, FES 74-55, entitled "Proposed Development of Coal Resources in the Eastern Powder River Coal Basin in Wyoming," which was filed with the Council on Environmental Quality on October 18, 1974. Public hearings on the draft of the FES 74-55 statement were held as follows: June 24-25, 1974, at Cheyenne, Wyo.; June 26, 1974, at Casper, Wyo.; and June 27-28, 1974, at Gillette, Wyo.

Dated: August 23, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-24287 Filed 8-28-78; 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 August 18, 1978. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, 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 September 8, 1978

WILLIAM J. MURTAGH,
Keeper of the National Register.

ALABAMA

Macon County

Tuskegee, *Macon County Courthouse*, E. Northside and N. Main Sts.

ARIZONA

Pima County

Tucson, *Barrio Libre*, roughly bounded by 14th, Stone, 19th, and Osborne Sts.

CALIFORNIA

San Mateo County

Colma and Daly City; *Colma Cemeteries*, Hillside Blvd., El Camino Real, Junipero Sierra, and Callan Blvd.

COLORADO

Larimer County

Estes Park vicinity, *Rocky Mountain National Park Utility Area*, W of Estes Park off CO 262 in Rocky Mountain National Park.

FLORDIA

Franklin County

Carrabelle vicinity, *Crooked River Lighthouse*, SW of Carrabelle off U.S. 319.

Gadsden County

Quincy vicinity, *Gregory, Willoughby, House*, SW of Quincy, end of Krausland Rd.

Jefferson County

Lamont vicinity, *Turnbull-Ritter House*, NW of Lamont off U.S. 19.
Monticello, *Palmer House*, Palmer Mill Rd. and S. Jefferson St.

Pinellas County

St. Petersburg, *Vinoy Park Hotel*, 501 Beach Dr.

KENTUCKY

Franklin County

Frankfort, *Old Statehouse Historic District*, roughly bounded by Broadway, St. Clair, Blanton, Ann, and High Sts.

MAINE

Cumberland County

Gorham, *Baxter House*, South St.
Harpswell Center, *Kellogg, Elijah, Church*, ME 123.
Yarmouth, *North Yarmouth and Freeport Baptist Meetinghouse*, Hillside St.

Hancock County

Bar Harbor vicinity, *Highseas*, S of Bar Harbor on Schooner Head Rd.
Eastbrook, *Eastbrook Baptist Church and Town House*, ME 200

Kennebec County

Palermo vicinity, *Dinsmore Grain Company Mill*, W of Palermo on ME 3.

Knox County

Rockland, *Rankin Block*, 600-610 Main St.

Oxford County

South Arm vicinity, *Coolidge-Plato Homestead*, N of South Arm off ME 5.

Penobscot County

Dexter, *Abbott Memorial Library*, ME 7.

Somerset County

Norridgewock, *Douglas, C. F., House*, ME 8.
Norridgewock, *Spaulding House*, Main St.
Pittsfield, *Pittsfield Railroad Station*, Central St.

Washington County

Calais, *Calais Historic District*, Main, North and Church Sts.

York County

Kittery Point, *First Congregational Church and Parsonage*, Pepperrell Rd.
North Berwick, *Hussey Plow Co. Building*, Dyer St. Extension,
Saco, *Saco City Hall*, 300 Main St.

MASSACHUSETTS

Bristol County

New Bedford, *Union Street Railway Carbarn and Repair Shop*, 1959 Purchase St.

MISSOURI

Clay County

Kearney vicinity, *James Brothers' House and Farm*, E of Kearney on MO 92 (boundary increase).

NEVADA

Clark County

Las Vegas, *Branch No. 1, Las Vegas Grammar School*, Washington and D Sts.

NEW HAMPSHIRE

Coos County

Bretton Woods vicinity, *Mount Washington Hotel*, off U.S. 302.

NORTH CAROLINA

Beaufort County

Washington, *Washington Historic District*, roughly bounded by Jacks Creek, Pamlico River, Hackney, 3rd, Market, 5th, Harvey, and 2nd Sts.

Dare County

Nags Head vicinity, *Bodie Island Lifesaving Station*, S of Nags Head on NC 12.

OHIO

Athens County

Nelsonville, *Dew House*, Public Sq.

Coshocton County

Fresno vicinity, *Raemer, John, Farm*, W of Fresno on OH 621.

Cayahoga County

Bay Village, *Aldrich, Aaron, House*, 30663 Lake Rd.
Bay Village, *Huntington, John, Pumping Tower*, 28600 Lake Rd.
Berea, *Wheeler, John, House*, 445 S. Rocky River Dr.
Brecksville, *Knowlton, Dr. William A., House*, 8937 Highland Dr.
Chagrin Falls, *Chagrin Falls Triangle Park Commercial District*, Main, Franklin, and Washington Sts.
Mayfield Heights, *Thorp, W. A., House*, 6183-6185 Mayfield Rd.
Oakwood, *Drake, Alonzo, House*, 24262 Broadway.
Parma Heights, *Henry, Robert W., House*, 6607 Pearl Rd.
Strongsville vicinity, *Stone, Valerius C., House*, 21706 Lunn Rd.

Fairfield County

Lancaster, *Lancaster West Main Street Historic District*, W. Main St. from Columbus to Broad St.

Franklin County

Columbus vicinity, *Agler-LaFollette House*, 2621 Sunbury Rd.

Hamilton County

Cincinnati, *Hamilton County Memorial Building*, Elm and Grant Sts.
Cincinnati, *Martin House*, 6500 Beechmont Ave.

Lawrence County

Burlington, *Old Lawrence County Jail*, Court St.

Lorain County

South Amherst vicinity, *Dean Road Bridge*, W of South Amherst at Dean Rd. and Vermilion River.

Muskingum County

Chandlersville vicinity, *Mount Zion Presbyterian Church*, E of Chandlersville off OH 146.
Duncan Falls, *Mound House*, 400 Mound Rd.
Zanesville, *Blocksom-Rolls House*, 960 Eastman St.
Zanesville, *Emery, Abram, House*, 413 Pershing Rd.
Zanesville, *McIntire Terrace Historic District*, roughly bounded by Peter Alley, McIntire, Moorehead, Findley, Blue, and Adair Aves.
Zanesville, *Muskingum River Lock No. 10 and Canal*, N bank of Muskingum River from RR. bridge S to lock terminus.

Putnam County

Gilboa, *Main Street Historic District*, Main St.

Ross County

Chillicothe, *Vanmeter Church Street House*, 178 Church St.
South Salem, *South Salem Academy*, Church St.

Scioto County

Minford vicinity, *Bennett Schoolhouse Road Covered Bridge*, SE of Minford.

Seneca County

Tiffin, *Heidelberg College Historic Resources*, Heidelberg College campus.

Summit County

Akron, *Quaker Oats Cereal Factory*, 120 E. Mill St.

Washington County

Newport vicinity, *Barker, Judge Joseph, Jr., House*, SW of Newport on OH 7.

Wayne County

Mount Eaton vicinity, *Akey, James, Farm*, SE of Mount Eaton.

TEXAS

Collin County

Plano, *Wilson, Ammie, House*, 1900 W. 15th St.

Culberson County

Salt Flat vicinity, *Emigrant Trail to California*, NE of Salt Flat in Guadalupe Mountains National Park.
Salt Flat vicinity, *Guadalupe Ranch*, NE of Salt Flat in Guadalupe Mountains National Park.
Salt Flat vicinity, *Pratt, Wallace, House*, NE of Salt Flat in Guadalupe Mountains National Park.

Dallas County

Dallas, *Westend Historic District*, Bounded by Lamar, Griffin, Wood, Market, and Commerce Sts. and the MKT RR. tracks.

Harrison County

Marshall, *Fry-Barry House*, 314 W. Austin St.

Travis County

Austin, *Mather-Kirkland House*, 402 Academy Dr.

UTAH

Juab County

Nephi, *Whitmore, George Carter, Mansion*, 106 S. Main St.

WYOMING

Laramie County

Cheyenne, *City-County Building*, 19th St. and Carey Ave.

Teton County

Jackson, *St. John's Episcopal Church and Rectory*, 132 N. Glenwood.
Moose vicinity, *Chapel of Transfiguration*, N of Moose in Grand Teton National Park.

[FR Doc. 78-24068 Filed 8-28-78; 8:45 am]

[4310-70]

National Park Service

[Order No. 1]

APOSTLE ISLANDS NATIONAL LAKESHORE, WIS.

Delegation of Authority Regarding Purchasing Authority

Section 1. *Administrative Officer.* The Administrative Officer may issue purchase orders not in excess of $10,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriate funds.

(National Park Service Order No. 77, 38 FR 7478, published March 22, 1973, as amended.)

Dated: July 12, 1978.

PAT H. MILLER,
Superintendent,
Apostle Islands National Lakeshore.

[FR Doc. 78-24303 Filed 8-28-78; 8:45 am]

[4310-70]

National Park Service

GENERAL MANAGEMENT PLAN AND WILDERNESS STUDY CAPE LOOKOUT NATIONAL SEASHORE, N.C.

Availability of Environmental Review on Environmental Assessment

In April 1978 the National Park Service completed and placed on public review an environmental assessment of the General Management Plan and Wilderness Study for Cape Lookout National Seashore.

After making an environmental review of the alternatives presented in the assessment and after public comment thereon, the National Park Service determined that these proposals would have a significant effect on the human environment; therefore, an environmental impact statement will be prepared and will be available for public review in the fall of 1979.

Anyone needing additional information or wishing to provide information for consideration during preparation of the statement, please advise the Superintendent, Cape Lookout National Seashore, P.O. Box 690, Beaufort, N.C. 28516, or the Regional Director, Southeast Regional Office, National Park Service, 1895 Phoenix Boulevard, Atlanta, Ga. 30349. Copies of the environmental review may be obtained from the above locations.

Dated: August 8, 1978.

NEAL G. GUSE, Jr.,
Acting Regional Director,
Southeast Region.

[FR Doc. 78-24304 Filed 8-28-78; 8:45]

[4310-05]

Office of Surface Mining Reclamation and Enforcement

ADVISORY COMMITTEE ON MINING AND MINERAL RESOURCES RESEARCH

Meeting

The notice is issued in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. I) and the Office of Management and Budget's Circular No. A-63, Revised.

The Advisory Committee on Mining and Mineral Resources Research will meet from 9 a.m. to 5 p.m. (or completion of business) on September 14 and 15, 1978, in rooms 7000 A and B, Department of the Interior, 18th and C Streets NW., Washington, D.C.

The meeting will deal with the following principal subjects:

1. Review of minutes of previous meeting—Assistant Director David R. Maneval.

2. Evaluation of potential institutions and recommendations for designation by the Director as mineral institutes.

3. Policies, responsibilities, and future activities of the Advisory Committee.

The meeting of this Committee is open to the public. Approximately 75 visitors can be accommodated on a first-come, first-served basis. Written statements concerning the subjects are welcome.

Visitors who expect to attend should make this known no later than September 11 to:

David R. Maneval, Assistant Director—Technical Services and Research, Office of Surface Mining, room 114, South Interior Building, 19th and Constitution Avenue NW., Washington, D.C. 20240, phone 202-343-4264.

Dated: August 23, 1978.

DAVID R. MANEVAL,
Assistant Director,
Technical Services and Research.

[FR Doc. 78-24374 Filed 8-28-78; 8:45 am]

[4410-18]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

CONNECTICUT RESTITUTION SERVICE

Hearing

Notice is hereby given that the Administrative Appeal of the Connecticut Restitution Service on the termination of LEAA Discretionary Grant No. 76-ED-99-0028 will be heard on September 6, 1978, commencing at 9:30 a.m. It is likely that the hearing will continue on September 7 and 8. The location of the hearing will be the Coroner's Hearing Room, 75 Elm Street, Hartford, Conn. The hearing will be presided over by Administrative Law Judge Paul N. Pfeiffer of the Consumer Product Safety Commission and will be open to the public.

For further information call Jay A. Brozost, Office of General Counsel, LEAA at 202-376-3691.

CHARLES A. LAUER,
Deputy General Counsel.

[FR Doc. 78-24308 Filed 8-28-78; 8:45 am]

[4510-28]

DEPARTMENT OF LABOR

Office of the Secretary

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 8, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 8, 1978.

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 10th day of August 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Johnson Steel & Wire Co., Inc. (USWA).	Los Angeles, Calif	Aug. 9, 1978	July 15, 1978	TA-W-4,052	High carbon steel wire.
Producers Minerals Corp. (company)	Safford, Ariz	Aug. 7, 1978	Aug. 2, 1978	TA-W-4,053	Cement copper.
Progressive Uniform (ACTWU)	Philadelphia, Pa	Aug. 10, 1978	Aug. 3, 1978	TA-W-4,054	Men's and women's blue jeans and related sportswear.
Universal Data Services (workers)	Boyertown, Pa	Aug. 9, 1978	Aug. 7, 1978	TA-W-4,055	Data processing services were performed for other companies.
Waterboro Patent Corp. (workers)	Waterboro, Maine	do	Aug. 4, 1978	TA-W-4,056	Patent leather.

[FR Doc. 78-23789 Filed 8-28-78; 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, not later than September 8, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 8, 1978.

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 8th day of August 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Alatex, Inc., Andalusia Plant (ACTWU).	Andalusia, Ala	Aug. 8, 1978	July 25, 1978	TA-W-4,042	Men's dress shirts.
Alatex, Inc. Troy Plant (ACTWU)	Troy Ala	do	do	TA-W-4,043	Do.
Alatex, Inc., Pike Plant (ACTWU)	Pike, Ala	do	do	TA-W-4,044	Do.
Alatex, Inc., Bentley Plant (ACTWU).	Bentley, Ala	do	do	TA-W-4,045	Do.
Alatex, Inc., Enterprise Plant (ACTWU).	Enterprise, Ala	do	do	TA-W-4,046	Do.
Alatex, Inc., Montgomery Distribution Center (ACTWU).	Montgomery, Ala	do	do	TA-W-4,047	Warehousing and distribution of men's shirts.
Gibralter Pacific Corp. (workers)	Pioche, Nev	Aug. 1, 1978	July 27, 1978	TA-W-4,048	Loading, hauling, and stockpiling of the zinc ore for the Bunker Hill Co. in Pioche, Nev.
Lawrence Maid Footwear, Inc. (company).	Lawrence, Mass	Aug. 7, 1978	Aug. 4, 1978	TA-W-4,049	Women's dress and casual shoes.
Perri Sportswear, Inc. (ILGWU)	Poughkeepsie, N.Y.	do	Aug. 3, 1978	TA-W-4,050	Contractor of women's rainwear.
Phelps Dodge Corp., Safford Branch (company).	Safford Ariz	do	July 26, 1978	TA-W-4,051	Development of an underground mine for eventual production of copper.

[FR Doc. 78-23790 Filed 8-28-78; 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, not later than September 8, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 8, 1978.

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 7th day of August 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Cluett Peabody & Co., Inc., the Arrow Co. Division (ACTWU).	Troy, N.Y	July 17, 1978	July 13, 1978	TA-W-4,037	Men's dress shirts.
Holden & Quick, Inc. (United Shoe Workers of America).	Norridgewock, Maine	Aug. 7, 1978	Aug. 3, 1978	TA-W-4,038	Sales office for the Holden & Quick, Inc.
Marshall Ray Corp. (ACTWU)	Troy, N.Y	July 17, 1978	July 13, 1978	TA-W-4,039	Men's sportscoats and leisure suits.
Pimbi Ltd. (workers)	Keyport, N.J	Aug. 7, 1978	July 26, 1978	TA-W-4,040	Ceramic jewelry.
Tenn-Tex Alloy Corp. of Houston (USWA).	Houston, Tex	do	Aug. 2, 1978	TA-W-4,041	High carbon ferromanganese and silicomanganese.

[FR Doc. 78-23791 Filed 8-28-78; 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, not later than September 8, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 8, 1978.

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 15th day of August 1978.

HAROLD A. BRATT,
Acting Director, Office of, Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Belrose Knitting Mills (company)	Hoboken, N.J	Aug. 14, 1978	Aug. 11, 1978	TA-W-4,057	Sweaters for men, women, and children.
Day's, Inc. (United Garment Workers of America).	Tacoma, Wash	do	Aug. 10, 1978	TA-W-4,058	Men's slacks and some ski jackets.
Do	Bremerton, Wash	do	do	TA-W-4,059	Do.
Duval Corp. (International Union of Operating Engineers).	Battle Mountain, Nev	Aug. 10, 1978	Aug. 7, 1978	TA-W-4,060	Copper is mined and milled.
GTE Sylvania, Inc. (United Electrical Workers).	Emporium, Pa	do	Aug. 8, 1978	TA-W-4,061	Electron (receiving) tubes.
Putnam Manufacturing Co. (workers).	North Grosvenordale, Conn.	do	June 22, 1978	TA-W-4,062	Children's and some ladies' outerwear.
Springs Mills, Inc. (workers)	Monroe, S.C	Aug. 14, 1978	Aug. 14, 1978	TA-W-4,063	Polyester and double knit goods.
Do	Mullins, S.C	do	do	TA-W-4,064	Dyeing and finishing of polyester and double knit goods.
Walker Forge, Inc. (Boilermakers & Blacksmiths Union).	Racine, Wis	Aug. 10, 1978	July 21, 1978	TA-W-4,065	Forgings.
Wingate Co. (company)	Yerington, Nev	do	Aug. 8, 1978	TA-W-4,066	Supplied Anaconda Co., Weed Heights, Nev., with sulphur.

[FR Doc. 78-23792 Filed 8-28-78; 8:45 am]

[4510-28]

Office of the Secretary

[TA-W-3254]

BOGART INDUSTRIES, INC., FORT WORTH; JACKSBORO; CLEBURN; AND DUBLIN, TEX.

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-3254: 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 February 14, 1978, which was filed on behalf of workers and former workers producing ladies' sportswear at the Cleburn, Tex., plant of Bogart Industries, Inc. The investigation was expanded to include workers and former workers producing ladies' sportswear at the Fort Worth, Jacksboro, and Dublin, Tex., plants of Bogart Industries, Inc.

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 Bogart Industries, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, 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. The investigation has revealed that all of the requirements have been met.

The Department's investigation revealed that imports of women's coats, jackets, slacks, shorts, blouses, and shirts increased absolutely from 1976 to 1977 and in the first quarter of 1978 compared to the same period in 1977. Imports of women's skirts declined from 1976 to 1977; however, imports in the first quarter of 1978 increased compared to the same period of 1977.

All of the customers of Bogart Industries that were surveyed indicated they purchased imported ladies' sportswear. Most of the customers surveyed decreased purchases from Bogart Industries while increasing purchases from foreign sources during 1977 compared to 1976.

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' sportswear produced at the Fort Worth, Jacksboro, Cleburn, and Dublin, Tex., plants of Bogart Industries, Inc., contributed importantly to the decline in sales or production and to the total or partial separations of workers at such plants. In accordance with the provisions of the Act, I make the following certification:

All workers of the Fort Worth, Jacksboro, Cleburn, and Dublin, Tex., plants of Bogart Industries, Inc., who became totally or par-

tially separated from employment on or after October 1, 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 23d day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-24319 Filed 8-28-78; 8:45 am]

[4510-28]

[TA—W—3476]

CARDONE & BAKER SHOE, INC., BROOKLYN, N.Y.

Certification Regarding Eligibility to Apply for Worker Adjusting Assistance

In accordance with section 223 of the Trade act of 1974 the Department of Labor herein presents the results of TA-W-3476: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 6, 1978 in response to a worker petition received on March 30, 1978 which was filed on behalf of workers and former workers . producing women's shoes at Cardone & Baker Shoe, Inc., Brooklyn, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17550). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Cardone & Baker Shoe, 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 requirements have been met.

The ratio of imports to domestic production for women's nonrubber footwear, except athletic, increased from 117.9 percent in 1976 to 122.8 percent in 1977.

Several customers of Cardone & Baker who were surveyed increased purchases of imported women's footwear relative to purchases from Cardone & Baker.

In its report to the President of February 8, 1977, the U.S. International Trade Commission found that certain footwear articles are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing such articles. The Commission considered other factors that have been alleged as more important causes such as the recent recession, inability of manufacturers to keep pace with technological and style changes, and decreased productivity. However, the Commission concluded that, although such factors may have contributed in part, imports have been the most important cause of injury.

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 women's shoes produced at Cardone & Baker Shoe, Inc., Brooklyn, N.Y. contributed importantly to the total or partial separation of workers and to the decline in sales and production at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Cardone & Baker Shoe, Inc., Brooklyn, N.Y. who became totally or partially separated from employment on or after March 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 23d day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-24320 Filed 8-28-78; 8:45 am]

[4510-28]

[TA-W-3276]

THE DULUTH, MISSABE, & IRON RANGE RAILWAY CO., DULUTH, MINN.

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-3276 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 February 21, 1978 which was filed by the United Transportation Union on behalf of all workers transporting iron ore from the Missabe Range to Lake Superior in the Iron Range Division of the Duluth, Missabe, & Iron Range Railway Co.

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 the Duluth, Missabe, & Iron Range Railway Co., 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. 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 the absolute decline in sales or production.

Rail traffic on the Iron Range Division of the Duluth, Missabe, & Iron Range Railway Co. is dependent on mining activity in its area. Declines in employment and rail traffic on the Iron Range Division in 1977 were due primarily to a drop in iron ore output caused by a miner's strike which lasted from August 1977 to December 1977. Most of the employees of the mining companies served by the Iron Range Division have been denied eligibility to apply for adjustment assistance benefits.

CONCLUSIONS

After careful review I determine that all workers of the Iron Range Division of the Duluth, Missabe, & Iron Range Railway Co., in Duluth, Minn. 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 18th day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-24321 Filed 8-28-78; 8:45 am]

[4510-28]

[TA-W-3362]

EL DORADO VENEER PRODUCTS DIVISION OF GOLDEN STATE BUILDING PRODUCTS, INC., SHINGLE SPRINGS, CALIF.

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-3362: 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 20, 1978 in response to a worker petition received on February 27, 1978 which was filed by the United Broth-

erhood of Carpenters & Joiners of America on behalf of workers producing wooden box tops at Golden State Building Products, El Dorado Veneer Products Division, Shingle Springs, Calif. The investigation revealed the El Dorado Veneer Products Division manufacturers wirebound veneer crates, boxtops and slats.

The notice of investigation was published in the FEDERAL REGISTER on April 7, 1978 (43 FR 14776). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of El Dorado Veneer Products, 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 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 subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of wooden boxes (nailed, wirebound, and boxshook) decreased from 2,169.8 thousand units in 1976 to 1,035.5 thousand units in 1977. Imports continued to decrease from 395.1 thousand units during the first quarter of 1977 to 271.5 thousand units during the first quarter of 1978. The ratio of imports of wooden boxes to domestic production in terms of dollar value remained at 0.8 percent during the years 1975 through 1977.

CONCLUSION

After careful review, I determine that all workers of the El Dorado Veneer Products Division of Golden State Building Products, Inc., Shingle Springs, Calif. 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 23d day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-24322 Filed 8-28-78; 8:45 am]

[4510-28]

[TA-W-3192]

EVERETT LEVINSOHN CORP., NEW YORK, 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-3192: 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 22, 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 cutting garments to be sewn into men's tailored clothing at Everett Levinsohn Corp., New York, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8863). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Everett Levinsohn 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 act 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 an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

On January 27, 1976, the employees of Everett Levinsohn Corp. were certified as eligible to apply for trade adjustment assistance (TA-W—345). This certification expired on January 27, 1978.

Evidence developed during the course of the investigation showed that average employment of production workers at Everett Levinsohn Corp. increased by 16.7 percent from 1976 to 1977, while average hours worked declined slightly. Average employment in the first 5 months of 1978 did not change compared to the same period in 1977, while average hours worked in the first quarter of 1978 declined slightly compared to the first quarter of 1977.

There is no threat of total or partial separations in the foreseeable future.

CONCLUSION

After careful review I determine that all workers at Everett Levinsohn Corp., New York, N.Y., 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 23d day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-24323 Filed 8-28-78; 8:45 am]

[4510-28]

[TA-W-1937T-1939T]

FORD MOTOR CO., METUCHEN, N.J., DEARBORN, MICH., AND SAN JOSE, CALIF.

Notice of Investigation Regarding Termination of Certification of Eligibility To Apply for Worker Adjustment Assistance

Following a Department of Labor investigation under section 222 of the Trade Act of 1974 ("the Act") and in accordance with section 223 of the Act, on December 22, 1977, the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers of Ford Motor Co., Metuchen, N.J., Dearborn, Mich., and San Jose, Calif., assembly plants engaged in employment related to the production of subcompact cars.

The notice of certification was published in the FEDERAL REGISTER on January 6, 1978 (43 FR 1145).

Pursuant to section 223(d) of the Act and 29 CFR 90.17(a), the Director of the Office of Trade Adjustment Assistance has instituted an investigation to determine whether the total or partial separations of the certified workers of Ford Motor Co. continue to be attributable to the conditions specifed in section 222 of the Act and 29 CFR 90.16(b).

Pursuant to 29 CFR 90.17(b) the group of workers or any other persons showing a substantial interest in the proceedings may request a public hearing or may make written submissions to show why the certification should not be terminated, provided, that such request or submission is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, no later than

The record of the certification (TA-W-1937-1939), containing nonconfidential information is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor,

Third Street and Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 23d day of August 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-24324 Filed 8-28-78; 8:45 am]

[4510-28]

[TA-W-1940T-1941T]

GENERAL MOTORS CORP., LORDSTOWN, OHIO, AND WILMINGTON, DEL.

Notice of Investigation Regarding Termination of Certification of Eligibility To Apply for Worker Adjustment Assistance

Following a Department of Labor investigation under section 222 of the Trade Act of 1974 ("the Act") and in accordance with section 223 of the Act, on September 22, 1977, the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers of General Motors Corp., Lordstown, Ohio, and Wilmington, Del., assembly plants engaged in employment related to the production of subcompact cars.

The notice of certification was published in the FEDERAL REGISTER on September 30, 1977 (42 FR 52508).

Pursuant to section 223(d) of the Act and 29 CFR 90.17(a), the Director of the Office of Trade Adjustment Assistance has instituted an investigation to determine whether the total or partial separations of the certified workers of General Motors Corp. continue to be attributable to the conditions specified in section 222 of the Act and 29 CFR 90.16(b).

Pursuant to 29 CFR 90.17(b) the group of workers or any other persons showing a substantial interest in the proceedings may request a public hearing or may make written submissions to show why the certification should not be terminated, provided, that such request or submission is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, no later than

The record of the certification (TA-W-1940-1941), containing non-confidential information is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 23d day of August 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-24325 Filed 8-28-78; 8:45 am]

[4510-28]

[TA-W-2959]

GIBBSBORO, N.J., PLANT OF THE SHERWIN WILLIAMS CO.

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-2959: 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 25, 1978, in response to a worker petition received on January 10, 1978, which was filed by the Painters & Allied Trades Union on behalf of workers and former workers producing paints and textile dyes at the Gibbsboro, N.J., plant of the Sherwin Williams Co.

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 Sherwin Williams Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. With respect to workers producing paints and workers producing textile dyes, 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 paints and enamels are neglgible. Imports decreased from 3,323 thousand pounds in 1976 to 1,342 thousand pounds in 1977. Imports declined from 797 thousand pounds in the first quarter of 1977 to 333 thousand pounds in the same quarter of 1978. The ratio of imports to domestic production decreased from 0.05 percent in 1976 to 0.02 percent in 1977.

With respect to textile dyes, the petitioners allege that increased imports of finished apparel adversely affected production and employment at the Gibbsboro plant. However, imported apparel cannot be considered to be like or directly competitive with textile dyes. Imports of dyes must be considered in determining import injury to workers producing textile dyes.

A Department survey of the Gibbsboro plant's textile dye customers showed that none of these customers purchased imported dyes during the period 1975 to 1977. Factors such as the change in styling trends away from the type of clothing that uses Gibbsboro dyes, changes in technology and imports of the finished garments were mentioned as causing the decline in sales at the Gibbsboro plant.

CONCLUSION

After careful review, I determine that all workers at the Gibbsboro, N.J., plant of the Sherwin Williams Co. 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 23rd day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-24326 Filed 8-28-78; 8:45 am]

[4510-28]

[TA-W-3524]

G. LEBLANC CORP., KENOSHA AND ELKHORN, WIS.

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-3524: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 18, 1978, in response to a worker petition received on April 5, 1978, which was filed on behalf of workers and former workers producing woodwind instruments at the 30th Avenue plant of the G. Leblanc Corp., Kenosha, Wis. The investigation was expanded to include workers and former workers producing woodwind and brasswind instruments at a second Kenosha, Wis., plant (Martin band instruments) and workers and former workers producing instruments at Frank Holton Co., a wholly owned subsidiary located in Elkhorn, Wis. The investigation also included workers and former workers producing instrument cases at a location in Elkhorn, Wis.

The notice of investigation was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18789-18790). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the G. Leblanc 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. 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 the absolute decline in sales or production.

Imports of brasswinds decreased both absolutely and relative to domestic production from 1974 to 1976. Imports increase from 1976 to 1977. Imports of woodwinds decreased both absolutely and relative to domestic production from 1975 to 1977.

The G. Leblanc Corp.'s sales of brasswinds were 24 percent, 29 percent, and 28 percent of total sales for the years 1975, 1976, and 1977 respectively, the remaining sales consisting of woodwinds.

The G. Leblanc Corp. produces two lines of instruments: A line for students and a line for professionals. The student line is produced primarily by the Frank Holton Co.—a wholly owned subsidiary of G. Leblanc. The professional line of instruments is produced from unassembled company imports at the two locations of G. Leblanc, Kenosha, Wis. Declines in production at the two Kenosha, Wis., plants are not the result of import competition since production consists of the finishing of company imports.

U.S. consumption of brass and woodwind instruments has been declining since 1975. Industry sources attribute the decline in consumption of student instruments to both a general decline in school enrollments and to reduced school budgets which caused reduced purchases of musical instruments for school band programs. Such factors were responsible for declines in production at the Frank Holton Co., in 1977 through the first quarter of 1978 since the Holton Co., offers entirely a student line of instruments.

In addition, the majority of surveyed customers of G. Leblanc did not increase purchases of imported woodwind or brasswind instruments while reducing purchases from Leblanc.

CONCLUSIONS

After careful review, I determine that workers of G. Leblanc, Kenosha, and Elkhorn, Wis., 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 23d day of August 1978.

JAMES F. TAYLOR
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-24327 Filed 8-28-78; 8:45 am]

[4510-28]

[TA-W-2925]

HOWARD STORES CORP., BROOKLYN, 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-2925: 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 12, 1978, in response to a worker petition received on December 20, 1977, which was filed by the Window Trimmers & Helpers Union on behalf of workers and former workers engaged in preparing window and store displays at the New York area retail outlets of Ripley-Howard Stores. The investigation revealed that Howard Stores Corp., Brooklyn, N.Y., trades as Ripley-Howard Stores.

The notice of investigation was published in the FEDERAL REGISTER on February 3, 1978 (43 FR 4695). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Howard Stores Corp., the Window Trimmers & Helpers Union, 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. The Department has determined that services are not "articles" within the meaning of section 222 of the act, and that independent firms for which the subject firm provides services cannot be considered to be the "workers' firm."

Evidence developed during the Department's investigation revealed that Ripley-Howard retail stores, owned by Howard Stores Corp., sold men's apparel and haberdashery. Window trimmers for Ripley-Howard are engaged in preparing clothing and window displays at the retail stores. Ripley-Howard Stores predominantly purchases its merchandise from sources other than Howard Stores Corp. Ripley-Howard Stores purchase from other domestic sources and foreign sources. Since the retail stores handled merchandise which was purchased predominantly from sources other than Howard Stores, the Ripley-Howard Stores are not an "appropriate subdivision" of Howard Stores Corp. within the meaning of section 222 of the Trade Act of 1974.

In addition, the window trimmers did not produce any articles and the Department of Labor has previously determined that the performance of services is not included within the term "articles" as used in section 222 (3) of the act.

CONCLUSION

After careful review, I determine that all workers engaged in preparing window and store displays at Ripley-Howard retail stores owned by Howard Stores Corp., Brooklyn, 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 23d day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-24328 Filed 8-28-78; 8:45 am]

[4510-28]

[TA-W-2569]

JONES & LAUGHLIN STEEL CORP., CLEVELAND WORKS, CLEVELAND, 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-2569: 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 7, 1977, in response to a worker petition received on October 25, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing all carbon steel products at the Cleveland, Ohio, plant of Jones & Laughlin Steel Corp. The investigation revealed that the Cleveland, Ohio, plant is referred to as the Cleveland Works and produces hot rolled carbon steel sheet, cold rolled carbon steel sheet and hot rolled carbon steel plate.

The notice of investigation was published in the FEDERAL REGISTER on No-

vember 18, 1977 (42 FR 59584). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jones & Laughlin Steel Corp., its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, 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 subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that customers surveyed who reduced purchases of cold rolled sheet and hot rolled sheet from Jones & Laughlin and increased purchases of cold rolled sheet and hot rolled sheet from foreign sources, bought insignificant quantities of imports in relation to total shipments of these products by the Cleveland Works.

Furthermore, shipments of hot rolled sheet by the Cleveland Works increased in quantity and value from 1975 to 1976 and in the first 11 months of 1977 compared to the same period in 1976.

CONCLUSION

After careful review, I determine that workers of the Cleveland Works of Jones & Laughlin Steel Corp., Cleveland, 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 23rd day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-24329 Filed 8-28-78; 8:45 am]

[4510-28]

[TA-W-3595]

LADY JERSEY, PATERSON, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3595: Investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' suits at Lady Jersey, Paterson, N.J.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lady Jersey, its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, 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 total or partial separation, or threat thereof, and to the absolute decline in sales or production.

Imports of women's, misses' and children's suits increased 68.2 percent from 1973 to 1975 to reach a level of 412 thousand dozen. Imports were relatively unchanged in 1976 at 408 thousand dozen. Imports during 1977 fell 5.9 percent from 1976 levels. First quarter 1978 imports were 6.7 percent greater than 1977 imports for the same period.

Lady Jersey produced garments for one manufacturer. This manufacturer did not import in 1976, 1977, or 1978. Sales by the manufacturer increased from 1976 to 1977 and in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review, I determine that all workers of Lady Jersey, Paterson, N.J., 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 18th day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-24330 Filed 8-28-78; 8:45 am]

[4510-28]

[TA-W-3510]

LEHIGH STRUCTURAL STEEL CO., ALLENTOWN, PA.

Certification Regarding Eligibility To Apply for Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3510: Investigation regarding certification of eligibiltiy to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 13, 1978, in response to a worker petition received on April 4, 1978, which was filed on behalf of all workers producing fabricated steel transmission towers at the Allentown, Pa., plant of Lehigh Structural Steel Co.

The notice of investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17552). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lehigh Structural Steel, 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 Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

U.S. imports of fabricated structural steel increased 50.5 percent in quantity in 1977 from 1976. The imports to shipments ratio increased from 2.5 in 1976 to 4.1 in 1977.

The Department of Labor conducted a survey of potential customers of Lehigh Structural Steel, Inc. The customer list represented companies that rejected bids from the subject firm to produce transmission towers composed of fabricated structural steel. These were bid on in late 1976 and in 1977 for work to be completed in 1977 and 1978. The large majority of these contracts were awarded to foreign firms. Lehigh was one of the low domestic bidders in a significant percentage of contracts.

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 fabricated steel transmission towers produced by Lehigh Structural Steel in Allentown, Pa., contributed importantly to the decline in sales or production and to the total or partial sep-

aration of workers at the plant as required for certification In accordance with the provisions of the act, I make the following certification.

All workers of Lehigh Structural Steel, Inc., Allentown, Pa., who become totally or partially separated from employment on or after March 29, 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 23d day of August 1978.

JAMES F. TAYOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-24331 Filed 8-28-78; 8:45 am]

[4510-28]

[TA-W-2868]

METAL PRODUCTS DIVISION, ARMCO STEEL CORP., LA HABRA, CALIF.

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-2868: 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 9, 1978 in response to a worker petition received on December 19, 1977 which was filed by the United Steelworkers of America on behalf of workers and former workers employed in warehousing operations at the La Habra, Calif. Distribution Center of Armco Steel Corp., Metal Products Division.

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 officials of Armco Steel Corp., Metal Products Division, 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 the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The Department's investigation revealed that the La Habra, Calif. facility of Armco Steel Corp., Metal Products Division was established in 1964 to manufacture corrugated steel pipe. Manufacturing operations ceased in 1974 and no production has occurred at that facility since that year. The facility was used from 1974 to December 1977 as a warehouse and distribution center, only. During that time, employment remained constant and hours worked fluctuated only slightly from year to year. The staff of the distribution center was transferred to another company location when La Habra facility closed permanently on December 15, 1977.

Layoffs at La Habra occurred in 1974 when production operations ceased. Section 223(b)(1) of the Trade Act of 1974, provides, in substance, that a certification under this section shall not apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than 1 year before the date of the petition.

Layoffs occurring in 1974 took place more than 3 years prior to December 19, 1977, the date of the petition. There have been no layoffs at the La Habra since 1974.

CONCLUSION

After careful review, I determine that the workers of the La Habra, Calif. plant of Armco Steel Corp., Metal Products Division, 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 23rd day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-24332 Filed 8-28-78; 8:45 am]

[4510-28]

[TA-W-2872]

METAL PRODUCTS DIVISION, ARMCO STEEL CORP., DAVIS, CALIF.

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-2872: 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 9, 1978, in response to a worker petition received on December 19, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing drainage products and highway guard rails at the Davis, Calif., plant of Armco Steel Corp., Metal Products Division. The investigation revealed that only corrugated steel pipe and fabricated steel platework were produced at the Davis plant.

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 officials of Armco Steel Corp., Metal Products Division, its customers, the National Corrugated Steel Pipe Association, the Steel Plate Fabricators Association, 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 at the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department's investigation revealed that U.S. imports of corrugated steel pipe were negligible according to both industry and government sources. U.S. imports of fabricated platework have been small in comparison to domestic production. The imports to domestic production ratio for fabricated platework declined from 0.87 percent in 1974 to 0.59 percent in 1975, increased to 0.66 percent in 1976, and then declined to 0.50 percent in 1977. The ratio increased to 0.53 percent in the first quarter of 1978 compared to 0.52 percent for the same period of the year before. The value of U.S. imports of fabricated platework were $39.6 million in 1976, $41.1 million in 1977, and $12.1 million in the first quarter of 1978 compared to $9.6 million for the same period in 1977.

A departmental survey of customers accounting for a substantial proportion of the Davis plant's sales of both corrugated steel pipe and fabricated platework in 1976 and 1977, indicated that none of the customers purchased imports in those years.

Furthermore, sales of both corrugated steel pipe and fabricated platework from the Davis plant increased in both quantity and value in 1977 compared to 1976.

CONCLUSION

After careful review, I determine that all workers of the Davis, Calif., plant of Armco Steel Corp., Metal Products Division, 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 23d day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-24333 Filed 8-28-78; 8:45 am]

[4510-28]

[TA-W-2887]

NORTHWESTERN STEEL & WIRE CO., STERLING AND ROCK FALLS, ILL.

Notice of Determinations 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-2887: 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 9, 1978, in response to a worker petition received on December 19, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing structural products, bar products, rods and wire, and other wire products at Northwestern Steel & Wire Co., Sterling and Rock Falls, Ill.

The Department had received a prior petition on December 15, 1976 (TA-W-1503) filed by the United Steelworkers of America on behalf of workers and former workers at Northwestern Steel & Wire Co. However, the Department's investigation at the time revealed that Northwestern did not satisfy the criteria of the Trade Act and a negative determination was issued for TA-W-1503 on July 18, 1977.

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 officials of Northwestern Steel & Wire Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

With respect to workers producing structural products, without regard to whether any of the other criteria have been met the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales of structural products increased in 1976 compared to 1975 and increased 29 percent in 1977 compared to 1976. Production of structural products declined in 1976 compared to 1975 then increased 28 percent in 1977 compared to 1976.

With respect to workers producing bar products and workers forming part of the integrated production line, processing scrap, operating the electric arc furnaces, and working in the blooming and billet mills, all of the group eligibility requirements of section 222 of the act have been met for the period from the impact date up until the fourth quarter of 1977.

U.S. imports of carbon steel bars and bar-size light shapes declined from 651.4 thousand tons in 1975 to 603.7 thousand tons in 1976 then increased to 1,071.9 thousand tons in 1977. The ratio of imports to shipments declined from 9.2 percent in 1975 to 7.8 percent in 1976 then increased to 12.6 percent in 1977.

A sample survey of Northwestern's customers who had decreased their purchases of bar products from that company revealed that some customers had increased purchases of imports while reducing purchases of bar products from Northwestern.

Sales of bar mill products increased 4 percent and 3 percent in the third and fourth quarters of 1977, respectively, compared to the same two quarters in 1976. Production of bar mill products increased 16 percent in the fourth quarter of 1977 compared to the same quarter in 1976.

Total sales and production at Northwestern increased 52 percent and 42 percent, respectively, in the fourth quarter of 1977 compared to the same quarter in 1976.

With respect to workers producing rods and wire, nails, fencing, and other wire products, all of the group eligibility requirements of section 222 of the act have been met.

U.S. imports of carbon steel wire rod increased from 1,027.6 thousand short tons in 1975 to 1,032.9 thousand short tons in 1976. Imports increased from 722.1 thousand short tons in the first three quarters of 1976 to 899.8 thousand short tons during the same period in 1977. The ratio of imports to shipments declined from 52.5 percent in 1975 to 35.7 percent in 1976. This ratio increased from 30.7 percent in the first three quarters of 1976 to 43.4 percent in the first three quarters of 1977.

U.S. imports of wire and wire products increased from 661.5 thousand short tons in 1975 to 795.1 thousand short tons in 1976 and increased to 967.3 thousand short tons in 1977. The ratio of imports to shipments increased from 31.3 percent in 1975 to 33.0 percent in 1976 and increased to 41.2 percent in 1977.

A sample survey of Northwestern's customers who had reduced their purchases of rods, wire, and wire products from that company revealed that some customers had increased purchases of imports while reducing purchases of those products from Northwestern.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases in imports of articles like or directly competitive with rods, wire, nails, fencing, and other wire products produced at Northwestern Steel & Wire Co., Sterling and Rock Falls, Ill., contributed importantly to the decrease in sales or production and to the total or partial separation of workers at that firm. In accordance with the provisions of the act, I make the following certification:

All workers of Northwestern Steel & Wire Co., Sterling and Rock Falls, Ill., engaged in employment related to the production of rods, wire, nails, fencing, and other wire products who became totally or partially separated from employment on or after December 15, 1976, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

I also conclude that increases in imports of articles like or directly competitive with bar products produced at Northwestern Steel & Wire Co., Sterling and Rock Falls, Ill., contributed importantly to the decrease in sales or production and to the total or partial separation of workers at that firm. In accordance with the provisions of the act, I make the following certification:

All workers of Northwestern Steel & Wire Co., Sterling and Rock Falls, Ill., engaged in employment related to the production of bar products including all workers employed directly or indirectly in the integrated steelmaking process including workers employed in the following departments: Scrap, electric furnace, blooming mills, and billet mills who became totally or partially separated from employment on or after December 15, 1976, and before December 31, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

I further determine that workers engaged in employment related to the production of structural products are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 23d day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-24334 Filed 8-28-78; 8:45 am]

[4510-28]

[TA-W-2538]

PANT CRAFT CO., BOSTON, 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-2538: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on October 31, 1977, in response to a worker petition received on October 11, 1977, which was filed on behalf of workers and former workers producing boys' pants and girls' slacks at Pant Craft Co., Boston, Mass.

The notice of investigation was published in the FEDERAL REGISTER on November 15, 1977 (42 FR 59131). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Pant Craft Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council, 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 and boys' trousers and shorts increased from 1975 to 1976 and from 1976 to 1977. The ratio of imports to domestic production increased from 34.1 percent in 1975 to 41.9 percent in 1976.

U.S. imports of women's, misses' and childrens' slacks and shorts increased from 1975 to 1976 and from 1976 to 1977. The ratio of imports to domestic production increased from 35.2 percent in 1975 to 36.4 percent in 1976.

The Department's investigation revealed that customers of Pant Craft Co., which accounted for a substantial proportion of the subject firm's 1976 sales, decreased purchases from the subject firm and increased purchases of imports in 1977 compared to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with boys' pants and girls' slacks produced at Pant Craft Co., Boston, Mass., contributed importantly to the decline in sales or production and to the total or partial separations of the workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of Pant Craft Co., Boston, Mass., who became totally or partially separated from employment on or after October 11, 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 23d day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-24335 Filed 8-28-78; 8:45 am]

[3510-28]

[TA-W-3300]

T. I. SWARTZ & SONS, INC., 600 SOUTH PULASKI STREET, BALTIMORE, MD. 21223

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-3300: 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 21, 1978, which was filed by the Amalgamated Clothing & Textile Workers Union on behalf of workers and former workers producing men's suits and sportcoats at 600 South Pulaski Street plant of T. I. Swartz & Sons, Inc.

The investigation revealed that workers produced men's tailored suits and sportcoats.

A previous case on T. I. Swartz & Sons, Inc., TA-W-179 was initiated on September 26, 1975, and was denied on December 30, 1975.

The notice of investigation was published in the FEDERAL REGISTER on March 17, 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 the T. I. Swartz & Sons, Inc., 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 without regard to whether any other criteria have been met, the following criterion has not been met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The average number of production workers at T. I. Swartz & Sons, Inc., increased in 1977 compared with 1976 and increased in the first 2 months of 1978 compared with similar period of 1977.

Production of men's suits and sportcoats in units, remained constant from 1976 to 1977 and increased in January-February 1978, compared with similar period in 1977.

Sales of men's suits and sportcoats in value, increased in 1977 compared with 1976 and increased in January-February 1978, compared with similar period of 1977.

CONCLUSION

After careful review, I determine that all workers of T. I. Swartz & Sons, Inc., Baltimore, Md., 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 18th day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-24336 Filed 8-28-78; 8:45 am]

[4510-28]

[TA-W-3444, 3445]

VALLEY MOULD DIVISION, MICRODOT, INC., HUBBARD, OHIO, AND CLEVELAND, 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-3444, 3455: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigations were initiated on March 28, 1978, and April 25, 1978, in response to worker petitions received on March 10, 1978, and April 20, 1978, respectively, which were filed by the United Steelworkers of America on behalf of workers and former workers producing ingot molds at the Hubbard, Ohio, and Cleveland, Ohio, plants of the Valley Mould Corp. During the course of the investigation it was revealed that the legal name of the Valley Mould Corp. is Valley Mould Division, Microdot, Inc.

The notices of investigation were published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15205) and May

5, 1978 (43 FR 19478). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Valley Mould Division, Microdot, 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. 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 threats thereof, and to the absolute decline in sales or production.

The Department's investigation revealed that U.S. imports of ingot molds were negligible during the period from 1975 to 77 and through the first quarter of 1978.

A survey by the Department indicated that customers accounting for the major proportion of Valley Mould Division's sales did not purchase imported ingot molds during the period from 1975 to 77 and through the first quarter of 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I determine that all workers of the Hubbard, Ohio, and Cleveland, Ohio, plants of Valley Mould Division, Microdot, 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 23d day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-24337 Filed 8-28-78; 8:45 am]

[4510-28]

[TA-W-3544]

VALLEY MOULD DIVISION, MICRODOT, INC., CHICAGO, ILL.

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-3544: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 25, 1978 in response to a worker petition received on April 12, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing ingot molds at the Chicago, Ill. plant of the Valley Mould Corp. During the course of the investigation it was revealed that the legal name of the Valley Mould Corp. is Valley Mould Division, Microdot, Inc.

The notice of investigation was published in the FEDERAL REGISTER on May 5, 1978 (43 FR 19478). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Valley Mould Division, Microdot, 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. Without regard to whether any of the other criteria have been met, the following criterion hass 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 threats thereof, and to the absolute decline in sales or production.

The Department's investigation revealed that U.S. imports of ingot molds were negligible during the period from 1975-77 and through the first quarter of 1978.

A survey by the Department indicated that customers accounting for the major proportion of Valley Mould Division's sales did not purchase imported ingot molds during the period from 1975-77 and through the first quarter of 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I determine that all workers of the Chicago, Ill. plant of Valley Mould Division, Microdot, 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 23d day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-24338 Filed 8-28-78; 8:45 am]

[4510-28]

[TA-W-3189]

VICTOR ROBERTS, INC., PASSAIC, 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 February 21, 1978, in response to a worker petition received on February 6, 1978 which was filed on behalf of workers and former workers producing men's tailored clothing at Victor Roberts, Inc., Passaic, N.J., a subsidiary of M. Ehrenberg Sons, Inc.

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.

Workers at Victor Roberts are already included in the investigation of the parent firm, M. Ehrenberg Sons, Inc., currently in progress based upon a petition received by the Department on February 6, 1978 (TA-W-3184). Notice of the ongoing investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8864).

Since an investigation regarding workers at M. Ehrenberg Sons, Inc., which includes all workers of Victor Roberts, Inc., is already in progress, further investigation under TA-W-3189 would serve no purpose. The investigation is therefore terminated.

Signed at Washington, D.C., this 15th day of August 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-24339 Filed 8-28-78; 8:45 am]

[4510-28]

[TA-W-2916]

VICTOR WRAPS, INC., CAMDEN, 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-2916: 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 International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's evening wear and sportwear at Victor Wraps, Inc., Camden, N.J.

The notice of investigation was published in the FEDERAL REGISTER on January 6, 1978 (43 FR 1152). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Victor Wraps, 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.

Victor Wraps began operations in May 1976, producing ladies' evening wear and ladies' sportwear. The sportwear production consisted of contract work, accepted from sportwear manufacturers, and was used initially to maintain workflow during slack periods in evening wear production. In late 1976, Victor Wraps decided to virtually eliminate the contract work and to switch production predominantly to evening wear. Evening wear sales as a percent of total company sales increased from 7 percent in the last half of 1976 to 96 percent in the last half of 1977. Manufacturing evening wear requires more production time per garment but fewer workers. Therefore, the company decision to manufacture primarily evening wear resulted in a decline in employment.

A Department survey conducted with the major manufacturer who contracted sportswear work to Victor Wraps revealed that this manufacturer did not import sportswear from 1976 to 1977 and experienced an increase in sportswear sales during that period. The manufacturer ceased doing business with Victor Wraps in December 1976 because of Victor Wraps' decision to do its own manufacturing.

A Department survey conducted with Victor Wraps' retail customers who purchase evening wear showed that no customers purchased imports from 1976 to 1977.

CONCLUSION

After careful review, I determine that workers of Victor Wraps, Inc., Camden, 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 23d day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-24340 Filed 8-28-78; 8:45 am]

[4510-28]

[TA-W-2725, 2930]

VI-MIL, INC., CAMBRIDGE, AND EAST BOSTON, MASS.

Notice of Negative Determinations 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-2725 and TA-W-2930: Investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigations were initiated on December 5, 1977, and January 12, 1978 in response to worker petitions received on November 23, 1977, and December 22, 1977, which were filed on behalf of workers and former workers producing men's clothing, military uniforms, and military outer clothing at the Cambridge and East Boston, Mass. plants respectively, of Vi-Mil, Inc.

During the course of the investigation it was established that both plants of the subject firm produce only military dress uniform coats and jackets worn by U.S. armed forces personnel.

The notices of investigation were published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63487) and February 3, 1978 (43 FR 4695). No public hearing was requested and none was held.

The information upon which the determinations were made was obtained principally from officials of Vi-Mil, Inc., its customer, 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 threats thereof, and to the absolute decline in sales or production.

The Department's investigation revealed that there are no imports of military uniforms used by the Armed Forces of the United States. The Department of Defense Appropriations Act requires that domestic sources be used in the procurement of supplies for the U.S. Armed Services. (Armed Service Procurement Regulation, Statutory Requirement S-102.1, p. 63.)

The sole customer of Vi-Mil, Inc. indicated that he did not import any military uniforms.

CONCLUSION

After careful review of the facts obtained in the investigation, I determine that all workers of the Cambridge, and East Boston, Mass. plants of Vi-Mil, 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 23d day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-24341 Filed 8-28-78; 8:45 am]

[7545-01]

NATIONAL LABOR RELATIONS BOARD

PRIVACY ACT OF 1974

Proposed New System of Records

Pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. section 552a, the National Labor Relations Board publishes the accompanying notice of its intention to establish a new system of records which will contain personal information relating to its present and former employees.

All persons who desire to submit written comment, views, or arguments for consideration by the Board in connection with this proposed new system of records should file same, on or before October 28, 1978, with the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570. Copies of such communications will be available for examination by interested persons during normal business hours in the Office of the Executive Secretary, Room 701, 1717 Pennsylvania Avenue NW., Washington, D.C.

All persons are advised that in the absence of submitted comment, views, or argument considered by the Board as warranting modification of the notice as herewith published, it is the intention of the Board that the notice as herewith published shall be effective upon expiration of the comment period without further action by this Agency. For that reason, the language of the notice is phrased in the present rather than future tense.

Copies of the new system of records report required by 5 U.S.C. section 552a(o) were forwarded to Congress and to the Office of Management and Budget on August 18, 1978.

Dated, Washington, D.C., August 24, 1978.

By direction of the Board.

GEORGE A. LEET,
Associate Executive Secretary.

System name:

Equal Employment Opportunity Program Management System.

System location:

Data Systems Branch, NLRB, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

Categories of individuals covered by the system:

Current and former NLRB employees.

Categories of records in the system:

This system of records contains information such as employee name, social security number, Minority Group Designaor (MGD) Code, employment status, sex, date of birth, payroll block and unit number, pay plan, grade and step, entrance on duty date; date of last promotion, date of last quality step increase, employment class and date of separation.

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

These records or information thereform, are disclosed:

1. To Agency officials and employees who have a need for the record or information:

a. In monitoring and evaluating the status and progress of minority/female employment.

b. To respond to general requests for statistical information (without personal identification of individuals).

c. As a data source for production of summary descriptive statistics and analytical studies in support of the Agency's EEO program.

d. In connection with the investigation, processing, adjudication and/or settlement of an EEO complaint or civil action.

2. To the Civil Service Commission or other Federal agencies responsible for oversight and/or enforcement of Federal EEO regulations.

3. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. To the appropriate agency, whether Federal, State or local, where there is an indication of a violation, or potential violation of law, whether civil, criminal or regulatory in nature, charged with the responsibility of investigating or prosecuring such violation or enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

5. To officials of labor organizations recognized under Executive Order 11491, as amended, when relevant and necessary to their duties of exclusive representation of NLRB employees under the Order. Whenever feasible and consistent with responsibilities under the Order, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Maintained on computer disk file and magnetic tape backup.

Retrievability:

By social security account number or alphabetically by name.

Safeguards:

All doors to the computer room have combination locks and during duty hours the computer and magnetic tape backup are under surveillance of Agency personnel charged with custody of the records. After duty hours the computer disk file and magnetic tape backup are stored in a fireproof safe behind locked doors. Access is limited to authorized personnel only. All format programs are password protected and use of the machines for information printouts restricted to designated personnel.

Retention and disposal:

The information in these records is updated as necessary as changes in the data elements occur. Information on former employees is retained for 3 years following their separation from the Agency.

System manager(s) and address:

Director, Equal Employment Opportunity, NLRB, 1717 Pennesylvania Avenue NW., Washington, D.C. 20570.

Notification procedure:

An individual inquiring whether this system contains a record on such individual should direct such inquiry to the System Manager specified above.

Access and contest:

An individual seeking to gain access to, or to contest, records in the system pertaining to such individual should contact the System Manager specified above.

Record sources categories:

Information in this system is obtained from the individual to whom the record pertains, Agency officials and from personnel records.

[FR Doc. 78-24310 Filed 8-28-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-413-A and 50-414-A]

DUKE POWER CO. AND NORTH CAROLINA MUNICIPAL POWER AGENCY NO. 1, CATAWBA NUCLEAR STATION, UNITS 1 AND 2

Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Duke Power Co., pursuant to section 103 of the Atomic Energy Act of 1954, as amended, filed on May 15, 1978, information requested by the Attorney General for antitrust review as required by 10 CFR Part 50, Appendix L. This information adds North Carolina Municipal Power Agency No. 1 as coowner of the Catawba Nuclear Station, Units 1 and 2.

The information was filed by Duke Power Co., and North Carolina Municipal Power Agency No. 1 in connection with their application for construction permits and operating licenses for the Catawba Nuclear Station, Units 1 and 2. The site for this plant is located in York County, S.C.

The original antitrust portion of the application was submitted on October 27, 1972, and notice of receipt of application for construction permits and facility licenses and availability of applicant's environmental report; time for submission of views on antitrust matters, was published in the FEDERAL REGISTER on December 28, 1972 (37 FR 28642). The notice of hearing was published in the FEDERAL REGISTER on December 1, 1972 (37 FR 25560).

Copies of the above-stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the York County Library, 325 South Oakland Avenue, Rock Hill, S.C. 29730.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to the North Carolina Municipal Power Agency No. 1, presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before October 16, 1978.

Dated at Bethesda, Md., this 28th day of July 1978.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactors Branch No. 4, Division of Project Management.

[FR Doc. 78-22958 Filed 8-21-78; 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 intented for use in collecting information from the public received by the Office of Management and Budget on August 21, 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

DEPARTMENT OF ENERGY

Insulation Retailers Monthly Report (Pilot Study), EIA-34, monthly, 8,000 lumberyards who market insulation material, C. Louis Kincannon, 395-3211.

SMALL BUSINESS ADMINISTRATION

SBA 7(A) Loan Lenders Questionnaire, single time, 300 banks, Economics and General Government Division, 395-3451.

U.S. CIVIL SERVICE COMMISSION

Personnel Research Questionnaire 78-8, CSC-1352, on occasion, 100,000 applicants for agency direct-hire programs, Laverne V. Collins, 395-3214.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Fiscal-Operations Report/Application To Participate: CWS, SEOG, NDSL, OE-646, annually, 4,400 institutions of postsecondary education, 4,300 responses, 25,800 hours, Budget Review Division, 395-4775.

DEPARTMENT OF LABOR

Employment and Training Administration, WIN Reporting System, MA 5-95, 5-96, 5-97, on occasion, 4,891,700 WIN offices, 4,891,700 responses, 340,150 hours, Strasser, A., 395-6132.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-24397 Filed 8-28-78; 8:45 am]

[3110-01]

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 August 23, 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 thru this release.

Further information about the items on this daily list may be obtained form the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF ENERGY

National Interim Energy Consumption Survey, EIA-84, single time, 4,400 household heads/spouses national sample of households, Office of Federal Statistical Policy and Standard, 673-7956.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service:
- Part 235—State Administrative Expenses, on occasion, State agencies, Ellett, C. A., 395-6132.
- Part 230—Food Service Equipment Assistance Program, on occasion, 712 State agencies and school food authorities, Ellett, C. A., 395-6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development, Randolph-Sheppard Quarterly Vending Facility Program Survey, quarterly, 216 State licensing agencies, Office of Federal Statistical Policy and Standards, 673-7956.

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration, Effects of Departmental Policy on Police Officer Job Satisfaction, 3150, single time, six police depts.—cities with less than 1 million and over 333,000, Office of Federal Statistical Policy and Standards, 673-7956.

REVISIONS

NATIONAL SCIENCE FOUNDATION

Reviewers Background Information Form, NSF 428, on occasion, colleges, universities, nonprofit organizations, 5,000 responses, 416 hours, Marsha Traynham, 395-3773.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Part 220—School Breakfast Program, on occasion, 36,412 State agencies and school food authorities, 72,006 responses, 18,783 hours, Ellett, C. A., 395-6132.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Economics, Statistics, and Cooperatives Service, Prices Paid by Farmers for Feed, monthly, feed dealers, 33,400 responses, 4,340 hours, Ellett, C. A., 395-6132.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-24398 Filed 8-28-78; 8:45 am]

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

TRADE POLICY STAFF COMMITTEE

Solicitation of Public views

Pursuant to section 201 of the Trade Act of 1974, on August 23, 1978, the President received a report from the U.S. International Trade Commission (USITC) on the case of Unalloyed Unwrought Copper (investigation No. TA-201-32). The Commission submitted a report containing an affirmative determination that unwrought copper, other than alloyed, provided for in item 612.06 of the tariff schedules of the United States (TSUS), is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

The Commission finds and recommends that, to prevent or remedy the serious injury to the domestic industry, it is necessary to impose quantitative restrictions on imports of unwrought copper, other than alloyed, provided for in item 612.06 of the USUS, in the amount of 300,000 short tons per year for the 5-year period beginning January 1, 1978, with no more than 25 percent of such annual

amount to be entered, or withdrawn from warehouse, for consumption within any calendar quarter.

Within 60 days of receiving a report from the commission containing an affirmative determination, the President must determine what method and amount of import relief he will provide or determine that the provision of relief is not in the national economic interest, and whether he will direct expeditious consideration of adjustment assistance petitions.

In determining whether to provide import relief and what method and amount of import relief he will provide, the President must take into account, in addition to other considerations he may deem relevant, the following factors:

(1) The probable effectiveness of the import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relevant to the position of the industry in the Nation's economy;

(2) The effect of import relief on consumers and on competition in the domestic markets for such articles;

(3) The effect of import relief on the international economic interest of the United States;

(4) The impact on U.S. industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

(5) The geographic concentration of imported products marketed in the United States;

(6) The extent to which the U.S. market is a focal point for exports of such article by reason of restraints on exports of such article to, or on imports of such article into, third country markets; and

(7) The economic and social costs which would be incurred by taxpayers, communities, and workers if import relief were or were not provided.

The Office of the Special Representative for Trade Negotiations chairs the interagency Trade Policy Committee structure that makes recommendations to the President as to what action, if any, he should take on reports submitted by the USITC under section 201(d). In order to assist the Trade Policy Staff Committee in developing recommendations to the President as to what action to take under sections 202 and 203 of the Trade Act of 1974, the Committee welcomes briefs from interested parties on the above listed subjects. (Additional information on this case is available in USITC report 201-32.)

Briefs should be submitted in twenty (20) copies to Chairman, Trade Policy Staff Committee, Room 729, Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C. 20506.

To be considered by the Trade Policy Staff Committee, submissions should be received in the Office of the Special Representative for Trade Negotiations no later than the close of business Friday, September 15, 1978.

TODD STEWART,
Acting Chairman, Trade Policy Staff Committee.

[FR Doc. 78-24293 Filed 8-28-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Rel No. 10367; 812-3186]

AMERICAN GENERAL CONVERTIBLE SECURITIES, INC., ET AL.

Application for Amendment and Modification of an Order

AUGUST 8, 1978

Notice is hereby given that American General Insurance Co. ("Insurance"), 2727 Allen Parkway, Houston, Tex. 77019, a company engaged through subsidiaries in the insurance and financial services business, American General Convertible Securities, Inc. ("Company") a closed-end, diversified investment company, registered under the Investment Company Act of 1940 ("Act"), and American General Capital Management, Inc. ("Capital"), a wholly owned subsidiary of Insurance serving as investment adviser to the Company (hereinafter collectively referred to as "Applicants"), filed an application on May 3, 1978, and an amendment thereto on June 22, 1978, seeking the amendment and modification of an earlier order of the Commission, dated October 31, 1972 ("1972 Order") which was issued pursuant to section 17-(d) of the Investment Company Act of 1940 ("Act"), and rule 17(d)-1 thereunder. The 1972 Order authorizes Insurance and the Company to participate together in direct placements, subject to certain specified conditions. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The investment objective of the Company is to produce current income and capital appreciation. Pursuant to its objective, the Company intends to invest at least 80 percent of its total assets in securities which are convertible into common stock or have other equity features, such as securities with warrants.

Included among the Company's investment policies is the restriction that no more than 10 percent of its total assets may be invested in securities not readily marketable without registration or the filing of a notification under the Securities Act of 1933. Direct placement investment decisions are made for the Company by Capital, a subsidiary of Insurance. Insurance maintains an investment department which makes direct placement investment decisions for a number of its subsidiaries, other than Capital, located in the United States. (Insurance and the above subsidiaries are referred to collectively as the "AG Group".)

Rule 17d-1, adopted by the Commission pursuant to section 17(d) of the Act, provides, in pertinent part, that no affiliated person of any registered investment company and no affiliated person of such a person acting as principal, shall participate in, or effect any transaction in connection with any joint enterprise or other joint arrangement in which such registered company is a participant unless an application regarding such joint enterprise or arrangement has been filed with the Commission and has been granted by an order. A joint enterprise or other joint arrangement as used in this rule is any written or oral plan, contract, authorization, or arrangement, or any practice or understanding concerning an enterprise or undertaking whereby a registered investment company and any affiliated person of such registered investment company, or any affiliated person of such a person, have a joint or joint and several participation, or share in the profits of such enterprise or undertaking. In passing upon such application, the Commission will consider whether the participation of such registered company in such joint enterprise or joint arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Under section 2(a)(3) of the Act, an investment adviser to an investment company is an affiliated person of such investment company, and anyone owning more than 5 percent of the adviser's outstanding voting securities is an affiliated person of the adviser. Accordingly, since Capital is the investment adviser to the Company and a wholly-owned subsidiary of Insurance, Insurance is an affiliated person of an affiliated person of the Company, and is therefore subject to the provisions of section 17(d) of the Act and rule 17d-1 thereunder.

As noted above, on October 31, 1972, the Commission issued the 1972 Order (Investment Company Act Rel. No. 7463) pursuant to an application filed by Insurance and the Company under section 17(d) of the Act and rule 17d-1 thereunder, authorizing Insurance and

the Company to invest concurrently in securities purchased at direct placement and to exercise warrants, conversion privileges, and other rights at the same time and in the same amount, provided that seven conditions are met. One of these conditions specifically requires that Insurance offer the Company an opportunity to participate equally with Insurance in the acquisition of all securities which Insurance is prepared to purchase at direct placement. Further, the 1972 Order requires that when the acquisition of such securities is consistent with the Company's investment policies, the direct placements must be shared equally unless, in the opinion of a majority of Company's directors who are not "interested persons" as defined in the Act, the Company has reached the above 10 percent limitation on direct placement, insufficient cash is available and sale of portfolio securities is inadvisable.

Applicants contend that the literal language of the 1972 Order requires the AG Group to offer to the Company the opportunity to participate in direct placements involving debt securities or preferred stock which are not accompanied by any conversion privileges, or even in common stock issued at direct placement. However, Applicants state that the board of directors of the Company has determined that the best interests of the Company and its shareholders require that the Company's participation in direct placements be restricted in accordance with its primary investment program, i.e., be limited to convertible debt securities or other senior securities with equity features.

Applicants therefore request that the 1972 Order be amended and modified by rescinding all conditions of such Order and, in lieu thereof, authorize the AG Group and the Company to participate in direct placements where the securities being issued are debt securities convertible by their terms into equity securities, preferred stocks convertible by their terms into equity securities, debt securities with warrants to purchase equity securities attached, and debt securities and warrants entitling the purchaser to acquire common stock using the principal amount of the debt securities at face value to exercise the warrants (all of such securities hereinafter being referred to as "convertible securities").

Applicants have agreed to the following conditions being included in the amended and modified order:

A. The AG Group will offer the Company an opportunity to participate in all private placements to be purchased at direct placement by the AG Group, provided such direct placements involve solely convertible securities. The Company may choose to purchase up to 50 percent of any such securities to be purchased at direct placement by the AG Group.

B. If it is is determined that the Company will participate in the direct placement and share equally with the AG Group, the Company may purchase convertible securities of the same class of securities and at the same unit price as purchased by the AG Group without further order of the Commission.

C. If it is determined that the Company will participate in the direct placement on a basis other than an equal basis with the AG Group, an application requesting specific permission for such unequal participation must be filed with, and an order permitting such participation entered by, the Commission pursuant to section 17(d) of the Act and rule 17d-1 thereunder. In the event the Commission order cannot be entered prior to the closing date for the acquisition of the direct placement, the AG Group will purchase the portion of the direct placement applicable to the Company and will thereafter promptly sell the Company's portion to it at the price paid by the AG Group plus accured interest or dividends received. Such sale will also be subject to an order of the Commission under section 17(b) of the Act. However, the AG Group's obligation to sell such securities to the Company will terminate within three (3) months of the closing date, unless such period is extended by agreement of the parties.

D. If it is determined that the Company will not participate in a direct placement offered to it by the AG Group, such determination must be made by a committee of the board of directors of the Company (the "Committee"), which committee shall consist of three such directors, at least two of whom must be persons who are not "interested persons" of the Company as defined in the Act. The decision not to participate in a direct placement and the reasons therefor will be recorded and become a part of the permanent records of the Company.

E. The AG Group and the Company will provide five (5) days written notice (the "Notice") to each other in the event either intends to exercise warrants, conversion privileges, other rights, or sell or otherwise dispose of any of the securities acquired at direct placement pursuant to the 1972 Order or the amended order of the Commission herein requested. The notice will recite the reasons for such action, and offer the right to pro rata participation. If it is determined that the Company will participate pro rata with the AG Group in the disposition of the securities covered by the Notice, the Company shall so notify the AG Group within the five (5) day period covered by the Notice. If it is determined that the Company will take any course of action other than the action taken by the AG Group with respect to securities covered by the Notice, such determination must be made by the Committee, and the Company shall notify the AG Group of such determination within the five (5) day period covered by the Notice. The decision to take any course of action other than the action taken by the AG Group with respect to the securities covered by the Notice and the reasons for such decision will be recorded and become a part of the permanent records of the Company.

F. The expenses, if any, of the distribution of securities registered for sale under the Securities Act of 1933 and sold by the Company and the AG Group at the same time will be shared in proportion to the amount each is selling.

Applicants represent that the foregoing conditions are consistent with the intentions of the Company and Insurance in applying for the 1972 Order and also consistent with the provisions, policies, and purposes of the Act and section 17(d) and rule 17d-1 thereunder. Applicants state that the conditions proposed for inclusion in the amended order will give the Company the opportunity to acquire and dispose of direct placements of convertible securities on an equal basis with the AG Group. Furthermore, Applicants contend that the conditions proposed for inclusion in the amended order will give the Company the added opportunity to decline to follow the AG Group in either participating in or disposing of direct placements depending upon the best interests of the Company. Since any decision not to follow the AG group will be recommended by an investment department consisting of persons different from those comprising the investment department for the AG Group; and further, since the final decision in such a matter will be required to be made by the Committee (consisting of directors of the Company, a majority of which committee members are not "interested persons" of the Company as defined in the Act), Applicants argue that there are ample safeguards to assure that any participation by the Company in such direct placements will not be on a basis less advantageous than that of the AG Group.

Notice is further given that any interested person may, not later than September 11, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be contro-

verted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address 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. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons, who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-24212 Filed 8-28-78; 8:45 am]

[8010-01]

[Release No. 34-15081; File No. SR-CBOE-78-23]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on July 28, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Part A. The rule change which established a competitive bidding system for making board broker appointments on the exchange (file No. SR-CBOE-77-6), notice of which was given by Securities Exchange Act release No. 13434 (April 6, 1977) and by publication in the FEDERAL REGISTER, 42 FR 20870 (April 22, 1977) and which was approved in Securities Exchange Act release No. 13673 (June 24, 1977), would be rescinded in its entirety. The rescission would remove from the rules of the exchange all provisions with respect to such competitive bidding system and would reinstate the provisions deleted by that filing.

Part B. Simultaneously with the rescission of the rule change approved in file No. SR-CBOE-77-6, the rules of the exchange would be amended to establish a system under which an exchange employee called an order book official ("OBO") would handle the public limit order book and perform related activities in place of the present system under which an exchange member acting as a board broker performs those same functions. An OBO would be an exchange employee designated by the exchange for particular classes of options who would be responsible for (i) maintaining the book with respect to the classes assigned to him; (ii) effecting proper executions of orders placed with him; (iii) displaying bids and offers as required by the rules of the exchange; and (iv) monitoring the market for the classes of options assigned to him.

The proposed rule change would make clear that the exchange could levy charges for the services performed by OBO's.

To make possible a transitional period, the proposed rule change would permit the new OBO system and the board broker system to exist concurrently. Accordingly, changes are proposed for numerous rules and interpretations to broaden their application to include OBO's as well as board brokers. At such times as the exchange has not designated an OBO for a particular class, the floor procedure committee could appoint one or more board brokers to act in that class. The criteria for making board broker appointments would be restated to include the interests of the exchange, its members and the public in maintaining a fair and orderly market. The grounds for suspension or termination of a board broker's appointment would be restated to include (i) a summary suspension of the board broker pursuant to chapter XVI of the exchange's rules; (ii) a determination that the board broker is in such operating difficulty that he cannot be permitted to do business as a board broker; (iii) a determination that the suspension or termination of the board broker's appointment would further the interests of the exchange, its members and the public in maintaining fair and orderly markets, or would be in the public interest or for the protection of investors, or (iv) the good standing of the member is suspended, terminated or otherwise withdrawn, as provided in the rules. A board broker adversely affected by a suspension or termination could obtain review in accordance with the rules of the exchange.

A board broker's appointment to a particular class of options would cease upon the designation by the exchange of an OBO for that class.

The proposed rule change would establish a limitation on the exchange's liability to members and member organizations or any persons associated therewith for errors or omissions of OBO's. The limitation would be $100,000 for a single claim (as defined in the rules) and $200,000 for any number of single claims on the same trading day. If claims for a particular trading day exceed the maximum liability of the exchange, such claims would be limited to a pro rata share of that maximum liability. The proposed rule includes procedural and timing provisions and provides for disputed claims to be submitted to binding arbitration. The rule also provides for indemnification of the exchange by a member organization in the event any damage caused by the error or omission of an OBO results from an error or omission of that member organization.

Provisions with respect to reserve market makers would be deleted.

On or before October 3, 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 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 all written submissions will be available for inspection in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection 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 September 19, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

AUGUST 21, 1978.

[FR Doc. 78-24217 Filed 8-28-78; 8:45 am]

[8010-01]

[Rel. No. 15076; SR-DTC-78-9]

DEPOSITORY TRUST CO.

Order Approving Proposed Rule Change

AUGUST 18, 1978.

On June 12, 1978, The Depository Trust Co. ("DTC") filed with the Commission, 55 Water Street, New York, N.Y. 10041, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4 thereunder, copies of a proposed rule change to expand the existing interface between DTC and the New England Securities Depository Trust Co. ("NESDTC") by authorizing DTC to become a participant in NESDTC.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act release No. 34-14889, June 23, 1978) and by publication in the FEDERAL REGISTER (43 FR 28591, June 30 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's public reference room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of section 17A.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-24213 Filed 8-28-78; 8:45 am]

[8010-01]

[Rel. No. 10368; 811-1422]

FLETCHER FUND, INC.

Filing of application for an Order Declaring That Company Has Ceased To Be An Investment Company

Notice is hereby given that Comstock Fund, Inc. ("Comstock"), 2777 Allen Parkway, Houston, Tex. 77019 an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on June 29, 1978, pursuant to section 8(f) of the Act for an order of the Commission declaring that Fletcher Fund, Inc. ("Fletcher"), also registered under the act as an open-end, diversified management investment company, has ceased to be an investment company as defined in the Act. All interestd persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that Fletcher, a Delaware corporation, registered under the Act on August 29, 1966; and on that date it also filed a registration statement (file No. 2-25459) under the Securities Act of 1933 covering 2,500,000 shares of its capital stock in connection with a proposed public offering of its shares. This registration statement was declared effective by the Commission on October 13, 1966, and Fletcher commenced a public offering of shares of its capital stock on that date.

The application also states that on December 28, 1977, at a meeting of shareholders, holders of a majority of the issued and outstanding shares of capital stock of Fletcher approved an agreement of merger ("Merger") which provided for the merger of Fletcher with and into Comstock, and the conversion of the outstanding shares of common stock of Fletcher into shares of common stock of Comstock.

The application further states that the merger was consummated on December 31, 1977, and that pursuant to the terms thereof the outstanding shares of Fletcher were converted into shares of Comstock. The number of Comstock shares issued to shareholders of Fletcher was determined on the basis of the relative net asset values per share of each of the companies computed as of the close of the New York Stock Exchange on the effective date of the Merger.

The application finally states that a properly executed and acknowledge certificate of merger was filed with the Secretary of State of Delaware on December 30, 1977, and in accordance with the provisions of the General Corporation Law of Delaware, Fletcher's corporate existence ceased at the close of business on December 31, 1977. On the effective date of the Merger title to and possession of all the property, assets, franchises and rights of Fletcher were transferred to Comstock, which assumed all of the debts, liabilities and obligations of Fletcher. Thus, Fletcher currently has no assets, no securityholders and no outstanding liabilities. In addition, Fletcher is not a party to any pending litigation or administrative proceedings.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 11, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission small roder 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 Fletcher at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons, who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-24214 Filed 8-28; 8:45 am]

[8010-01]

[File No. 81-366; Administrative Proceeding File No. 3-5473]

PIPER AIRCRAFT CORP.

Application and Opportunity for Hearing

AUGUST 21, 1978.

Notice is hereby given that Piper Aircraft Corp. ("applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order granting applicant an exemption from the provisions of section 15(d) of the 1934 act.

Applicant states that as the result of a merger on May 9, 1978, it became a

wholly owned subsidiary of Bangor Punta Corp. Applicant no longer has any publicly held common stock. Accordingly, applicant believes that the granting of an exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C.

Notice is further given that any interested person not later than September 15, 1978 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-24215 Filed 8-28-78; 8:45 am]

[8010-01]

[Rel. No. 10371; 812-4339]

ST. PAUL CAPITAL FUND, INC. ET AL.

Filing of Application for an Order Exempting Proposed Transaction

AUGUST 21, 1978.

Notice is hereby given that St. Paul Capital Fund, Inc. ("Capital Fund"), St. Paul Life Fund, Inc. ("Life Fund"), and St. Paul Advisers, Inc., 10709 Wayzata Boulevard, Box 1386, Minneapolis, Minn. 55440 ("Advisers") (collectively the "Applicants") filed an application on July 31, 1978, pursuant to section 17(b) of the Investment Company Act of 1940 (the "Act") for an order of the Commission exempting from the provisions of section 17(a) of the Act a proposed sale of substantially all of the assets of Life Fund to Capital Fund and distribution of shares of Capital Fund to Life Fund shareholders.

Both Applicant funds are open end, diversified, management investment companies registered under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representation contained therein which are summarized below.

Capital Fund was incorporated in Minnesota in 1949, and on May 31, 1978, had 10 million shares of authorized capital stock of which 4,896,454 shares were outstanding, and net assets of approximately $40.8 million. Life Fund is a Minnesota corporation organized in 1973. Until May 1, 1977, Life Fund was the only underlying funding medium for St. Paul Variable Funds A and B, separate accounts of St. Paul Life Insurance Co., registered as unit investment trusts under the Act which issue registered variable annuity contracts. Since May 1, 1977, Capital Fund has been utilized as the underlying funding medium for new variable annuity contracts issued by St. Paul Variable Funds A and B. On May 31, 1978, Life Fund had 10 million shares of authorized capital stock of which 79,906 shares were outstanding, and net assets of approximately $0.9 million.

Applicants state that Capital Fund currently offers its shares to the general public at net asset value per share plus a sales charge varying from 6 percent downward to 1 percent of the offering price. Advisers, a subsidiary of the St. Paul Cos., Inc., serve as the investment adviser to Capital Fund. Capital Fund pays an advisory fee to Advisers on an annual basis which is currently equal to 0.80 of 1 percent of the net assets of Capital Fund.

Applicants further state that in the past the shares of Life Fund have been offered only to insurance companies, to separate accounts of insurance companies and to trustees or other managers of pension, profit-sharing, or similar plans ("Participating Companies") at net asset value without a sales charge. However, since May 1, 1977, shares of Life Fund have not been made available for purchase, except for periodic payments made by persons who were holders of variable annuity contracts of St. Paul Variable Annuity Funds A and B prior to such date, and the reinvestment of dividends paid on such shares. Advisers is the investment adviser to Life Fund, and receives an advisory fee on an annual basis which is equal to 0.5 of 1 percent of the net assets of Life Fund.

Applicants state that the advisory agreement between Advisers and Capital Fund provides that if the aggregate expenses of Capital Fund, exclusive of taxes, brokerage or interest on borrowings, exceed 1.5 percent of the average market value of the net assets for any full fiscal year of Capital Fund, Advisers will refund to Capital Fund or bear the excess over 1.5 percent. This limitation is 1.5 percent on the first $30 million of net assets and 1 percent of the balance. The advisory agreement with Life Fund contains the same limitation, and also contains a second limitation on certain expenses which requires Advisers to reimburse Life Fund if the total of the fees paid Advisers, custodial costs and costs of reports and proxy material sent to shareholders exceed 0.85 of 1 percent of the Fund average net assets. While the advisory agreements in effect between Life Fund and Advisers and Capital Fund and Advisers provide that such Funds are to bear the costs of proxy material and fees for independent accounting and legal services, Advisers and St. Paul Cos., Inc., have agreed to bear the expenses incurred in carrying out the Agreement and Plan of Reorganization ("Agreement"), including without limitation, the fees and expenses of counsel and accountants of Life Fund and Capital Fund, the costs of preparing and mailing proxy material, and the costs of registering shares of Capital Fund.

Applicants state that while prior to May 1, 1977, shares of Life Fund were offered to Participating Companies, at the present time all shares of Life Fund outstanding are owned of record by St. Paul Life Insurance Co., which is the record owner of all Life Fund shares purchased for St. Paul Variable Annuity Funds A and B. It is anticipated that a special meeting of the shareholders of Life Fund will be held September 20, 1978, at which time the Life Fund shareholders will be given the opportunity to vote to approve or disapprove the proposed reorganization. As used herein, unless the context otherwise requires, "Life Fund shareholders" includes those who have the voting interest in the separate account (the contract owner, or, after the annuity commencement date, the person entitled to receive variable annuity payment).

Applicants further state that the members of the board of directors of Life Fund are identical to the members of the board of directors of Capital Fund. Capital Fund, Life Fund, and advisers propose to enter into an Agreement and Plan of Reorganization (the "Agreement") contemplating: (a) The sale of substantially all of the assets of Life Fund to Capital Fund in exchange for shares of Capital Fund; (b) the dissolution of Life Fund and distribution of shares of Capital Fund to life Fund shareholders; and (c) the termination of Life Fund's registration under the Act.

In essence, if the Agreement is consummated, shareholders of Life Fund will be treated as having elected to redeem their shares of Life Fund and reinvest the proceeds at no sales charge into shares of Capital Fund. The Agreement contains, among other provisions, several conditions precedent to the consummation of the

transaction, including: (a) The truth as of the closing date of the representations and warranties of the parties to the Agreement; (b) approval of the Agreement by two-thirds of the outstanding shares of Life Fund; (c) receipt by Capital Fund and Life Fund of opinions of counsel with respect to certain matters, including an opinion that the reorganization contemplated by the Agreement will be a tax-free reorganization pursuant to section 368 of the Internal Revenue Code of 1954, as amended; and (d) the parties to the Agreement, prior to the closing date, shall have received all necessary orders, approvals, registrations, or exemptions from the Commission or State securities commissions so that the reorganization contemplated by the Agreement is not violative of the Act, the Securities Act of 1933, State securities laws, and the rules and regulations under such Federal and State laws.

Applicants state that prior to the closing date of the Agreement, Capital Fund will declare and distribute to its shareholders a dividend consisting of substantially all of its distributable net investment income.

The boards of directors of Life Fund and Capital Fund have determined not to make any adjustment to the number of shares of Capital Fund to be issued in the reorganization to compensate for any potential Federal income tax impact which may result from differences in carryforwards or unrealized gains or losses because there is no assurance that capital gains will ever be realized against which the carryforwards could be offset.

At a joint board of directors meeting on June 14, 1978, the board of directors of Capital Fund and Life Fund approved the proposed reorganization, subject to the approval of the affirmative vote of the holders of two-thirds of the outstanding shares of Life Fund. The board of directors of Life Fund adopted a resolution recommending to the shareholders of Life Fund that Life Fund enter into the Agreement.

Applicants state that the respective investment restrictions of the Applicant Funds are similar in all material respects, although not identical, and the current investment policies, objectives, and restrictions of Capital Fund will continue in effect after the reorganization.

Applicants state their expectation that after the proposed reorganization no more than $110,000 of the portfolio securities currently owned by Life Fund will be sold by Capital Fund by virtue of such reorganization, and that the brokerage commissions on the sale of such securities will not exceed $400. Thus, the additional brokerage expenses incurred by Capital Fund because of the proposed reorganization will have an insignificant effect on Capital Fund's net asset value.

SECTION 17

Section 17(a) of the Act provides in pertinent part that it shall be unlawful for any affiliated person of a registered investment company or any affiliated person of such a person acting as principal, knowingly to sell to or purchase from such investment company any security or other property.

Advisers is the investment adviser to both Capital Fund and Life Fund, and the directors of Capital Fund and Life Fund are identical. Therefore, Capital Fund and Life Fund may be deemed to be "affiliated persons" of each other under section 2(a)(3) of the Act or affiliated persons of affiliated persons of each other, so that section 17(a) would apply to the proposed reorganization.

Section 17(b) of the Act essentially provides that the Commission, upon application, shall exempt from the provisions of section 17(a) a proposed transaction 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 any 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 assert that the terms of the proposed reorganization 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 policies of Capital Fund and Life Fund and with the general purposes of the Act. Applicants stress that the affirmative vote of the holders of two-thirds of the outstanding shares of Life Fund is required for the approval of the proposed reorganization and that shares of Life Fund will be exchanged for shares of Capital Fund on the basis of their respective net asset values.

In the opinion of counsel for the Funds, the closing of the reorganization will be a tax-free reorganization pursuant to section 368 of the Internal Revenue Code; no gain or loss or taxable income will be recognized by either Life Fund or Capital Fund or by shareholders of either as a result of the reorganization.

Applicants estimate that the cost of the proposed reorganization will be approximately $13,000. Pursuant to the Agreement, the expenses of Life Fund and Capital Fund in carrying out the Agreement, including without limitation, the fees and expenses of their counsel and accountants, the costs of preparing and mailing proxy materials and the costs of registering shares of Capital Fund, will be borne by Advisers or by St. Paul Co., Inc.

Furthermore, Applicants contend that Life Fund shareholders will benefit from the reorganization because: (a) Capital Fund's ratio of expenses to net assets is substantially lower than Life Fund's; (b) Capital Fund's greater size permits greater diversification of its portfolio investments; and (c) Life Fund shareholders will have the opportunity to continue to draw on the experience and ability of Advisers, the investment adviser of five other investment companies with total net assets of approximately $185 million.

Notice is further given that any interested person may, not later than September 18, 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 request, 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, U.S. Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address 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. An order disposing of the matter will be issued as of course following September 18, 1978, 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. 78-24216 Filed 8-28-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Application No. 04/04-5144]

COTTON BELT INVESTMENT CORP.

Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business In-

vestment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Cotton Belt Investment Corp. (applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1978).

The officers, directors, and stockholders of the applicant are as follows:

Lynwood A. Maddox, 3490 Emperor Way, Tucker, Ga. 30084—President, general manager, director.

Wylodeane S. Brown, 5244 Fleur de Lis Court, Doraville, Ga. 30340—Vice president, treasurer, director, 100 percent stockholder.

June Wood, 2781 Britt Drive, Douglasville, Ga. 30135—Secretary, director.

The applicant, a Georgia corporation, with its principal place of business located at 4542 Memorial Drive, Decatur, Ga. 30032, will begin operations with $500,000 of paid-in capital and paid-in surplus, derived from the sale of 250 shares of common stock.

The applicant will conduct its activities principally in the State of Georgia, and in other areas in the Southeastern States of the United States of America.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under section 301(d) of the act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and SBA rules and regulations.

Any person may, not later than September 13, 1978, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Decatur, Ga.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 22, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-24274 Filed 8-28-78; 8:45 am]

[8025-01]

REGION I ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Providence, R.I., will hold a public meeting at 12 noon, on Wednesday, September 20, 1978, at the Governor Dyer's Buffet House, Providence, R.I., to discuss such matters as may be presented by members, staff of the Small Business Administration, and others attending.

For further information, write or call Charles J. Fogarty, District Director, U.S. Small Business Administration, 57 Eddy Street, Providence, R.I. 02903, 401-528-4580.

Dated: August 24, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-24273 Filed 8-28-78; 8:45 am]

[8025-01]

REGION VI ADVISORY COUNCIL EXECUTIVE BOARD

Public Meeting

The Small Business Administration Region VI Advisory Council Executive Board will hold a public meeting from 9 a.m. to 12 noon on Tuesday, September 12, 1978, in the SBA Regional Office, Communications Center, 1720 Regal Row, Dallas, Tex., to discuss such business as may be presented by members, staff of the Small Business Administration, and others attending.

For further information, write or call Alicia R. Chacon, Regional Director, U.S. Small Business Administration, 1720 Regal Row, Suite 230, Dallas, Tex. 75235, 214-749-1261.

Dated: August 24, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-24272 Filed 8-28-78; 8:45 am]

[8025-01]

REGION VI—ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of the Lower Rio Grande Valley, Harlingen, Tex., will hold a public meeting on Tuesday, September 19, 1978, from 9:30 a.m. to 2:30 p.m., in the Community Room of the First National Bank, 222 East Van Buren, Harlingen, Tex., to discuss such business as may be presented by members, the staff of the Small Business Administration, and others present.

For further information, write or call James R. Woodall, District Director, U.S. Small Business Administration, Lower Rio Grande Valley District Office, 222 East Van Buren, Harlingen, Tex. 78550, 512-734-4533.

Dated: August 21, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-24271 Filed 8-28-78; 8:45 am]

[8025-01]

REGION VI—ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of Houston, Tex., will hold a public meeting on Monday, September 25, 1978, from 10 a.m. to approximately 12 noon, in the Conference Room of the Houston District Office, U.S. Small Business Administration, Room 705, One Allen Center, 500 Dallas, Houston, Tex., to discuss such business as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call John L. Carey, District Director, U.S. Small Business Administration, One Allen Center, Suite 705, 500 Dallas, Houston, Tex. 77002, 713-527-4897.

Dated: August 21, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-24270 Filed 8-28-78; 8:45 am]

[8025-01]

REGION VII ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region VII Advisory Council, located in the geographical area of St. Louis, Mo., will hold a public meeting at 9

a.m., on Wednesday, September 27, 1978, in the Explorer Room of the Gateway Arch of the Jefferson National Expansion Memorial (Riverfront), St. Louis, Mo., to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Thomas L. Holling, District Director, U.S. Small Business Administration, One Mercantile Center, St. Louis, Mo. 63101, 314-425-4191.

Dated: August 24, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-24269 Filed 8-28-78; 8:45 am]

[8025-01]

REGION IX ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of Los Angeles, Calif., will hold a public meeting at 12 noon on Monday, September 25, 1978, at the Taix Les Freres French Restaurant, 1911 West Sunset Boulevard, Los Angeles, Calif., to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For luncheon reservations and further information, write or call Stewart L. Rollins, U.S. Small Business Administration, 350 South Figueroa Street, Suite 600, Los Angeles, Calif. 90071, 213-688-2977.

Dated: August 21, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-24268 Filed 8-28-78; 8:45 am]

[8025-01]

REGION IX ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of Las Vegas, Nev., will hold a public meeting on Tuesday, September 26, 1978, from 10 a.m. until 2 p.m., in the Union Plaza Hotel's Golden Spike Room, Las Vegas, Nev., to discuss such matters as may be presented by members, staff of the Small Business Administration, and others attending.

For further information, write or call Robert S. Garrett, District Director, U.S. Small Business Administration, 301 East Stewart, Las Vegas, Nev. 89101, 702-598-6611.

Dated: August 24, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-24267 Filed 8-28-78; 8:45 am]

[8025-01]

REGION X—ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region X Advisory Council, located in the geographical area of Boise, Idaho, will hold a public meeting on Thursday, September 21, 1978, at 9:30 a.m. (m.d.t.) at the Owyhee Plaza Motel "Green Room", 11th and Main, Boise, Idaho, to discuss such business as may be presented by members, the staff of the Small Business Administration, and others present.

For further information, write or call V. A. Leighton, Acting District Director, U.S. Small Business Administration, 1005 Main Street, P.O. Box 2618, Boise, Idaho 83702, 208-554-1096.

Dated: August 21, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-24266 Filed 8-28-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1511, Amdt. No. 1]

TEXAS

Declaration of Disaster Loan Area

The above number declaration (see 43 FR 37049) is amended in accordance with the President's declaration of August 3, 1978, to include Haskell, Shackleford, and Young Counties in the State of Texas. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above-named counties, and adjacent counties within the State of Texas. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on October 2, 1978, and for economic injury until close of business on May 3, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 11, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-24275 Filed 8-28-78; 8:45 am]

[4710-02]

DEPARTMENT OF STATE

Agency for International Development

[Redelegation of Authority No. 99.1.69 Amdt. No. 1]

AID REPRESENTATIVE, U.S. EMBASSY TO TURKEY

Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me by Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby revoke Redelegation of Authority No. 99.1.69 to the AID Representative, U.S. Embassy to Turkey (38 FR 27628).

This revocation is effective on the date of signature.

Dated: August 16, 1978.

HUGH L. DWELLEY,
Director, Office of Contract Management.

[FR Doc. 78-24210 Filed 8-28-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA), SPECIAL COMMITTEE 129—FUTURE CIVIL AVIATION FREQUENCY SPECTRUM REQUIREMENTS

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Special Committee 129 on Future Civil Aviation Frequency Spectrum Requirements to be held September 14-15, 1978, RTCA Conference Room 261, 1717 H Street NW., Washington, D.C., commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's introductory remarks; (2) approval of minutes of the 12th meeting held June 14-15, 1978; (3) review of Federal Communications Commission 9th notice of inquiry, Docket No. 20271; and (4) other business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006, 202-296-0484. Any member of the

public may present a written statement to the committee at any time.

Issued in Washington, D.C., on August 25, 1978.

KARL F. BIERACH,
Designated Officer.

[FR Doc. 78-24403 Filed 8-28-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

PAPERMAKING MACHINES AND PARTS THEREOF FROM FINLAND

Preliminary Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Preliminary countervailing duty determination.

SUMMARY: This notice is to advise the public that an investigation has been made in order to determine whether or not benefits are granted by the Government of Finland to manufacturers or exporters of papermaking machines and parts thereof which constitute a bounty or grant. It has been preliminarily determined that there are no benefits bestowed by the Government of Finland which constitute a bounty or grant. A final determination will be made not later than February 9, 1979.

EFFECTIVE DATE: August 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: A petition was received in satisfactory form on February 9, 1978, alleging that payments or bestowals conferred by the Government of Finland upon the manufacture or exportation of papermaking machines and parts thereof from Finland constitute the payment or bestowal of a bounty or grant within the meaning of Section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) (hereinafter referred to as "the Act"). A "Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER on April 14, 1978 (43 FR 15825).

Imports covered by this investigation are generally classifiable under items 668.0040 through 668.0700, tariff schedules of the United States (TSUS). In addition, certain parts covered by this investigation may be more properly classifiable under other tariff provisions by reason of General Headnote 10(ij) of the TSUS.

On the basis of an investigation conducted pursuant to Section 159.47(c), Customs Regulations (19 CFR 159.47(c)), and information presently available, it has been preliminarily determined that a number of programs cited by the petitioner either are not utilized or not applicable to Finnish exporters/manufacturers of papermaking machines and parts thereof and therefore do not constitute bounties or grants within the meaning of section 303 of the Act. They include: (1) Export inflation insurance—under the K-Guarantee program, insurance can be provided to manufacturers of exported items which reimburses the manufacturer for certain production cost increases due to domestic inflation during the contract period; (2) export financing provided by the Finnish Export Credit, Ltd.; (3) tax deferrals provided under the Investment Reserve Fund; (4) low-cost government loans to defray certain expenses incurred in negotiating for the exportation of "projects"; (5) a tax exemption on interest income on supplier credits made by a manufacturer.

Three other allegations made by petitioner have been preliminarily determined on their face not to constitute the bestowal of a "bounty or grant." The first involved the rebate of the Finnish value-added tax on export. The Department has consistently held that the non-excessive rebate or remission of indirect taxes directly related to an exported product does not constitute a bounty or grant within the meaning of the countervailing duty law. This position was recently reaffirmed by the U.S. Supreme Court in its decision in the *Zenith* case. (*Zenith Radio Corp.* v. *United States*, 46 U.S.L.W. 4752 (June 21, 1978).) There is no evidence before the Department that the Finnish value-added tax rebates operate to confer bounties or grants on the exportation of papermaking machinery or parts thereof.

The second involved the creation of the TVW Paper Machine Oy by three Finnish papermaking machine manufacturers to carry out certain cooperative activities. The allegation of the existence of a "bounty or grant" was premised upon the belief that it was restricted to export sales because such cooperation among companies on domestic sales violated Finnish law. However, the company is in fact validly organized under Finnish law, operating in both the domestic and foreign market. Further, the activities of the company are such that they create an additional cost to, rather than substitute for, costs otherwise incurred by these companies in selling papermaking machinery. The company's activities have therefore, preliminarily been determined not to constitute a bounty or grant.

The third involves the ownership of one Finnish producer of papermaking machinery and parts, Valmet Oy. Valmet Oy is a state-owned multiproduct corporation, which, in addition to papermaking machinery, manufactures a number of capital items. In the last 10 years there have been increases in the Finnish Government's capitalization of Valmet Oy, some directed specifically to its papermaking machinery operation. At this stage there is no evidence to indicate that the equity position of the Government of Finland in Valmet Oy has in any way placed Valmet in a commercially more favorable position vis-a-vis private papermaking machine manufacturers. No capital appears to have been invested to defray operating losses; no loans have ever been granted for papermaking machine operations. The mere fact a government contributes capital to and owns the stock of a commercial enterprise is not per se countervailable. Therefore, it has preliminarily been determined that the ownership of this firm by the Finnish Government, and the governments' investments in it do not operate to confer a "bounty or grant" on that company. A review of this matter will be conducted before a final determination in the light of further investigation into any possible element of preferential treatment or subsidization of Valmet Oy's papermaking machinery operation by virtue of these equity infusions.

A final decision in this case is required on or before February 9, 1979.

Before a final determination is made, consideration will be given to any relevant data, views, or arguments submitted in writing with respect to the preliminary determination. Submissions should be addressed to Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a).)

Pursuant to Reorganization Plan No. 26 of 1950, and Treasury Department Order 190, Revision 15, March 16, 1978, the provisions of Treasury Department Order No. 165, revised November 2, 1954 and section 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a preliminary countervailing duty determination by the Com-

missioner of Customs, are hereby waived.

HENRY C. STOCKELL, Jr.,
Acting General Counsel
of the Treasury.

AUGUST 23, 1978.

[FR Doc. 78-24301 Filed 8-28-78; 8:45 am]

[4830-01]

Internal Revenue Service

COMMISSIONER'S ADVISORY GROUP

Open Meeting

There will be a meeting of the Commissioner's advisory group on September 13 and 14, 1978, in room 3313 of the Internal Revenue Service Building. The building is located at 1111 Constitution Avenue NW., Washington, D.C. The meeting will begin at 10 a.m. on September 13 and 9 a.m. on September 14. The agenda will include the following topics:

WEDNESDAY, SEPTEMBER 13

Opening remarks.
IRS Administration and overview of IRS organization including counsel reorganization plus IRS reorganization.
Single level of appeal.
Audit lottery.
Withholding—W-4's.
Congressional actions: Administrative problems of tax legislation passed with retroactive effect and freezes.

THURSDAY, SEPTEMBER 14

Effect of Executive Order 12044 on issuing regulations.
Proposed GSA regulations affecting telephone monitoring.
Forms:
(a) Simplifications.
(b) Proposed form 5500.
IRS awareness—Forums and procedures by which IRS can keep abreast of new developments.

The meeting, which will be open to the public, will be in a room that accommodates approximately 50 people. After the Committee members finish discussing the items on the agenda, there may be time for statements by non-members. If you want to make a statement at the meeting, or if you would like the Committee to consider a written statement, please call or write to Lauralee A. Matthews, Assistant to the Commissioner, 1111 Constitution Avenue NW., Washington, D.C. 20224.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978 (43 FR 22319).

FOR FURTHER INFORMATION CONTACT:

Lauralee A. Matthews, Assistant to the Commissioner, 202-566-4390 (not toll free).

JEROME KURTZ,
Commissioner.

AUGUST 25, 1978.

[FR Doc. 78-24431 Filed 8-28-78; 8:45 am]

[4810-22]

NONRUBBER FOOTWEAR, OLIVES, AND ZINC FROM SPAIN

Intent To Review Bases for Determination of Countervailing Duties

AGENCY: Treasury Department.

ACTION: Review of bases for determination of countervailing duties with respect to nonrubber footwear, olives, and zinc from Spain.

SUMMARY: This notice is to advise the public that the Department has decided to review the bases upon which it revised the outstanding rates of countervailing duties on nonrubber footwear, olives, and zinc from Spain. Any person having an interest in the matter is invited to submit written comments by September 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard B. Self, Director, Office of Tariff Affairs, U.S. Treasury Department, Room 1124, Washington, D.C. 20220, telephone 202-566-8585.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of June 15, 1978, notices were published revising the outstanding rates of countervailing duties on nonrubber footwear, olives, and zinc from Spain (43 FR 25813-14). An accompanying notice (43 FR 25812) advised the public of the method by which the revised "net amounts" of bounties or grants had been determined with respect to these products.

The Department has decided to review the bases upon which it revised the outstanding rates of countervailing duties on the subject products. A letter has been sent to all counsel for parties whose direct interest in one or more of the subject proceedings previously has been made known to the Department. The text of the letter reads as follows:

In June of this year the Treasury Department published three notices modifying the rate of countervailing duties on nonrubber footwear, olives, and zinc from Spain. A notice published concurrently with those notices (43 FR 25812, June 15, 1978) explained that the downward revision in the calculation of the bounties or grants was occasioned by the belief that, in interpreting the countervailing duty law in relation to the export rebate of indirect taxes, it would be inappropriate to deny an exporter in a country using a cascade turnover tax system (such as the Spanish Desgravacion Fiscal) treatment equivalent to that accorded an exporter from a country using a value-added tax system. Accordingly, it was concluded that the rebate on exportation of any "taxes paid on or in the process of manufacture of the exported products," as opposed to only those imposed directly on the exported products or their components, would not be considered a "bounty" or "grant" subject to countervailing duty.

Since that decision was announced, the Department has decided to undertake a review of the basis upon which it was made. Because of your interest in one or more of the cases in which the issue is involved, we wish to solicit your views on the legal and economic issues inherent in this basic question.

As you know, the Department, for many years, and in conformity with article VI of GATT, has treated the export rebate of direct taxes, such as income or social security taxes, as "bounties" or "grants" under the countervailing duty law. But it has viewed the export rebate of indirect taxes, such as sales, excise, or value-added taxes, as permissible under that law. This position was recently affirmed by the Supreme Court in *Zenith Radio Corporation* v. *United States*. Further, for more than a decade, we have taken the position that export rebates of indirect taxes are bounties or grants under the countervailing duty law if, when assessed in the home market, they are not directly related to the exported product or its components. This distinction was affirmed by the Court of Customs and Patent Appeals in *American Express Company* v. *United States*, 472 F. 2d 1050, 60 CCPA 86 (1973).

In making our decision in the cases concerning products imported from Spain announced in June, it was recognized that under a value-added tax system a number of inputs or elements in the manufacturing process, which are not "components" of the final product, are, nevertheless, subject to taxation at intermediate stages of the production process and, at the final stage, the entire value-added tax may be rebated (including, thereby, the tax component of the final producer's or seller's costs). Under the Desgravacion Fiscal on the other hand, rebates for elements taxed which are not "components" of the final product (such as machinery) were not allowed prior to the June decision.

It has been argued that basic equity requires greater uniformity of treatment than had been accorded previously; that allowing the rebate of taxes on components but not on the manufacturing process, elevated form over substance; that the system used penalized a country for the method it chose to employ in assessing indirect taxes. On the other hand, it has been argued that the existing national and international rules on the border treatment of taxes are themselves an elevation of form over substance. Under a value-added tax system, whatever indirect elements may have been taxed at intermediate stages, the final stage tax is all that is rebated and that tax unquestionably is directly upon the product. Further, under a value-added tax system, all taxes assessed at intermediate stages are rebated or credited fully, regardless of whether the product is exported, and only the final domestic purchaser of a product bears any tax burden. Under the Desgravacion Fiscal, however, there are no rebates or credits at intermediate stages and the exporting manufacturer, in bearing a tax burden on his domestic

sales that he would not bear under a value-added tax system, realizes a greater relative benefit by virtue of export rebates of the cumulative tax. Additionally, it is argued that, in allowing the rebates of taxes specifically imposed upon noncomponents, such as machinery, the distinction between direct and indirect taxes is blurred and it becomes more difficult to distinguish between taxes on machinery or other capital equipment and taxes on labor, for all can be said to be directly related to the production process.

In addressing this question, careful attention needs to be paid to whatever guidance is available from decided cases, particularly the *Zenith* and *American Express* cases noted above. Further, we are not aware of, and would appreciate any information concerning whether any other country, in applying its countervailing duty or other similar laws, has addressed or resolved a similar question arising from a cascade turnover-type tax system. At the heart of the issue is the interpretation to be given the phrase "directly related." Does a more expansive definition of that phrase create too many difficulties and uncertainties, administratively, economically, and legally? Or can it be interpreted consistently to avoid different, unequal results under dissimilar tax systems without disturbing or confusing the firm distinction between direct and indirect taxes?

We would very much appreciate your views on these and any other questions you believe relevant to the basic issue here. In order that our review might proceed in an orderly and timely fashion, we would like to have any comments you care to submit by September 15, 1978. In the meanwhile, if you have any questions, please do not hesitate to call me or Richard Self, Director (Office of Tariff Affairs).

Sincerely yours,

PETER D. EHRENHAFT,
Deputy Assistant Secretary and Special Counsel (Tariff Affairs).

Any other person having an interest in this matter is invited to submit written comments by September 15, 1978, to Richard B. Self, Director, Office of Tariff Affairs, Department of the Treasury, Room 1124, Washington, D.C. 20220.

HENRY C. STOCKELL, Jr.,
Acting General Counsel of the Treasury.

[FR Doc. 78-24255 Filed 8-28-78; 8:45 am]

[4810-40]

[Public Debt Series—No. 20-78]

DEPARTMENT OF THE TREASURY

Office of the Secretary

SERIES S-1980 Notes

Interest Rate

AUGUST 24, 1978.

The Secretary of the Treasury announced on August 23, 1978, that the interest rate on the notes designated Series S-1980, described in Department Circular—Public Debt Series—No. 20-78, dated August 18, 1978, will be 8⅜ percent. Interest on the notes will be payable at the rate of 8⅜ percent per annum.

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

NOTE.—The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 78-24371 Filed 8-28-78; 8:45 am]

[4810-22]

Office of the Secretary

SILICON METAL FROM CANADA

Antidumping Withholding of Appraisement

AGENCY: U.S. Treasury Department.

ACTION: Withholding of appraisement.

SUMMARY: This notice is to advise the public that there are reasonable grounds to believe or suspect that there are sales of silicon metal from Canada to the United States 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. Appraisement for the purpose of determining the proper duties applicable to entries of this merchandise will be suspended for 6 months. Interested persons are invited to comment on this action not later than September 28, 1978.

EFFECTIVE DATE: August 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Edward F. Haley, Operations Officer, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On January 4, 1978, information was received in proper form pursuant to Sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of the Ohio Ferro-Alloys Corp., Union Carbide Corp., Interlake, Inc., and Kawecki-Berylco Industries, Inc., indicating that silicon metal from Canada is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (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 February 14, 1978 (43 FR 6350-1).

For purposes of this notice, the subject merchandise is silicon metal, unwrought, containing by weight not over 99.7 percent pure silicon; and alloys of silicon metal, unwrought, containing by weight 96 percent or more but less than 99.0 percent silicon.

TENTATIVE DETERMINATION OF SALES AT LESS THAN FAIR VALUE

On the basis of 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 there are reasonable grounds to believe or suspect that the purchase price of silicon metal from Canada is less than the fair value, and thereby the foreign market value, of such or similar merchandise.

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and basis for the above tentative determination are as follows:

a. *Scope of the investigation.* It appears that virtually all imports of the subject merchandise from Canada were manufactured by SKW Electro-Metallurgy Canada Ltd. (hereinafter "SKW"). Therefore, the investigation has been limited to this manufacturer.

b. *Basis of comparison.* For the purpose of considering 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 appears to be between purchase price and the adjusted home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act, was used since U.S. sales were made to unrelated customers prior to the date of exportation of the merchandise. Home market price, as defined in section 205 of the Act, was used for fair value comparison purposes since such or similar merchandise was sold in the home market in sufficient quantities to provide an appropriate basis of comparison. In this case, slightly less than 7 percent of sales was deemed an adequate home market.

In accordance with Section 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning imports from Canada sold to the United States during the 6-month period Septemper 1, 1977, through February 28, 1978, and home market sales of silicon metal during the same period.

On January 4, 1978, counsel for petitioner submitted information in support of its claim that prices charged in the home market should be disregarded because they were less than the cost of producing the merchandise, pursuant to section 205(b) of the Act

(19 U.S.C. 164(b)). Therefore information was requested from SKW concerning the cost of producing the merchandise during the period calendar year 1977. This information has been received and verified. Information has also been received concerning costs incurred during the time the merchandise was made that was then sold during the period of investigation, September 1, 1977, to February 28, 1978. This information indicates that the appropriate period for the examination of the costs of producing the merchandise is July 1, 1978, through December 31, 1978. The total actual costs of producing the merchandise during that time, and in fact during the whole of calendar year 1977, were determined to be less in every instance than the prices charged home market purchasers for such merchandise. Therefore, home market prices need not be disregarded.

c. *Purchase price.* For the purposes of this tentative determination of sales at less than fair value, the purchase price has been calculated based on the price to unrelated U.S. customers with deductions for loading charges, freight, warehousing costs, U.S. duty, discounts, and sales commissions, as appropriate. Additions were made for those sales where additional amounts were separately billed the customer for packing materials and/or freight, and for drawback received on Canadian customs duties paid on imported components.

d. *Home market price.* For purposes of this tentative determination of sales at less than fair value, the home market price has been utilized, calculated on the basis of the weighted-average price to all customers during the period of comparison, with adjustments for loading, packing, and freight costs, selling commissions, and differences in merchandise as appropriate.

An adjustment to home market price of high quality silicon metal was made for purposes of comparing that price to prices charged U.S. customers of silicon metal of a different, and lower, quality, pursuant to section 153.11 (19 CFR 153.11) of the antidumping regulations. The difference was established and verified. The adjustment was based on the additional costs of materials utilized in the manufacture of the higher grade sold solely in the home market. Some additional adjustment under section 153.11 may be made in the form of a deduction from home market price if respondent submits evidence of labor and direct factory overhead costs directly attributable to the allowable cost of differences in the merchandise compared.

Allowance has been claimed for commissions paid to a Canadian company related to SKW in connection with the latter's sales of silicon metal in the home market. Normally a sales commission is considered to be directly related to a particular sale and is a circumstance of sale for which adjustment is made under section 153.10(a) of the regulations (19 CFR 153.10(a)). On the other hand, presale selling expenses are generally regarded as overhead expenses which do not constitute an allowable adjustment under section 153.10(a).

Section 153.10(b) (19 CFR 153.10(b)) of the regulations, in stating exceptions to the general rule tht an adjustment will be made only for directly related circumstances of sale, provides:

> • • • reasonable allowance for selling expenses generally will be made *in cases where a reasonable allowance is made for commissions in one of the markets* under consideration and no commission is paid in the other market under consideration, the amount of such allowance being limited to the *actual* selling expense incurred in the one market or the total amount of the commission allowed in such other market, whichever is less. (Emphasis provided.)

Since, in the instant case, a sales commission has been paid to an unrelated party in respect of sales to the United States, it is necessary to determine whether and, if so, to what extent sales commissions paid in the home market to a related purchaser can be properly deducted from home market price consistent with sections 153.10(a) and 153.10(b) of the regulations. It has been determined:

1. That under section 153.10(a), adjustment for sales commissions paid to a "related" company must be denied, wholly or in part, as a mere shift of income from one part of a corporate organization to another; and

2. That under section 153.10(b), adjustment may be allowed to the extent actual selling expenses, incurred either by the payee or payor of the commission, are shown, up to the amount of any commission paid in the "other" market.

On these bases, an adjustment to home market price has been made in connection with a portion of the sales commissions paid to a related party. The adjustment has been disallowed on a pro rata basis to the extent of the corporate relationship between payor and payee, pending submission of evidence of actual selling expenses.

e. *Result of fair value comparisions.* Using the above criteria, preliminary analysis suggests that the U.S. purchase price probably will be lower than the home market price of such or similar merchandise. Comparisons were made on virtually all the silicon metal sold in the United Staes by SKW during the period of investigation. Margins were tentatively found, ranging from 0.8 percent to 20.5 percent, on 48 percent of sales compared. The weighted-average margin computed over all sales was 3.6 percent. Accordingly, customs oficers are being directed to withold appraisement of silicon metal from Canada in accordance with Section 153.48, Customs Regulations (19 CFR 153.48).

In accordance with Sections 153.40(a) and 153.40(b), Customs regulations (19 CFR 153.40 (a), 153.40(b)), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any request that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office not later than 10 clendar days from the date of publication of this notice in the FEDERAL REGISTER. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER. All persons submitting written views or arguments should avoid repetitious and merely cumulative material. Counsel for the petitioners and respondent are requested to serve all written submissions on all other counsel and to file their submissions with the Commissioner of Customs in 10 copies.

This notice, which is published pursuant to Section 153.35(b), Customs Regulations (19 CFR 153.35(b)), shall become effective upon publication in the FEDERAL REGISTER. It shall cease to be effective at the expiration of 6 months from the date of this publication, unless previously revoked.

HENRY C. STOCKELL, Jr.
Acting General Counsel
of the Treasury.

AUGUST 23, 1978.

[FR Doc. 78-24302 Filed 8-28-78; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on September 18, 1978, at 10 a.m., the Los Angeles Regional Office Station Committee on Educational Allowances shall at 11000 Wilshire Boulevard, Los Angeles, Calif. 90024, in Room 7106, con-

duct a hearing to determine whether Veterans' Administration benefits to all eligible persons enrolled at Southland Aviation, Inc., 12657 Osborne Street, Pacoima, Calif. 91331, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: August 19, 1978.

JOHN G. MILLER,
Director.

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 707]

ASSIGNMENT OF HEARINGS

AUGUST 24, 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 139495 (Sub-316F), National Carriers, Inc., now being assigned for hearing on November 13, 1978 (1 day), at St. Louis, Mo., in a hearing room to be later designated.

MC 60014 (Sub-57), Aero Trucking, Inc., now being assigned for hearing on November 14, 1978 (1 day), at St. Louis, Mo., in a hearing room to be later designated.

MC 119619 (Sub-121), Distributors Service Co., now being assigned for hearing on November 15, 1978 (3 days), at St. Louis, Mo., in a hearing room to be later designated.

MC 135874 (Sub-105F), Ltl Perishables, Inc., now being assigned for hearing on November 20, 1978 (2 days), at St. Louis, Mo., in a hearing room to be later designated.

MC 130473, Ms. Ltd., not assigned September 19, 1978, at Richmond, Va., will be held in Conference Room 1036, Federal Office Building, 400 North Eighth Street.

MC 109324 (Sub-30 M1), Garrison Motor Freight, Inc., now assigned October 16, 1978, at Jefferson City, Mo., is canceled and reassigned to October 16, 1978 (5 days), at Joblin, Mo., in a hearing room to be later designated.

MC 117574 (Sub-304F), Daily Express, Inc., now being assigned September 11, 1978 (1 day), at Nashville, Tenn., in a hearing room to be later designated.

MC 72243 (Sub-56), The Aetna Freight Lines, Inc., now assigned September 18, 1978, at Washington, D.C., is canceled and transferred to modified procedure.

MC 82007 (Sub-8F), Samuel Cooper Gregg, now assigned October 3, 1978, at Wilmington, Del., is canceled and transferred to modified procedure.

MC 143874, Columbiana County Motor Club, Inc., now assigned October 11, 1978, at Columbus, Ohio, is canceled and transferred to modified procedure.

MC 141532 (Sub-15), Pacific States Transport, Inc., is assigned for hearing October 11, 1978, at Olympia, Wash., and will be held at Greenwood Inn, 2300 Evergreen Park Drive.

MC 94201 (Sub-157), Bowman Transportation, Inc., is assigned for hearing November 28, 1978, at New Orleans, La., and will be held at the Maison Dupy Hotel, 1001 Rue Toulouse.

MC 140123 (Sub-5F), Graham Transfer, Inc., is assigned for hearing September 20, 1978, at Nashville, Tenn., and will be held at Room A-951, Federal Courthouse, 801 Broadway.

MC 115654 (Sub-82F), Tennessee Cartage Co., Inc., is assigned for hearing September 18, 1978, at Nashville, Tenn., and will be held at Room A-951, Federal Courthouse, 801 Broadway.

MC 143578 (Sub-1), Wilson Bus Co., Inc., and MC 143578 (Sub-2), Wilson Bus Co., Inc., is assigned for hearing September 13, 1978, at Fayetteville, N.C., and will be held at Room 3D, New Courthouse beside Law Enforcement Center, on Dick Street.

MC 143925, Springfield Bus Co., Inc., is assigned for hearing September 11, 1978, at Springfield, Ohio, and will be held at City Building, Police Training Room, Third Floor, 117 South Fountain.

MC 108589 (M1), Eagle Express Co., is assigned for hearing September 6, 1978, at Frankfort, Ky., and will be held at Conference Room Division Hearing Room, Fourth Floor, State Office Building.

MC 720 (Sub-47F), Bird Trucking Co., Inc., is assigned for hearing September 11, 1978, at New York, N.Y., and will be held at Room F-2220, Federal Building, 26 Federal Plaza.

MC 36974 (Sub-10), Hmieleski Trucking Corp., is assigned for hearing September 12, 1978, at New York, N.Y., and will be held at Room F-2220, Federal Building, 26 Federal Plaza.

MC 121060 (Sub-58F), Arrow Truck Lines, Inc., is assigned for hearing September 11, 1978, at Chicago, Ill., and will be held at Room 204A, E. M. Dirksen Building, 219 South Dearborn Street.

MC 140829 (Sub-73), Cargo Contract Carrier Corp., is assigned for hearing September 25, 1978, at New York, N.Y., and will be held at room D-2206, Federal Building, 26 Federal Plaza.

MC 143236 (Sub-9), White Tiger Transportation, Inc., is assigned for hearing September 26, 1978, at New York, N.Y., and will be held at room No. D-2206, Federal Building, 26 Federal Plaza.

MC 143236 (Sub-14F), White Tiger Transportation, Inc., application dismissed.

MC 107678 (Sub-66), Hill & Hill Truck Line, Inc., now assigned October 18, 1978 (3 days), at Denver, Colo., is postponed indefinitely.

MC 135611 (Sub-7), Walker & Whitted Transportation Co., Inc., now assigned September 18, 1978, at Los Angeles, Calif., is canceled and transferred to modified procedure.

MC 124078 (Sub-752), Schwerman Trucking Co., now assigned October 20, 1978, at Chicago, Ill., is canceled and application dismissed.

MC 143236 (Sub-11), White Tiger Transportation Co., now being assigned for continued hearing on August 31, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 107839 (Sub-176F), now being assigned for hearing on November 13, 1978 (2 days), at Tampa, Fla., in a hearing room to be later designated.

MC 25798 (Sub-317F), now being assigned for hearing on November 15, 1978 (3 days), at Tampa, Fla., in a hearing room to be later designated.

MC 36962, New Hope & Ivyland Railroad Co., Kenneth J. Andrews, trustee, et al., now assigned September 12, 1978, at Washington, D.C., is canceled and transferred to modified procedure.

MC 36972, *Ansonia Travel Agency, Inc.* v. *American Cruise Lines, Inc.*, now assigned November 16, 1978 (2 days), at New York, N.Y., in a hearing room to be later designated.

MC 133841 (Sub-4), Dan Barclay, Inc., now being assigned November 13, 1978 (1 day), at New York, N.Y., in a hearing room to be later designated.

MC 105813 (Sub-238F), Belford Trucking Co., Inc., now being assigned November 14, 1978 (2 days), at New York, N.Y., in a hearing room to be later designated.

MC 125996 (Sub-54), Road Runner Trucking, Inc., now being assigned for hearing on October 16, 1978 (1 day), at Des Moines, Iowa, in a hearing room to be later designated.

MC 115841 (Sub-611F), Colonial Refrigerated Transportation, Inc., now being assigned for hearing on October 11, 1978 (1 day), at Columbus, Ohio, in a hearing room to be later designated.

MC 102616 (Sub-946F), Coastal Tank Lines, Inc., now being assigned for hearing on October 12, 1978 (2 days), at Columbus, Ohio, in a hearing room to be later designated.

MC-F-13326, Campbell's Moving Co., Inc.—purchase (portion)—V. F. Warner & Son, Inc. and MC 49392 (Sub-6), Campbell's Moving Co., Inc., and MC 49392 (Sub-7), Campbell's Moving Co., Inc., is assigned for hearing September 11, 1978, at Philadelphia, Pa., and will be held at Western Savings Fund Building, Broad and Chestnut Streets.

MC 121412 (Sub-6), Suburban Lines, Inc., is assigned for hearing September 6, 1978, at Pittsburgh, Pa., and will be held at room 2214, Federal Building, 1000 Liberty Avenue.

MC 144002, One Seventy Two Union Ave., Inc., d.b.a. Henry's Citgo, now being assigned November 21, 1978 (2 days), at Boston, Mass., in a hearing room to be later designated.

MC 61016 (Sub-50F), Peter Pan Bus Lines, Inc., now being assigned November 13, 1978 (5 days), at Boston, Mass., in a hearing room to be later designated.

MC 32882 (Sub-95F), Mitchell Bros. Truck Lines, MC 108119 (Sub-88F), E. L. Murphy Trucking Co., MC 144875F, Barton Trucking, Inc., MC 115603 (Sub-14F), Turner Bros. Trucking Co., Inc., and MC 120761 (Sub-39F), Newman Bros. Trucking Co., now being assigned October 10, 1978 (4 days), at Denver, Colo., in a hearing room to be later designated.

MC-F-13467, Bhy Trucking, Inc.—purchase (portion)—Western Gillette, Inc., now being assigned October 3, 1978, at the offices of the Interstte Commerce Commission, Washington, D.C.

MC 119789 (Sub-416), Caravan Refrigerated Cargo, Inc., now being assigned for hearing on October 17, 1978 (1 day), at Des Moines, Iowa, in a hearing room to be later designated.

MC 110098 (166F), Zero Refrigerated Lines, now being assigned for hearing on October 18, 1978 (2 days), at Des Moines, Iowa, in a hearing room to be later designated.

MC 135874 (Sub-116), LTL Perishables, Inc., now being assigned October 20, 1978 (1 day), at Des Moines, Iowa, in a hearing room to be later designated.

MC 115826 (Sub-308F), W. J. Digby, Inc., now being assigned October 18, 1978 (3 days), at Denver, Colo., in a hearing room to be later designated.

MC 18121 (Sub-19) and MC 18121 (Sub-20), Advance Transportation Co., now assigned September 18, 1978, at Madison, Wis., will be held in the Current Information Conference Room, Room 125, Forest Products Laboratory.

MC 115676 (Sub-4), Conway's Bus Service, Inc., now assigned September 25, 1978, at Providence, R.I., will be held in the John O. Pastore Federal Building and Post Office, 37 Exchange Towers.

MC 143999, Allied International Trucking Co., Inc., now assigned September 20, 1978, at Boston, Mass., will be held on the Fifth Floor, 150 Causeway.

MC 103066 (Sub-67F), Stone Transfer Co., a corporation, now assigned September 19, 1978, at Boston, Mass., will be held on the Fifth Floor, 150 Causeway.

MC 134501 (Sub-28F), Incorporated Carriers, Ltd., a division of Brooks International, Inc., now being assigned for hearing on December 5, 1978 (1 day), at Denver, Colo., in a hearing room to be later designated.

MC 138144 (Sub-27F), Fred Olson Co., Inc., now being assigned for hearing on December 6, 1978 (3 days), at Denver, Colo., in a hearing room to be later designated.

MC 36434, Commuter Fares Consolidated Rail Corp., New Jersey and New York, and MC 36474, *Benjamin A. Gilman* v. *Consolidated Rail Corporation et al.*, now assigned September 18, 1978, at Goshen, N.Y., will be held at the County Legislative Chamber, City Government Center, 124 Main Street, and on September 20, 1978, at Suffern, N.Y., will be held at the Suffern Village Hall, 62 Washington Avenue.

MC 113855 (Sub-420F), International Transport, Inc., now being assigned for hearing on October 20, 1978 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 69454 (Sub-5), Ditto Freight Lines, now being assigned for hearing on December 11, 1978, in San Francisco, Calif., in a hearing room to be later designated (5 days).

MC 119789 (Sub-435F), Caravan Refrigerated Cargo, Inc., now being assigned for hearing on December 6, 1978, at San Francisco, Calif., in a hearing room to be later designated (3 days).

MC 116260 (Sub-9), Pasha Truckaway, now being assigned for hearing November 29, 1978, at San Francisco, Calif., in a hearing room to be later designated (3 days).

MC 106644 (Sub-256F), Superior Trucking Co., Inc., now being assigned November 28, 1978, at San Francisco, Calif., in a hearing room to be later designated (1 day).

MC 113678 (Sub-733F), Curtis, Inc., is now being assigned December 4, 1978, at San Francisco, Calif., in a hearing room to be later designated (2 days).

AB 7 (Sub-43), Chicago, Milwaukee, St. Paul & Pacific Railroad Co., abandonment near Paralta and Hopkinton, in Linn, Jones, and Delaware Counties, Iowa, now assigned for hearing on September 11, 1978, at Anamosa, Iowa, is postponed to September 12, 1978 (4 days), at Anamosa, Iowa, in a hearing room to be later designated.

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

[FR Doc. 78-24347 Filed 8-28-78; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATIONS FOR RELIEF

AUGUST 24, 1978.

These applications for long-and-short-haul relief have been filed with the ICC.

Protests are due at the ICC on or before September 13, 1978.

FSA No. 43597, Southwestern Freight Bureau, Agent's No. B-761, reates on petroleum, petroleum products, and related articles, from Talla Bena, La., and North Abilene, Tex., to stations in eastern, southern, southwestern, and western trunkline territories, in supplement 72 to its Tariff 191-0, ICC 4940, and in five other schedules named in the application, to become effective September 18, 1978.

Grounds for relief: Rate relationship.

FSA No. 43598, Southwestern Freight Bureau, Agent's No. B-770, TOFC plan 11½ rates on imported household goods, from New Orleans, La., to Missouri Pacific Railroad Co. ramp points in southwestern and western trunkline territories, in supplement 158 to Southwestern Freight Bureau, Agent, Tariff 82-H, ICC 5038, and in four other schedules named in the application, to become effective September 23, 1978.

Grounds for relief: Market competition and rate relationship.

By the Commission.

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

[FR Doc. 78-24342 Filed 8-28-78; 8:45 am]

[7035-01]

[Fourth Sec. Application No. 43598]

HOUSEHOLD GOODS FROM NEW ORLEANS, LA. (IMPORT)

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4(1) of the Interstate Commerce Act.

Filed by: Southwestern Freight Bureau, Agent (No. B-770), for and on behalf of the Missouri Pacific Railroad Co.

Commodities involved: Household goods, in containers or boxes, as described in the application.

From: New Orleans, La. (import).

To: Missouri Pacific Railroad Co. ramp points in southwestern and western trunkline territories—TOFC plan II½.

Grounds for relief: Market competition and rate relationship.

Schedules filed containing proposed rates: Supplement 158 to Southwestern Freight Bureau, Agent, Tariff 82-H, ICC 5038, and in supplements to four (4) other tariffs named in the application. Rates are published to become effective September 23, 1978.

Protests against the granting of an application must be prepared in accordance with rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed on or before September 13, 1978.

By the Commission.

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

[FR Doc. 78-24343 Filed 8-28-78; 8:45 am]

[7035-01]

[Notice No. 158]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 24, 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 gov-

erned 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, DC, and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 141759 (Sub-6TA), filed March 20, 1978. Applicant: OHIO PACIFIC EXPRESS, INC., 2385 South High Street, Columbus, OH 43207. Representative: Thomas F. Kilroy, Esq., Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. By order of August 22, 1978, the Motor Carrier Board granted authority to applicant to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, in mixed shipments with glassware, chinaware, earthenware, and pottery, from Lancaster, OH, and Chester, WV, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, under a continuing contract or contracts with Anchor Hocking Corp., for 180 days. Notice of this application in the FEDERAL REGISTER on April 21, 1978, inadvertently showed the wrong address for applicant and also showed destination points in AR and IN in lieu of AZ and ID. Insofar as authority to serve points in AZ and ID is concerned, interested parties may file petitions for reconsideration on or before 15 calendar days from the date of publication of this notice. Send petitions to: Acting Secretary, Interstate Commerce Commission, Washington, DC 20423.

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

[FR Doc. 78-24344 Filed 8-28-78; 8:45 am]

[7035-01]

[Amendment No. 2 to Revised ICC Order No. 65 Under Revised Service Order No. 1252]

REROUTING TRAFFIC

Upon further consideration of revised ICC Order No. 65 (CP Rail and Detroit, Toledo and Ironton Railroad Co.), and good cause appearing therefor:

It is ordered,

Revised ICC Order No. 65 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., August 31, 1978, unless otherwise modified, changed, or suspended.

Effective date. This amendment shall become effective at 11:59 p.m., August 18, 1978.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of the amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 16, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-24345 Filed 8-28-78; 8:45 am]

[7035-01]

[ICC Order No. 60-A Under Revised Service Order No. 1252]

REROUTING TRAFFIC

Upon further consideration of ICC Order No. 60 (ConRail), and good cause appearing therefor:

It is ordered,

ICC Order No. 60 is vacated.

This order shall become effective at 11:59 p.m., August 15, 1978, and shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 15, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-24346 Filed 8-28-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

[6740-02]

1

AUGUST 23, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., August 30, 1978.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

GAS AGENDA—159TH MEETING, AUGUST 30, 1978, REGULAR MEETING (10 A.M.)

CAG-1. Docket Nos. AR61-2 and AR69-1, et al., AR64-2, et al., RP67-23, RP71-6, et al., G-11980, et al., RP73-114, Tennessee Gas Pipe Line Co.
CAG-2. Docket Nos. AR64-2, et al., and RP73-57, South Texas Natural Gas Gathering Co.
CAG-3. Docket No. RP78-73, Columbia Gulf Transmission Co.
CAG-4. Docket No. RP75-73, (AP No. 78-3), Texas Eastern Transmission Corp.
CAG-5. Docket No. RP71-125 (PGA No. 78-2), Natural Gas Pipeline Co. of America.
CAG-6. Docket Nos. RP71-41, RP72-75, RP74-20, RP74-83, RP75-30, RP75-109, RP76-84 and RP77-107, United Gas Pipe Line Co.
CAG-7. Docket No. RI78-5, Elms Bros. & Co.
CAG-8. Docket No. RI78-53, Sun Oil Co. (Delaware)
CAG-9. Docket No. RI78-29, Bright & Schiff.
CAG-10. Docket Nos. AR61-2, AR69-1, et al., Southern Louisiana Area Rate Proceedings.
CAG-11. Docket No. CS69-4, Hytech Energy Corp. Docket No. CI76-119, Union Texas Petroleum, a division of Allied Chemical Corp. Docket No. CI78-745, Southland Royalty, Co. Docket No. CI78-854, Cities Service Co. Docket No. CI78-805, Atlantic Richfield Co. Docket No. CI78-617, Atlantic Richfield Co. Docket No. CI78-714, Amoco Production Co. Docket No. CI65-95, Amoco Production Co. Docket No. CI78-391, Tenneco Oil Co. Docket No. CI78-612, Sohio Natural Resources Co. Docket No. CI78-637, Marathon Oil Co. Docket No. CI78-780, Cotton Petroleum Corp. Docket No. CI78-924, Atlantic Richfield Co.
CAG-12. Docket No. CI78-244, Michigan Wisconsin Pipe Line Co.
CAG-13. Docket No. CP75-93, Black Marlin Pipeline Co.
CAG-14. Docket No. CP77-567, Michigan Wisconsin Pipe Line Co.
CAG-15. Docket No. CP76-492, National Fuel Gas Supply Corp. and National Gas Storage Corp. Docket No. CP77-644, National Fuel Gas Supply Corp. Docket No. CP77-472, Transcontinental Gas Pipe Line Corp. Docket Nos. CP77-518 and CP77-519, Columbia Gas Transmission Corp. Docket Nos. CP77-569, CP77-570, and CP77-571, Tennessee Gas Pipeline Co., a division of Tenneco, Inc.
CAG-16. Docket No. CP76-285, et al., Mountain Fuel Resources, Inc., et al.
CAG-17. Docket No. CP78-353, Mountain Fuel Supply Co.
CAG-18. Docket No. CP78-383, El Paso Natural Gas Co.
CAG-19. (A) Docket No. CP78-270, Michigan Consolidated Gas Co. Docket No. CP78-329, Columbia Gas Transmission Corp. Docket No. CP78-367, Panhandle Eastern Pipe Line Co. Docket No. CP78-402, Michigan Wisconsin Pipe Line Co. (B) Docket No. CP77-253, Panhandle Eastern Pipe Line Co. Docket No. CP77-274, Michigan Consolidated Gas Co.
CAG-20. Docket No. CP78-293, United Gas Pipe Line Co.
CAG-21. Docket No. CP78-313, Transcontinental Gas Pipe Line Corp. Docket No. CP78-322, Sea Robin Pipeline Co.
CAG-22. Docket No. CP78-357, Columbia Gulf Transmission Co.
CAG-23. Docket No. CP78-358 and CP78-384, Transcontinental Gas Pipe Line Corp.
CAG-24. Docket No. CP78-96, Arkansas Louisiana Gas Co., Southern Natural Gas Co., Natural Gas Pipeline Co. of America. Docket No. CP78-260, United Gas Pipe Line Co. Docket No. CP78-284, Southern Natural Gas Co. Docket No. CP78-294, United Gas Pipe Line Co. Docket No. CP78-295, United Gas Pipe Line Co.
CAG-25. Docket Nos. CP78-317 and CP78-94, Tennessee Gas Pipeline Co., a division of Tenneco Inc.
CAG-26. Docket No. CP76-490, Transcontinental Gas Pipe Line Corp.
CAG-27. Docket Nos. G-8226, et al., Sun Oil Co., et al.

I. PIPELINE RATE MATTERS

RP-1. Docket No. RP73-65 (PGA No. 78-4) (AP No. 78-1), Columbia Gas Transmission Corp.
RP-2. Docket No. RP73-3 (PGA No. 78-3), Transcontinental Gas Pipe Line Corp.
RP-3. Docket No. RP77-138, United Gas Pipe Line Co.
RP-4. Docket No. RP75-98, McCulloch Interstate Gas Corp.
RP-5. Docket No. RP74-61 (PGA 77-5), RP76-10 (PGA 77-5), RP77-54 and RP77-55, Arkansas Louisiana Gas Co.

II. PRODUCER MATTERS

CI-1. Docket Nos. CI78-385 and CI78-386, Texas Gas Exploration Corp.
CI-2. Docket No. CI78-968, *United Gas Pipe Line Co.* v. *Exchange Oil & Gas Corp.*

III. PIPELINE CERTIFICATE MATTERS

A. Pipeline certificates

CP-1. (A) Docket No. CP77-400, Sea Robin Pipeline Co. Docket No. CP77-594, Tennessee Gas Pipeline Co. (B) Docket No. CI76-701, Texaco, Inc.
CP-2. Docket No. CP78-374, Mountain Fuel Supply Co.
CP-3. Docket No. CP77-535, Carnecie Natural Gas Co.
CP-4. Docket No. CP76-500, Cities Service Gas Co.
CP-5. Reserved.

B. Curtailment

CP-6. Docket No. RP77-35, *Senator Howard Metzenbaum* v. *Columbia Gas Transmission Corporation.*
CP-7. Reserved.
CP-8. Reserved.

C. Order No. 2 authorizations

CP-9. Docket No. CP76-46, Transcontinental Gas Pipe Line Corp.
CP-10. Docket No. CP78-112, Transcontinental Gas Pipe Line Corp., United Gas Pipe Line Co.

MISCELLANEOUS AGENDA—159TH MEETING, AUGUST 30, 1978, REGUALR MEETING

CAM-1. Docket No. RM75-14, Ashland Oil, Inc.
CAM-2. Department of Energy's proposed regulation regarding a contingency gasoline rationing plan.
CAM-3. Secretary of Energy's proposed rule to amend 10 CFR 211.67, Domestic Crude Oil Entitlements Program, With Respect to Imported Residual Fuel Oil.
M-1. Docket No. RM , proposal by the Federal Energy Regulatory Commission to reexamine special relief and optional certificate procedures.
M-2. Docket No. RM78-12, Incentive Rate of Return for the Alaska Natural Gas Transportation System.

POWER AGENDA—159TH MEETING, AUGUST 30, 1978, REGULAR MEETING

CAP-0. Docket No. ER78-529, Arizona Public Service Co.

CAP-1. Docket No. ER78-354, Otter Tail Power Co.
CAP-2. Docket No. ER78-399, Safe Harbor Water Power Co.
CAP-3. Docket No. E-9454, Public Service Co. of New Mexico.
CAP-4. Docket No. ER77-452, Allegheny Power Service Corp.
CAP-5. Docket No. ER77-348, Missouri Utilities Co.
CAP-6. Docket No. ER76-820, Public Service Co. of Oklahoma.
CAP-7. Docket No. ER77-203, Wisconsin Electric Power Co.
CAP-8. Docket No. ES78-41, Iowa Southern Utilities Co.
CAP-9. Docket No. ID-1717, Thomas A. Griffin.
CAP-10. Project No. 2016, City of Tacoma, Wash.
CAP-11. Docket No. ER78-360, Connecticut Yankee Atomic Power Co.
CAP-12. Docket No. E-9574, Florida Power & Light Co.

I. ELECTRIC RATE MATTERS

ER-1. Docket No. ER78-517, Connecticut Light & Power Co.
ER-2. Docket No. ER78-520, El Paso Electric Co.
ER-3. Docket No. ER78-522, Virginia Electric & Power Co.
ER-4. Docket No. ER78-512, Wisconsin Electric Power Co.
ER-5. Docket No. ER78-514, Superior Water, Light & Power Co.
ER-6. Docket No. ER78-515, The Montana Power Co.
ER-7. Docket No. ER78-516, Boston Edison Co.
ER-8. Docket No. ER78-524, Michigan Power Co.
ER-9. Docket No. ER78-526, Central Power & Light Co.
ER-10. Docket No. ER78-527, Florida Power & Light Co.
ER-11. Docket No. ER78-194, Cleveland Electric Illuminating Co.
ER-12. Docket Nos. ER78-19 (Phase 1) and ER78-81, Florida Power & Light Co.
ER-13. Docket No. ER78-311, Utah Power & Light Co.
ER-14. Docket No. ER78-816, Gulf States Utilities Co.
ER-15. Docket No. E-7855, Central Kansas Power Co.

II. LICENSED PROJECT MATTERS

P-1. Project No. 2305, Sabine River Authority, State of Louisiana, and Sabine River Authority of Texas.

KENNETH F. PLUMB,
Secretary.

[S-1723-78 Filed 8-25-78; 3:42 pm]

[7550-01]

2

NATIONAL MEDIATION BOARD.

TIME AND DATE: 2 p.m., Wednesday, September 6, 1978.

PLACE: Board Hearing Room, 8th floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of Board actions taken by notation voting during the month of August 1978.
2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rowland K. Quinn, Jr., Executive Secretary, telephone 202-523-5920.

Date of notice: August 24, 1978.

[S-1721-78 Filed 8-25-78; 1:11 p.m.]

[4910-58]

3

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 37832, August 24, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Thursday, August 31, 1978 [NM-78-32].

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below.

STATUS: The first five items on the agenda will be open to the public; the last item will be closed under exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*—Southern Co. Services, Inc., Beech-Hawker 125-600A, N40PL, McLean, Va., April 28, 1977.
2. *Highway Accident Report*—Cates Trucking, Inc., tractor-semi-trailer/multiple vehicle collision and override, I-285, Atlanta, Ga., June 20, 1977.
3. *Letter* to Federal Railroad Administration re their response to safety recommendations R-73-5.
4. *Closeout* of safety recommendations A-78-4, R-74-33, R-77-18, R-75-32, and R-75-37.
5. *Closeout* of safety recommendations H-77-9, H-77-43, and R-76-8.
6. *Opinion and Order*—Petition of Jolls, Dkt. SM-1953; disposition of petitioner's appeal.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-1722 Filed 8-25-78; 3:42 p.m.]

[7600-01]

4

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE: 2 p.m., Thursday, August 24, 1978.

TIME AND DATE: 10 a.m., Thursday, August 31, 1978.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: It is likely that this meeting will be closed by a vote of the Commissioners taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudication process.

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Nori Heuberger, 202-634-7970.

Dated: August 24, 1978.

[S-1720-78 Filed 8-25-78; 11:10 a.m.]

federal register

TUESDAY, AUGUST 29, 1978
PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration and Office of Child Support Enforcement

■

MEDICAL ASSISTANCE AND CHILD SUPPORT ENFORCEMENT PROGRAMS

Assignment of Benefits and Collection of Medical Support and Payments

[4110-35]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Parts 448 and 450]

MEDICAL ASSISTANCE PROGRAM

Office of Child Support Enforcement

[45 CFR Parts 301, 302, 304, and 306]

CHILD SUPPORT ENFORCEMENT PROGRAM

Assignment of Benefits; Collection of Medical Support and Payments

AGENCIES: Health Care Financing Administration (HCFA) and Office of Child Support Enforcement (OCSE), HEW.

ACTIONS: Proposed rules.

SUMMARY: The Department proposes new rules authorizing the States to require medicaid applicants and recipients, as a condition of eligibility, to assign to the State their rights to medical support or other third-party payments for medical care. State medicaid agencies could make agreements with other agencies (including State child support enforcement agencies) for assistance in collecting on third-party liability. The proposed rule would also prohibit Federal payments for medical assistance furnished to a medicaid recipient who is covered by a private health insurance policy having a "Medicaid Exclusion" clause. The rule implements section 11 of the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977 (Pub. L. 95-142).

DATE: Closing date for receipt of comments: October 30, 1978.

ADDRESS: Address comments in writing to: Department of Health, Education, and Welfare, P.O. Box 23526, Washington, D.C. 20024. Agencies and organizations are requested to submit their comments in duplicate. Please refer to file code MMB-233-P. Comments will be available for public inspection, beginning 2 weeks from today, in room 5231 of the Department's offices at 330 C Street SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5 p.m., 202-245-0950.

FOR FURTHER INFORMATION:

For OCSE: Ms. Suzanne Duval, 202-472-4510.

For HCFA: Mr. Arthur J. Muller, 202-245-0384.

SUPPLEMENTARY INFORMATION: Section 11 of Pub. L. 95-142 added a new section 1912 to the Social Security Act, authorizing State medicaid agencies to take new measures to collect from third parties who are legally obligated to pay for medical care which a person has received under medicaid. First: States may require individuals, as a condition of eligibility for medical assistance, to assign to the State their rights to any medical support or other payments for medical care, and to cooperate with the State in establishing paternity and obtaining third-party payments. In addition, State medicaid agencies may make cooperative arrangements with State child support enforcement agencies and other appropriate agencies, courts, and law enforcement officials to assist in making collections.

Section 11 also amends title XIX of the Social Security Act by prohibiting Federal matching of a State's medicaid payment in any case where a private insurer would have been liable to pay for the care except that the insurance contract provides that this liability is modified or inapplicable when the individual is eligible for medicaid.

These proposed rules: (1) Specify requirements State medicaid agencies must meet if they implement these provisions; (2) provide the conditions under which title IV-D agencies may perform medical support collection functions; and (3) incorporate the prohibition against payments where private insurer liability exists. The proposed rules also make editorial revisions in the existing regulation on third-party liability, 42 CFR 450.31.

The proposed rules were prepared jointly by HCFA and OCSE. The rules applying to medicaid agencies are contained in 42 CFR parts 448 and 450; those for child support enforcement agencies in 45 CFR parts 301, 302, 304, and 306.

MAJOR PROVISIONS

1. PRIVATE INSURER LIABILITY

The proposed regulation defines "private insurer" (§ 450.31(b)(2)) to include commercial companies, prepaid plans, and organizations that administer insurance plans for others (e.g., for unions or professional groups). Section 450.31(g)(3) prohibits Federal financial participation in State payments if private insurer liability would exist but for a "Medicaid Exclusion" clause.

2. ASSIGNMENT OF RIGHTS TO PAYMENT

A new § 450.32 provides that a State may, in granting or continuing eligibility for medical assistance, require an individual to assign to the State his rights to medical care support or payment. The required assignment would include the rights to third-party support held by the individual's children or any other person for whom the individual has legal authority to make an assignment. The rights that must be assigned are those to medical support under an order of a court or administrative agency and to any payments for which a third party is liable. The most common example of the latter are the rights of a beneficiary under a health insurance program.

The regulation permits the assignment to be accomplished either automatically by operation of a State law or by an individually executed assignment. For ease of administration, we encourage use of the former method, provided the medicaid applicant or recipient is advised of the terms and consequences of the State law.

3. COOPERATION BY MEDICAID RECIPIENT

If the State medicaid agency requires an assignment of rights to third-party liability, the statute also authorizes it to require that the medicaid recipient cooperate with the State in establishing paternity for a child born out of wedlock and in obtaining third-party support and payments, unless the State agency, in accordance with standards set by HEW, finds there is good cause not to cooperate. The standards for finding good cause must consider the best interests of the individuals involved. Thus, section 11 is nearly identical to section 402(a)(26) of the Social Security Act, pertaining to the aid to families with dependent children (AFDC) program. We believe that having as much uniformity as possible in implementing similar statutory provisions will assist the States in administering these programs efficiently and effectively. Therefore, the proposed rule follows the existing OCSE and AFDC regulations on the required elements of cooperation and the basis for a finding of good cause not to cooperate. (See 45 CFR 232.12 and 232.13.)

The proposed requirements for cooperation include providing relevant information and evidence, appearing as a witness in judicial or administrative proceedings, and paying to the State any third-party liability payments covered by the assignment.

4. WAIVER OF COOPERATION FOR GOOD CAUSE

The State medicaid agency is responsible for determining whether good cause exists for refusing to cooperate. However, eligibility for medicaid is based, in many cases, on eligibility for AFDC. Moreover, the assignment of rights to third-party liability and the obligation to cooperate are mandatory features of State AFDC plans. Therefore, those cases arising under medicaid dealing with an absent parent's liability for the medical care of a child will typically involve the same individuals, issues, and facts that arise under AFDC. Consequently, we are proposing that if the State agency which administers AFDC has made a determination that good cause exists,

or does not exist, for refusing to cooperate with respect to AFDC, that determination will be adopted by the State medicaid agency. In addition, for any other cases dealing with establishing paternity or obtaining medical care support and payments for a child, the State medicaid agency would make a determination based on the factors and considerations established by the AFDC regulation at 45 CFR 232.13 (e) and (g). That regulation specifies that good cause not to cooperate exists if the cooperation is reasonable anticipated to result in physical or emotional harm to the child for whom support is sought, to the child's mother or to a caretaker relative with whom the child is living. A finding of good cause may also be made if the child was conceived as a result of rape or incest, if legal proceedings for adoption are pending, or if the question whether to place the child for adoption is under active consideration.

The AFDC regulation became effective on March 17, 1978, but public comments and suggestions were invited until June 15, 1978 (see 43 FR 2170, Jan. 16, 1978). Since the procedures and standards for medicaid determinations are to conform to those for AFDC, this medicaid regulation will be revised, as necessary, to reflect any changes in the AFDC regulation as a result of public comments.

The good cause standards set forth in the AFDC regulation do not address cases other than those dealing with establishing paternity or collecting on an absent parent's liability. The most apparent example of such a case would be the third party liability of an estranged spouse. The proposed regulation sets forth good cause standards for this type of case which are comparable to those specified in the AFDC regulations. The State medicaid agency would have to find that requiring cooperation was against the best interests of the medicaid recipient (or other person for whom the medicaid recipient had authority to assign rights to third-party liability). Such a finding would have to be based on a reasonable anticipation that cooperation would lead to a reprisal and would result in physical or emotional harm to the recipient (or other person).

The proposed regulation also sets forth in broad terms the procedures which a State agency must use in waiving the requirements for cooperation. These include informing the medicaid applicant or recipient, prior to requiring cooperation, of the opportunity to claim good cause and advising him of the grounds for making such a claim and the evidence needed to support a determination of good cause. The State agency would have to resolve a claim of good cause as promptly as possible, including undertaking any necessary investigation into the facts raised by the applicant or recipient.

The proposed rule requires the State agency to furnish medicaid services to an applicant or recipient, pending final resolution of the question whether a waiver of cooperation should be granted, if the applicant or recipient meets all other eligibility requirements and has submitted the evidence requested by the State in order to determine good cause. This policy protects the rights of a current medicaid recipient and conforms to Department policy in other programs regarding the treatment of applicants for assistance. (See the AFDC regulation at 45 CFR 232.13(j).) We believe it will also promote an expeditious determination by the State.

The proposed rule sets a high standard for the State agency's determination that good cause exists. This reflects our view that cooperation should be excused only in those cases where there is a clear and substantial potential for harm.

5. PROTECTION OF RECIPIENTS' RIGHTS

Sections 450.32 (e) and (f) are proposed in order to deal with two concerns of Congress, as expressed in the Conference Committee report on Pub. L. 95-142. (See H. Rept. 95-673, p. 45.) Paragraph (e) provides for immediate restoration to the individual of his future rights to third party support or payment whenever his medicaid eligibility terminates. Although the regulation leaves the particular method of restoration to the State, this must be done without requiring a great deal of time or paperwork or other burdensome procedures from the recipient. Paragraph (f) requires that any information about the individual obtained by the State agency in the course of its third party liability activities must be safeguarded in accordance with existing medicaid regulations.

6. INTERAGENCY COOPERATION

A new § 450.33 contains requirements applicable to State medicaid agencies that wish to make agreements for collection of assigned benefits with other agencies in their own States or in other States, with courts or with law enforcement officials. Although the statute speaks of "arrangement," the proposed regulation calls for written agreements. We believe this is essential both for a clear understanding of the agencies' respective obligations and to avoid duplication in collection efforts.

We expect that, except in unusual circumstances, the State title XIX medicaid agency will enter into a cooperative agreement with the State IV-D agency for the purpose of the enforcement of medical support obligations by absent parents. The Conference Committee report on Pub. L. 95-142 states "* * * the title IV part D agency should be used to the maximum extent feasible. It is not intended that the title XIX agencies establish new and separate systems for collection and enforcement of support from absent parents for medical care apart from child support enforcement programs which are already established in States under provisions of part D of title IV, since doing so would foster duplication of effort, unnecessary expense, and administrative complexity." (See H. Rept. 95-673, p. 45.)

The regulation sets minimum standards for what must be included in agreements: cases to be referred, who will set priorities for collection efforts, how this will be done, who will make collections, and how the medicaid agency will reimburse the other agency. If the agreement is with a State title IV-D agency, the State medicaid agency must agree to reimburse in full for all the activities of the IV-D agency carried out under the agreement.

Agreements with the title IV-D agency must restrict referrals to cases involving absent parents, since the Department believes this restriction is necessary to maintain the IV-D agency's efficiency in performing its primary function of child support collection. The collection of any other third party obligations must be undertaken by the State medicaid agency or by another agency with which it has a cooperative agreement.

7. INCENTIVE PAYMENTS

Section 450.33(d) contains rules for making incentive payments to political subdivisions of the State or of other States that collect support and payments. The statute authorizes a payment up to 15 percent of the amount collected, to be paid from the share of the collection due the Federal Government.

The allocation of these incentive payments will be made in accordance with existing OCSE instructions for allocating incentive payments for child support collections, as set forth in OCSE action transmittal, OCSE AT-76-23. These instructions provide that in intrastate cases, all the incentive payment shall be made to the political subdivision that makes the collection. For interstate cases, all of the incentive payment shall be made to the jurisdiction that makes the collection. In those cases where more than one jurisdiction directly assisted with the collection, the allocation of the incentive payment must be agreed upon by the jurisdiction involved.

Section 450.33(e) specifies that, from the amount collected, the State agency will keep an amount equal to

its medical assistance expenditure for the individual, will pay the Federal Government its share (less any incentive payment), and pay any remaining amount to the individual.

8. USE OF CHILD SUPPORT ENFORCEMENT AGENCIES

The child support enforcement program under title IV-D of the Act was established for the purpose of assisting States with the enforcement of support obligations owed by absent parents to their children. Current IV-D program regulations do not permit State IV-D agencies to enforce and collect support obligations other than cash payments for child support. These proposed regulations would authorize the State IV-D agency to assist the medical support program under a cooperative agreement with the State title XIX agency. The statutory authority to issue these regulations is section 452(a)(1) of the Act, which provides that the Secretary shall establish the necessary standards to assure an effective child support program, and section 454(13) which requires compliance by the States with standards that are necessary for an effective program. Further, as noted above, section 1912(a)(2) of the Act permits the title XIX agency to enter into cooperative agreements with appropriate State agencies, including the State IV—D agency, for the purpose of enforcing medical support obligations by or through absent parents. If the IV-D agency does enter into an agreement with the medicaid agency, the IV-D agency must be able to assure, that there will be no decrease in child support enforcement activities under title IV-D, as a result of its new responsibilities under the medical support enforcement program. The IV-D agency must obtain additional personnel and resources to carry out these new responsibilities. We are very concerned about the possibility that IV-D resources will be diluted and will be monitoring these activities closely to see that the medical support program does not diminish the primary IV-D function of collecting child support. In the event that a serious problem arises, we will consider adopting an appropriate enforcement mechanism.

As part of this proposal, OCSE also proposes to amend current IV-D regulations to require the IV-D agency, in certain cases, to seek health insurance coverage as part of an obligation for child support. This provision should significantly increase the availability of third party health insurance coverage to families receiving cash assistance and reduce medical assistance payments. This proposal would amend § 302.31 to allow the State IV-D agency to seek to include health insurance coverage as part of a child support obligation when the cost of the insurance does not reduce the amount that the absent parent must pay to child support by more than 10 percent. Comments are specifically solicited that address the need for this provision and the accompanying 10 percent limitation.

We are proposing that a new paragraph (e) be added to § 302.50 which would prohibit under the IV-D program the use of payments assigned under 45 CFR 231.11 for the purpose of medical support unless there is a court order specifying an amount for medical support. We believe no valid purpose can be served by allowing States to transfer payments made to offset cash assistance provided under the aid to families with dependent children program to another Federal-State program providing medical assistance under the medicaid title XIX program.

The proposal will also amend current regulations by adding a new part 306 specifying the requirements that must be included as part of a cooperative agreement entered into by the State IV-D agency with the State title XIX agency for the purpose of implementing section 11 of Pub. L. 95-142.

A. 42 CFR Part 448 is amended as set forth below:

1. Section 448.1 is amended by revising paragraph (e) to read as follows:

§ 448.1 State plan requirements and options for coverage under the medical assistance program.

* * * * *

(e) *Conditions of eligibility.* (1) If the plan provides for assignment of rights to medical support or other medical payments under § 450.32 of this chapter as a condition of eligibility, it must specify this provision in accordance with § 450.32. The condition must be applied uniformly to all groups covered under the plan.

(2) The plan must specify all conditions of eligibility applied to optional groups covered.

2. Section 448.10 is amended by revising paragraph (b)(6) to read as follows:

§ 448.10 Coverage and conditions of eligibility for medical assistance.

* * * * *

(b) *State plan requirements.* A State medicaid plan must:

* * * * *

(6) (i) Specify whether the State provides for assignment of rights to medical support or other medical payments under § 450.32 of this chapter as a condition of eligibility. If it does, the condition must be applied uniformly to all groups covered under the plan.

(ii) Specify all conditions of eligibility applied to optional groups covered under the plan.

B. 42 CFR part 450 is amended by revising Subpart A as set forth below:

1. The table of contents is amended to read as follows:

Subpart A—General

Sec.
450.31 Payment for medical services by a third party.
450.32 Assignment of rights to benefits.
450.33 Interagency agreements for third party collections.

* * * * *

2. Section 450.31 is revised to read as follows:

§ 450.31 Payments for medical services by a third party.

(a) *Scope.* This section sets forth general requirements for State medicaid programs for the determination and treatment of third party liability for medical assistance.

(b) *Definitions.* For purposes of this section and §§ 450.32 and 450.33:

(1) "Third party" means any individual, institution, corporation, or public or private agency who is or may be liable to pay all or part of the medical cost incurred in the diagnosis and treatment of an injury, disease, or disability of a medicaid applicant or recipient.

(2) "Private insurer" means: (i) Any commercial insurance company offering health or casualty insurance to individuals or groups (including both experience-rated insurance contracts and indemnity contracts);

(ii) Any profit or nonprofit prepaid plan offering either medical services or full or partial payment for the diagnosis and treatment of an injury, disease, or disability; and

(iii) Any organization administering health or casualty insurance plans for professional associations, unions, fraternal groups, employer-employee benefit plans, and any similar organization offering these payments or services.

(3) "Title IV-D agency" means the organizational unit in the State that has the responsibility for administering or supervising the administration of a State plan for child support enforcement under title IV-D of the Social Security Act.

(c) *State plan requirements.* A State medicaid plan must provide that the State or local medicaid agency:

(1) Will take reasonable measures to ascertain any legal liability of third parties for medical services which have been furnished under medicaid,

or for which a medicaid applicant has applied;

(2) In determining whether an applicant is eligible for medicaid services, will treat any third party liability as a current resource when payment by the third party has been made or will be made within a reasonable time;

(3) Will not withhold payment in behalf of an eligible individual because of the liability of a third party when either the existence or amount of the liability cannot be currently established or is not currently available to pay the individual's medical expense; and

(4) Will seek reimbursement from a third party for assistance provided if the party's liability is established after assistance is granted and in any other case in which the liability of a third party existed but was not treated as a current resource.

(d) *Assignment of rights to benefits: State plan option.* A State medicaid plan may provide that, as a condition of eligibility, applicants and recipients must assign their rights to medical support or other third-party payments and cooperate with the State in obtaining medical support or payments (see § 450.32(d)).

(e) *Repayment of Federal share.* If the State has received Federal financial participation in medical assistance payments for which it receives third party reimbursement, the State must pay the Federal Government its pro rata share of the reimbursement. This payment may be reduced by the amount necessary to meet the incentive payment specified in § 450.33(e).

(f) *Federal financial participation available.* Federal financial participation is available at the 50-percent rate for the State medicaid agency's expenditures in carrying out the provisions of this section and §§ 450.32 and 450.33.

(g) *Federal financial participation not available.* States may not claim Federal financial participation in medical assistance payments to the extent that:

(1) The agency failed to take reasonable steps to establish the liability of a third party or to collect reimbursement from a liable third party;

(2) The agency received funds from a third party in satisfying his liability to the recipient; or

(3) A private insurer was not obligated to provide medical assistance payments because a provision of its insurance contract limits or excludes payments if the individual is eligible for medicaid.

3. New §§ 450.32 and 450.33 are added to read as follows:

§ 450.32 Assignment of rights to benefits.

(a) *Scope.* This section prescribes requirements for State medicaid programs that elect to obtain medical support and other third-party payments by means of an assignment to the State of an individual's rights to those payments. Together with § 450.33, it implements section 1912 of the Social Security Act.

(b) *Definitions.* The definitions set forth under § 430.31 apply to this section.

(c) *State medicaid plan provision.* A State plan may provide, as a condition of eligibility for any individual who is legally able to execute an assignment for himself, that the individual must assign medical support or payment rights to and cooperate with the State as specified in paragraphs (d) (1) and (2) of this section. If the State elects to implement this authority, it shall comply with paragraphs (d), (e), and (f) of this section.

(d) *Requirements for individual assignments and cooperation.*—(1) *Assignment of rights to benefits.* The State must require the individual to assign to the State his rights to any medical care support available under an order of a court or an administrative agency and to any payments for medical care from a third party. The State must also require the individual to assign to the State the rights of any other person eligible under the State plan, for whom he can legally make an assignment. An assignment by operation of State law that accomplishes the same purpose may be used in lieu of an individually executed assignment, if the individual is advised of the terms and consequences of the State law.

(2) *Establishing paternity and securing support.* The State must require the individual to cooperate with the State to:

(i) Establish paternity of a child born out of wedlock for whom that individual can legally make an assignment of rights, and

(ii) Obtain medical care support and medical care payments for that individual and any other person for whom he can legally assign rights.

(3) *What constitutes "cooperation." Cooperation of an individual may include requiring him to:*

(i) Appear at a State or local office designated by the State medicaid agency to provide information or evidence relevant to the case,

(ii) Appear as a witness at a court or other proceeding,

(iii) Provide information, or attest to lack of information, under penalty of perjury,

(iv) Pay to the State agency any support or medical care funds received by the individual that are covered by the assignment of rights, and

(v) Take any other reasonable steps to assist in establishing paternity and securing medical support and payments.

(4) *Waiver of cooperation for good cause.* The State medicaid agency may waive the requirements for cooperation specified in paragraphs (d)(2) and (d)(3) of this section if it determines in accordance with the procedures specified in paragraph (d)(5) of this section, that the individual has good cause for refusing to cooperate.

(i) With respect to establishing paternity of a child born out of wedlock or obtaining medical care support and payments for a child for whom the individual can legally make an assignment of rights, the State agency must find that cooperation is against the best interests of the child, in accordance with the factors and considerations specified for the child support enforcement program at 45 CFR 232.13 (e) and (g). If a State title IV-A agency has made a finding under 45 CFR 232.13 whether or not good cause exists for refusing to cooperate with that agency, the State medicaid agency shall adopt that decision as its own for this purpose.

(ii) With respect to obtaining medical care support and payments for the individual, and any other case not covered by paragraph (d)(4)(i) of this section, the State medicaid agency must find that cooperation is against the best interests of the individual or other person to whom medicaid services are being furnished, because the required cooperation can reasonably be anticipated to result in reprisal against the individual or other person and to cause physical or emotional harm to the individual or other person.

(5) *Procedure for waiving cooperation.* The State medicaid agency must:

(i) Inform the individual, prior to requiring cooperation under paragraphs (d)(2) and (d)(3) of this section, that he may claim good cause for refusing to cooperate;

(ii) Advise the individual of the grounds for claiming good cause and the evidence needed to support a finding of good cause;

(iii) Review the evidence submitted by the individual, conduct any additional investigation that is warranted, and reach a determination as promptly as possible;

(iv) Make medicaid payments for medical services furnished to an otherwise eligible individual pending a determination whether good cause exists, if the individual has submitted the evidence which the agency requires to make a determination of good cause;

(v) Make a determination that good cause exists only if the evidence establishes that the required cooperation is not in the best interests of the individual involved;

(vi) Maintain a record of each claim of good cause reviewed under this section, and;

(vii) Upon request, submit to the Health Care Financing Administration a report on determinations made under this section.

(6) *Refusal to assign support rights or payments.* If an individual refuses to assign to the State his rights to support or payment or those of another person for whom he has the legal ability to do so, or if he fails to cooperate with the State (subject to the good cause provisions and procedures) as required under this section, the State must deny or terminate the individual's eligibility, but must provide medical assistance for the other person. In denying or terminating eligibility, the State must comply with the notice and hearing requirements of 45 CFR 205.10 and 206.10.

(e) *Restoration of rights to individual.* Whenever an individual's medicaid eligibility ends, the State must immediately restore any future rights assigned to it under this section, using whatever method is least burdensome to the recipient.

(f) *Safeguarding information.* In carrying out any activities under this section, the State agency must safegaurd information on applicants and recipients in accordance with 45 CFR 205.50.

§ 450.33 Interagency agreements for third party collections.

(a) *Scope.* This section prescribes regulations for State medicaid agency agreements with other entities for purposes of:

(1) Collecting support and payments pursuant to an assignment under § 450.32, and

(2) Avoiding duplication of existing support collection programs.

Together with § 450.32, it implements sections 1903(p) and 1912 of the Act.

(b) *Definitions.* The definitions set forth under § 430.31 apply to this section.

(c) *State plan provisions.* The State medicaid plan may provide for written cooperative agreements for enforcement and collection of rights to third party benefits assigned under § 450.32 with the State title IV-D agency, and other agencies of the States and other States, courts, and law-enforcement officials.

(d) *Agreement provisions.* The cooperative agreement shall specify:

(1) The terms for referral of cases by the medicaid agency;

(2) For agreements with title IV-D agencies, that referrals shall be made only of absent parent cases;

(3) How and by whom priorities will be set for collection activities;

(4) Which agency will make collections;

(5) The terms of reimbursement by the medicaid agency for functions performed under the agreement by another agency. A cooperative agreement with the State title IV-D agency must provide for full reimbursement of all functions performed by that agency under the agreement;

(6) The duration of the agreement; and

(7) The provisions for any other matters of common concern between the agencies.

(e) *Incentive payments to States and political subdivisions.*—(1) *Basic provisions.* A State medicaid plan that provides for cooperative agreements under this section must also provide for incentive payments to political subdivisions of that State and to other States as specified in paragraphs (e)(2) through (e)(5) of this section.

(2) *Incentive payments.* An incentive payment shall be made when a political subdivision, or a legal entity of the subdivision such as a prosecuting or district attorney or a friend of the court, enforces and collects medical support and payments for the State. A payment shall also be made when one State makes payment for another State. It is immaterial for this purpose whether the collection is made within or outside of the State making it.

(3) *Rate of payment.* The incentive payment is 15 percent of the amount collected as a result of the enforcement and collection activities of the political subdivision or State.

(4) *Source of payment.* The incentive payment shall be made from the amount of collection that would otherwise represent the Federal Government's share of payments for medicaid to which the collection relates.

(5) *Payment to two or more jurisdictions.* Where more than one political subdivision or State is involved in enforcing and collecting support and payments, the incentive payment shall be made in accordance with instructions issued by the Office of Child Support Enforcement, under 45 CFR 302.52. These instructions may be obtained from the Offfice of Child Support Enforcement, Department of Health, Education, and Welfare, Washington, D.C. 20201.

(f) *Retention of collection by State.* (1) The medicaid agency shall keep, out of amounts collected under this section, an amount equal to its expenditures for medical assistance for the individual whose rights were assigned to the State. It shall return to the Federal Government the amount, if any, necessary to reimburse the Federal Government for its share of the expenditures, in accordance with § 450.31(e).

(2) Any remaining amount shall be paid to the individual. This amount shall be treated as income under §§ 448.3 and 448.21 of this chapter.

(j) *Final responsibility.* The State medicaid agency retains final responsibility for areas of third-party liability collection that are not covered by cooperative agreements.

C. 45 CFR part 301 is amended by revising § 301.1 to read as follows:

§ 301.1 General definitions.

When used in this chapter, unless the context otherwise indicates:

(a) "Act" means the Social Security Act, and the title referred to is title IV-D of that Act unless otherwise specified;

(b) "Department" means the Department of Health, Education, and Welfare;

(c) "Director" means the Director, Office of Child Support Enforcement, who is the Secretary's designee to administer the child support enforcement program under title IV-D;

(d) "Secretary" means the Secretary of Health, Education, and Welfare;

(e) "Office" means the Office of Child Support Enforcement which is the separate organizational unit within the Department with the responsibility for the administration of the program under this title;

(f) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam;

(g) "IV-D Agency" means the single and separate organizational unit in the State that has the responsibility for administering or supervising the administration of the State plan under title IV-D of the Act;

(h) The terms "Regional Office" and "Central Office" refer to the regional offices and the central office of the Office of Child Support Enforcement, respectively;

(i) The "State plan" means the State plan for child support under section 454 of the Act;

(j) "Federal PLS" means the Parent Locator Service operated by the Office of Child Support Enforcement pursuant to section 452(a)(9) of the Act;

(k) "State PLS" means the service established by the IV-D agency pursuant to section 454(8) of the Act to locate absent parents.

D. 45 CFR part 302 is amended as follows:

1. Section 302.0 is revised to read as follows:

§ 302.0 Scope of this part.

This part defines the State plan provisions required for an approved plan under title IV-D of the Act. State plan provisions required for a cooperative agreement with State medicaid agencies are contained in part 306.

2. Section 302.31 is amended by adding a new paragraph (d) to read as follows:

§ 302.31 Establishment of paternity and securing support.

The State plan shall provide that the IV-D agency will undertake:

* * * * *

(d) In the case of any child with respect to whom such assignment is effective, to attempt to secure health insurance coverage on his behalf from any person who is legally liable for such child's support. The IV-D agency will seek to require health insurance coverage for such child only when it is economical to do so, as follows:

(1) When the person legally liable for the support of such child may include the child in an existing health insurance policy at no additional cost;

(2) When the person legally liable for the support of such child may include the child in an existing health insurance policy for an additional amount which will not reduce the person's ability to provide child support by more than 10 percent; and

(3) When the person legally liable for the support of such child may purchase a health insurance policy for an amount which will not reduce the person's ability to provide child support by more than 10 percent.

3. Section 302.35 is amended by revising paragraph (c)(1) to read as follows:

§ 302.35 State parent locator service.

The State plan shall provide that:

* * * * *

(c) The IV-D agency will accept applications to utilize the Federal PLS from:

(1) Any State or local agency or official seeking to collect child support or medical support obligations pursuant to the State plan:

* * * * *

4. Section 302.50 is amended by adding a new paragraph (e) to read as follows:

§ 302.50 Support obligations.

The State plan shall provide as follows:

* * * * *

(e) No portion of any amounts collected which represent a support obligation assigned under § 232.11 of this title may be used to satisfy a medical support obligation unless the court or administrative order requires a specific amount for medical support.

E. 45 CFR Part 304 is amended as follows:

1. The table of contents is revised to read as follows:

PART 304—FEDERAL FINANCIAL PARTICIPATION

Sec.
304.0 Scope and applicability.

* * * * *

2. A new § 304.0 is added to read as follows:

§ 304.0 Scope and applicability.

This part describes the requirements for Federal financial participation in expenditures under the State title IV-D plan pursuant to title IV-D of the Act. The requirements for cooperative agreements with State medicaid agencies under which the IV-D agency will be reimbursed by the medicaid agency are addressed in part 306 of this chapter and 42 CFR 450.31(e).

3. Section 304.20 is amended by adding a new paragraph (b)(3)(vi) to read as follows:

§ 304.20 Availability and rate of Federal financial participation.

* * * * *

(b) Services and activities for which Federal financial participation will be available shall be these made pursuant to the approved title IV-D State plan which are determined by the Secretary to be necessary expenditures properly attributable to the child support enforcement program including the following:

* * * * *

(3) The establishment and enforcement of support obligations including:

* * * * *

(vi) Any activities relating to inclusion of children in absent parents' health insurance plans as specified in § 302.31(d).

F. 45 CFR Chapter III is amended by adding a new part 306 to read as follows:

PART 306—MEDICAL SUPPORT ENFORCEMENT

Sec.
306.0 Scope of this part.
306.1 Definitions.
306.2 Cooperative agreements.
306.10 Prior approval of cooperative agreements.
306.11 Delegation of functions.
306.12 Fiscal policies and accountability.
306.13 Maintenance of records.
306.14 Cost allocation.
306.15 Inclusion of State statutes.
306.16 Safeguarding information.
306.17 Subsidiary cooperative agreement with courts and law enforcement officials.
306.18 Purchase of service agreements.
306.19 Functions to the performed under cooperative agreement.
306.20 Parent Locator Service.
306.21 Source of funds.
306.22 Maintenance of effort.

AUTHORITY: Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).

§ 306.0 Scope of this part.

This part defines the State plan provisions required for an approved plan under title IV-D of the Act when the IV-D agency has entered into a cooperative agreement with the medicaid agency pursuant to section 1912 of the Act for the purpose of the enforcement of medical support obligations by or through absent parents.

§ 306.1 Definitions.

When used in this part, unless the context otherwise indicates:

(a) The definitions found in § 301.1 of this chapter are also applicable to this part.

(b) "Medicaid agency" means the single State agency that has the responsibility for the administration or supervising the administration of the State plan under title XIX of the Act.

(c) "Medical assistance" means payments for medical care and services provided under the State title XIX plan to any eligible individual.

(d) "Medical support" means those rights to support for the purpose of medical care as specified by a court or administrative order.

(e) "Cooperative agreement with the medicaid agency" means a written agreement between the IV-D agency and the medicaid agency.

(f) "Collection" means an amount paid to reimburse medical assistance payments.

(g) "Health insurance" means profitmaking or nonprofit prepaid plans offering payment or partial payment or medical services for injury, disease, or disability.

§ 306.2 Cooperative agreements.

The cooperative agreement between the IV-D agency and the medicaid agency shall specify the functions to be performed by the IV-D agency, information to be provided, procedures and financial arrangements, including reimbursement as specified in the agreement.

§ 306.10 Prior approval of cooperative agreements.

The IV-D agency shall submit two copies of the cooperative agreement entered into under this part to the Regional Office for approval prior to implementation. If the Regional Office does not notify the State of disapprov-

al following submission within 60 days, the State IV-D agency may consider the agreement approved. Approval of the cooperative agreement shall be based on conformance with § 306.22.

§ 306.11 Delegation of functions.

The State plan shall provide that:

(a) If the IV-D agency delegates any of the functions of the medical support program to any other State or local agency or official with whom a subsidiary cooperative agreement as described in § 306.17 of this part has been entered into, or purchases services from any person or private agency pursuant to § 306.18, the IV-D agency shall have responsibility for securing compliance with the requirements of the State plan by such agency or officials.

(b) The State plan shall describe the structure of the IV-D agency and the organization of responsibilities for medical support enforcement among the major divisions within the unit, and if it is located within another agency, show its place in such agency. If any of the medical support program functions are to be performed outside of the IV-D agency then these functions shall be listed with the name of the organization responsible for performing them.

§ 306.12 Fiscal policies and accountability.

The State plan shall provide that the IV-D agency, in discharging its fiscal accountability, will maintain an accounting system and supporting fiscal records adequate to assure that claims for Federal funds are in accordance with applicable Federal requirements. The retention and custodial requirements for these records are prescribed in 45 CFR Part 74.

§ 306.13 Maintenance of records.

The cooperative agreement between the IV-D agency and State medicaid agency must specify that the IV-D agency will establish and maintain a case record system in accordance with the provisions of § 302.15 of this chapter for cases referred by the medicaid agency.

§ 306.14 Cost allocation.

The State plan shall provide that the cost allocation plan for the purpose of this part must adhere to standards specified in § 302.16 of this chapter.

§ 306.15 Inclusion of State statutes.

The State plan shall include a copy of State statutes, or regulations promulgated pursuant to such statutes and having the force of law (including citations of such statutes and regulations), that provide procedures to be used in the determination of paternity of a child born out of wedlock, and to establish the medical support obligation of a responsible parent, and to enforce such medical support obligations.

§ 306.16 Safeguarding information.

The State plan shall provide that the use or disclosure of information concerning applicants for or recipients of medical support enforcement services or absent parents is subject to the limitations in § 302.17 of this chapter and § 205.50 of this title.

§ 306.17 Subsidiary cooperative agreement with courts and law enforcement officials.

When a IV-D plan shall provide that the IV-D agency has a cooperative agreement with a medicaid agency, the State IV-D agency will enter into subsidiary written cooperative agreements with appropriate courts and law enforcement officals to the extent necessary to perform those functions specified in the cooperative agreement beween the IV-D agency and the medicaid agency. Such agreements may be entered into with a single official covering more than one court, official, or agency, if such single official has the legal authority to enter into agreements on behalf of such courts or officials. Such agreements shall contain provisions for providing courts and law enforcement officials with information needed in locating absent parents, establishing paternity and securing support, including the immediate transfer of information obtained to the court or law enforcement official, to the extent that such information is relevant to the duties to be performed pursuant to the agreement. They shall also provide for assistance to the IV-D agency in carrying out the program, and may relate to any other matters of common concern.

§ 306.18 Purchase of service agreements.

The State plan shall provide that the IV-D agency may enter into written purchase of service agreements to the extent necessary to fulfill the requirements of its cooperative agreement with the medicaid agency.

§ 306.19 Functions to be performed under cooperative agreement.

A cooperative agreement with a State medicaid agency may include provisions for the IV-D agency to perform only the following activities:

(a) Receipt of information from the medicaid agency individuals with respect to whom as assignment of support rights has been executed.

(b) Establishment of written cooperative agreements with appropriate courts and law enforcement officials as provided in § 306.17 and written purchase of services contracts with other agencies as provided in § 306.18.

(c) Establishment of case records and a system for making required reports as provided in § 306.13.

(d) Development of a system for allocating the cost of the medical support enforcement program.

(e) Location of an absent parent.

(f) Determination of the existence of a medical insurance plan that covers the title XIX medical assistance payment.

(g) Obtaining sufficient information about the health insurance policy to permit the filing of a claim against the policy.

(h) Either filing a claim with the insurance company or transmitting the necessary information to the medicaid agency or to the appropriate State agency or fiscal agent for the filing of the claim.

(i) Receipt of payment from the insurance company.

(j) Distribution of the payment including calculation and payment of incentives to political subdivisions (and States in interstate cases), reimbursement of amounts of medical assistance payments, and payment of excess to the individual on behalf of whom the assignment was executed.

(k) Direct action against the absent parent to recover amounts necessary to reimburse medical assistance payments in those instances where the absent parent does not have medical insurance and where the amount of the potential collection will not exceed the cost of making the collection and will not reduce the ability of the absent parent to pay child support.

(l) Establishment of paternity.

(m) Such other functions as may be specified by instructions issued by the Office.

§ 306.20 Parent locator service.

The State plan shall provide that the IV-D agency will utilize the resources of the State parent locator service and the Federal Parent Locator Service for the purpose of obtaining information as to the whereabouts of any absent parent to enforce medical support obligations against such parent, pursuant to the requirements of §§ 302.35 and 302.70.

§ 306.21 Source of funds.

Federal financial participation under the title IV-D program is not available for medical support enforcement program activities. Funding for such activities shall be made as specified in 42 CFR 450.33(d)(5).

§ 306.22 Maintenance of effort.

A title IV-D agency entering into a cooperative agreement with a State medicaid agency shall insure that as a result of its efforts under the agreement there will be no decrease in the child support enforcement program

activities, personnel or resources that have been allocated for the quarter in which these regulations become effective. The IV-D agency, in order to carry out its responsibilities under the cooperative agreement must obtain additional personnel and resources that will be directly allocated to the medical support enforcement program.

(Sec. 1102 of the Social Security Act, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Programs No. 13.679, Child Support Enforcement Program, No. 13.714, Medical Assistance Program.)

Dated: April 20, 1978.

WILLIAM D. FULLERTON,
Acting Administrator, Health Care Financing Administration.

DON WORTMAN,
Acting Director, Office of Child Support Enforcement.

Approved: August 15, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-23780 Filed 8-28-78; 8:45 am]

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