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Federal Register

WEDNESDAY, OCTOBER 11, 1978



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October 23, 1978

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HOW TO USE THE FEDERAL REGISTER

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

WHO: The Office of the Federal Register in cooperation with the University of South Florida Library and Department of Library, Media, and Information Studies, the University of Tampa Library, Hillsborough Community College Library and the Tampa Public Library.

WHAT: Free public workshop (approximately 2½ hours) to present:

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

WHEN: October 23, 1978, at 2:00 p.m.

WHERE: University of South Florida Tampa Campus, 4202 Fowler Avenue, College of Education Building, Room 302.

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

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- Medical assistance programs; reimbursement for eyeglasses and hearing aids; comments by 10-16-78 .... 38877; 8-31-78
- Medicare program; cost to related organizations; comments by 10-16-78. 36488; 8-17-78

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- Health professions capitation grants; special assurances required of schools of medicine; comments by 10-16-78 ..... 36441; 8-17-78

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Office of the Secretary—
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Hours of service of truck and bus drivers; proposed revision of Federal motor carrier safety regulations, Portland, Oregon, 10-16 through 10-18-78 ..... 38609; 8-29-78

Hours of service of truck and bus drivers, proposed revision of Federal motor carrier safety regulations, Los Angeles, California, 10-19 and 10-20-78. 38609; 8-29-78

List of Public Laws

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

[Last Listing: October 6, 1978]

S.J. Res. 154 ..... Pub. L. 95-411
Authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Oklahoma, from September 10, 1979, through September 13, 1979. (Oct. 5, 1978; 92 Stat. 906) Price: $.60.

H.R. 12443 ..... Pub. L. 95-412
To amend section 201(a), 202(c) and 203(a) of the Immigration and Nationality Act, as amended, and to establish a Select Commission on Immigration and Refugee Policy. (Oct. 5, 1978; 92 Stat. 907) Price: $.60.

S. 3342 ..... Pub. L. 95-413
To name a lake which has been completed as part of the Papillion Creek basin project as the "Standing Bear Lake". (Oct. 5, 1978; 92 Stat. 910) Price: $.60.

S. 2507 ..... Pub. L. 95-414
To authorize the Smithsonian Institution to acquire the Museum of African Art, and for other purposes. (Oct. 5, 1978; 92 Stat. 911) Price: $.60.

H.J. Res. 1088 ..... Pub. L. 95-415
Providing financial assistance for the city of New York. (Oct. 5, 1978; 92 Stat. 914) Price: $.60.

S. 1265 ..... Pub. L. 95-416
To amend chapter 21 of title 44, United States Code, to include new provisions relating to the acceptance and use of records transferred to the custody of the Administrator of General Services. (Oct. 5, 1978; 92 Stat. 915) Price: $.60.

H.R. 12508 ..... Pub. L. 95-417
To amend the Immigration and Nationality Act to facilitate the admission into the United States of more than two adopted children, and to provide for the expeditious naturalization of adopted children. (Oct. 5, 1978; 92 Stat. 917) Price: $.60.

H.R. 8812 ..... Pub. L. 95-418
To name a certain Federal building in Jonesboro, Arkansas, the "E. C. 'Took' Gathings Building". (Oct. 5, 1978; 92 Stat. 919) Price: $.60.

H.J. Res. 1007 ..... Pub. L. 95-419
Authorizing and requesting the President to proclaim the 7-day period beginning on May 4, 1979, as "Asian/Pacific American Heritage Week". (Oct. 5, 1978; 92 Stat. 920) Price: $.60.

H.R. 13745 ..... Pub. L. 95-420
"Sikes Act Amendments of 1978". (Oct. 5, 1978; 92 Stat. 921) Price: $.60.

S. 3040 ..... Pub. L. 95-421
"Amtrak Improvement Act of 1978". (Oct. 5, 1978; 92 Stat. 923) Price: $.80.

H.R. 11291 ..... Pub. L. 95-422
To authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the United States Fire Administration. (Oct. 5, 1978; 92 Stat. 932) Price: $.60.

H.R. 1920 ..... Pub. L. 95-423
To amend section 5064 of the Internal Revenue Code of 1954 to provide for refund of tax on distilled spirits, wines, rectified products, and beer lost or rendered unmarketable due to fire, flood, casualty, or other disaster, or to breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief while held for sale. (Oct. 6, 1978; 92 Stat. 935) Price: $.60.

Documents Relating to Federal Grants Programs

This is a list of documents relating to Federal grants programs which were published in the FEDERAL REGISTER during the previous week.

Rules Going Into Effect:

DOE—Comprehensive Energy Extension Service Program; establishment; effective 11-1-78 ..... 45536; 10-2-78

HEW/OE—Desegregation of public education; awards of assistance funds; corrections (2 documents) 46020, 46021; 10-5-78

[Originally published at 43 FR 32372, 7-26-78]

State and Commissioner's discretionary programs of vocational education; correction 46020; 10-5-78

[Originally published at 42 FR 53822, 10-3-77]

HUD—Low income housing; interest subsidy grants; extension of deadline for State issuance of obligation; effective 10-1-78. 45557; 10-3-78

Applications Deadlines:

NSF—Physically Handicapped in Science Program; availability of funds; apply by 12-15-78 ..... 45660; 10-3-78

Meetings:

HEW/Assistant Secretary for Health—Health Services Research Study Section; review of research grant applications; Hyattsville, Md. (closed), 10-12- and 10-13-78. 45479; 10-2-79

HEW/NIH—Animal Resources Review Committee; grant applications; discussion and evaluation; Beaverton, Ore. (closed), 10-25-78 ..... 45478; 10-2-78

National Institute of Dental Research Special Grants Review Committee, Bethesda, Md. (partially open), 11-28 and 11-29-78 ..... 45478; 10-2-78

HUD/HRA—National Advisory Council on Health Professions Education, Hyattsville, Md. (open), 11-6 and 11-7-78 ..... 45645; 10-3-78

Justice/LEAA—National Institute of Law Enforcement and Criminal Justice Advisory Committee, Chantilly, Va. (open), 10-23 and 10-24-78 ..... 46086; 10-5-78

NFAH—Architecture, Planning and Design Advisory Panel; meeting date changed from 10-2 and 10-3-78 to 11-2 and 11-3-78; Washington, D.C. (open) 46390; 10-6-78

[Originally published at 43 FR 39868, 9-7-78]

NSF—Atmospheric Sciences Advisory Committee, Washington, D.C. (open), 10-19 through 10-21-78 ..... 45658; 10-3-78

Behavioral and Neural Sciences Advisory Committee; Anthropology Subcommittee, Washington, D.C. (closed), 10-19 and 10-20-78 ..... 45659; 10-3-78

Behavioral and Neural Sciences Advisory Committee, Memory and Cognitive Processes Subcommittee, Washington, D.C. (closed), 10-19 and 10-20-78 ..... 45659; 10-3-78

Behavioral and Neural Sciences Advisory Committee, Neurobiology Subcommittee, Washington, D.C. (closed), 10-19 through 10-21-78 ..... 45660; 10-3-78

Physiology, Cellular, and Molecular Biology, Genetic Biology Subcommittee, Washington, D.C. (closed), 10-19 and 10-21-78 ..... 45659; 10-3-78

Social Sciences Advisory Committee, Political Science Subcommittee, Washington, D.C. (partially open), 10-19 and 10-20-78 ..... 45659; 10-3-78

Other Items of Interest:

ACTION—Competitive national VISTA grants; proposed procedures; comments by 12-4-78 ..... 46153; 10-5-78

HEW/NIH—National Cancer Institute; renewal of grant related advisory committees (4 documents) 45479; 10-2-78

LABOR/Sec'y: Migrant and other seasonally employed farmworker programs under CETA, announcement of jurisdictions open for competition and grantees to be funded without competition; effective 9-22-78 ..... 45924; 10-4-78

presidential documents

[3195-01]

Title 3—The President

Memorandum of September 26, 1978

Determination and Certification Under the International Security Assistance Act of 1978 Regarding Resumption of Full Military Cooperation With Turkey

[Presidential Determination No. 78-18]

Memorandum for the Secretary of State

THE WHITE HOUSE,
Washington, September 26, 1978.

Pursuant to the authority vested in me by Section 13(a) of the International Security Assistance Act of 1978, I hereby determine and certify:

(1) that the resumption of full military cooperation with Turkey is in the national interest of the United States and in the interest of the North Atlantic Treaty Organization; and

(2) that the Government of Turkey is acting in good faith to achieve a just and peaceful settlement of the Cyprus problem, the early peaceable return of refugees to their homes and properties, and continued removal of Turkish military troops from Cyprus in the context of a solution to the Cyprus problem, and the early serious resumption of inter-communal talks aimed at a just, negotiated settlement.

You are requested on my behalf to report this determination and certification to the Congress.

This determination and certification shall be published in the FEDERAL REGISTER.

Jimmy Carter

[FR Doc. 78-28812 Filed 10-6-78; 4:00 pm]

[3195-01]

Executive Order 12087 • **October 7, 1978**

Adjustments of Certain Rates of Pay and Allowances

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

1-1. *Adjusted Rates of Pay and Allowances.*

1-101. *Statutory Pay Systems.* Pursuant to the provisions of subchapter I of Chapter 53 of Title 5 of the United States Code, the rates of basic pay and salaries are adjusted, as set forth at the schedules attached hereto and made a part hereof, for the following statutory pay systems:

(a) The General Schedule (5 U.S.C. 5332(a)) at Schedule 1;

(b) the schedules for the Foreign Service (22 U.S.C. 867 and 870(a)) at Schedule 2; and

(c) the schedules for the Department of Medicine and Surgery, Veterans Administration (38 U.S.C. 4107) at Schedule 3.

1-102. *Pay and Allowances for Members of the Uniformed Services.* Pursuant to the provisions of Section 1009 of Title 37 of the United States Code, the rates of monthly basic pay (37 U.S.C. 203(a) and (c)), the rates of basic allowances for subsistence (37 U.S.C. 402), and the rates of basic allowances for quarters (37 U.S.C. 403(a)) are adjusted, as set forth at Schedule 4 attached hereto and made a part hereof, for members of the uniformed services.

1-103. *Executive Salaries.* The Executive Salary Cost of Living Adjustment Act (Public Law 94-82, 89 Stat. 419) provides for adjustments in the rates of pay and salaries as set forth at the schedules attached hereto and made a part hereof, for the following:

(a) The Vice President (3 U.S.C. 104) and the Executive Schedule (5 U.S.C. 5312-5316) at Schedule 5;

(b) Congressional Salaries (2 U.S.C. 31) at Schedule 6; and

(c) Judicial Salaries (28 U.S.C. 5, 44(d), 135, 173, 213, 252, 792(b) and 11 U.S.C. 68(a)), at Schedule 7.

1-2. *General Provisions*

1-201. *Effective Date.* The adjustments in rates of monthly basic pay and allowances for subsistence and quarters for members of the uniformed services shall be effective on October 1, 1978. All other adjustments of salary or pay shall be effective on the first day of the first applicable pay period beginning on or after October 1, 1978.

1-202. *Superseded Orders.* Executive Order No. 12010 of September 28, 1977 is superseded.

Jimmy Carter

THE WHITE HOUSE,
October 7, 1978.

Schedule 1 - THE GENERAL SCHEDULE

	1	2	3	4	5	6	7	8	9	10
GS-1	$6,561	$6,780	$6,999	$7,218	$7,437	$7,656	$7,875	$8,094	$8,313	$8,532
2	7,422	7,669	7,916	8,163	8,410	8,657	8,904	9,151	9,398	9,645
3	8,366	8,645	8,924	9,203	9,482	9,761	10,040	10,319	10,598	10,877
4	9,391	9,704	10,017	10,330	10,643	10,956	11,269	11,582	11,895	12,208
5	10,507	10,857	11,207	11,557	11,907	12,257	12,607	12,957	13,307	13,657
6	11,712	12,102	12,492	12,882	13,272	13,662	14,052	14,442	14,832	15,222
7	13,014	13,448	13,882	14,316	14,750	15,184	15,618	16,052	16,486	16,920
8	14,414	14,894	15,374	15,854	16,334	16,814	17,294	17,774	18,254	18,734
9	15,920	16,451	16,982	17,513	18,044	18,575	19,106	19,637	20,168	20,699
10	17,532	18,116	18,700	19,284	19,868	20,452	21,036	21,620	22,204	22,788
11	19,263	19,905	20,547	21,189	21,831	22,473	23,115	23,757	24,399	25,041
12	23,087	23,857	24,627	25,397	26,167	26,937	27,707	28,477	29,247	30,017
13	27,453	28,368	29,283	30,198	31,113	32,028	32,943	33,858	34,773	35,688
14	32,442	33,523	34,604	35,685	36,766	37,847	38,928	40,009	41,090	42,171
15	38,160	39,432	40,704	41,976	43,248	44,520	45,792	47,064	48,336*	49,608*
16	44,756	46,248	47,740*	49,232*	50,724*	52,216*	53,708*	55,200*	56,692*	
17	52,429*	54,177*	55,925*	57,673*	59,421*					
18	61,449*									

*Basic pay is limited by Section 5308 of Title 5 of the United States Code to the rate for level V of the Executive Schedule. In addition, pursuant to Section 304 of the Legislative Branch Appropriation Act, 1979, funds are not available to pay a salary in this schedule at a rate which exceeds the rate for level V of the Executive Schedule in effect on September 30, 1978, which is $47,500.

Schedule 2 - FOREIGN SERVICE SCHEDULES

Part I - The Per Annum Salaries of Foreign Service Officers

	1	2	3	4	5	6	7
FSO-01	$57,853*	$59,781*	$61,449*				
02	44,430	45,911	47,392	$48,873*	$50,354*	$51,835*	$53,316*
03	34,642	35,797	36,952	38,107	39,262	40,417	41,572
04	27,453	28,368	29,283	30,198	31,113	32,028	32,943
05	22,137	22,875	23,613	24,351	25,089	25,827	26,565
06	18,179	18,785	19,391	19,997	20,603	21,209	21,815
07	15,222	15,729	16,236	16,743	17,250	17,757	18,264
08	13,014	13,448	13,882	14,316	14,750	15,184	15,618

Part II - The Per Annum Salaries of Foreign Staff Officers and Employees

	1	2	3	4	5	6	7	8	9	10
FSS-01	$34,642	$35,797	$36,952	$38,107	$39,262	$40,417	$41,572	$42,727	$43,882	$45,037
02	27,453	28,368	29,283	30,198	31,113	32,028	32,943	33,858	34,773	35,688
03	22,137	22,875	23,613	24,351	25,089	25,827	26,565	27,303	28,041	28,779
04	18,179	18,785	19,391	19,997	20,603	21,209	21,815	22,421	23,027	23,633
05	16,265	16,807	17,349	17,891	18,433	18,975	19,517	20,059	20,601	21,143
06	14,561	15,046	15,531	16,016	16,501	16,986	17,471	17,956	18,441	18,926
07	13,041	13,476	13,911	14,346	14,781	15,216	15,651	16,086	16,521	16,956
08	11,685	12,075	12,465	12,855	13,245	13,635	14,025	14,415	14,805	15,195
09	10,473	10,822	11,171	11,520	11,869	12,218	12,567	12,916	13,265	13,614
10	9,391	9,704	10,017	10,330	10,643	10,956	11,269	11,582	11,895	12,208

*Basic pay is limited by Section 5308 of Title 5 of the United States Code to the rate for level V of the Executive Schedule. In addition, pursuant to Section 304 of the Legislative Branch Appropriation Act, 1979, funds are not available to pay a salary in this schedule at a rate which exceeds the rate for level V of the Executive Schedule in effect on September 30, 1978, which is $47,500.

Schedule 3 - DEPARTMENT OF MEDICINE AND SURGERY SCHEDULES, VETERANS ADMINISTRATION

	Minimum	Maximum
Section 4103 Schedule		
Chief Medical Director	single rate.....	$68,909***
Deputy Chief Medical Director	single rate.....	66,104**
Associate Deputy Chief Medical Director	single rate.....	63,315*
Assistant Chief Medical Director	single rate.....	61,449*
Medical Director	$52,429*	59,421*
Director of Nursing Service	52,429*	59,421*
Director of Podiatric Service	44,756	56,692*
Director of Chaplain Service	44,756	56,692*
Director of Pharmacy Service	44,756	56,692*
Director of Dietetic Service	44,756	56,692*
Director of Optometric Service	44,756	56,692*
Physician and Dentist Schedule		
Director grade	$44,756	$56,692*
Executive grade	41,327	53,729*
Chief grade	38,160	49,608*
Senior grade	32,442	42,171
Intermediate grade	27,453	35,688
Full grade	23,087	30,017
Associate grade	19,263	25,041
Nurse Schedule		
Director grade	$38,160	$49,608*
Assistant Director grade	32,442	42,171
Chief grade	27,453	35,688
Senior grade	23,087	30,017
Intermediate grade	19,263	25,041
Full grade	15,920	20,699
Associate grade	13,700	17,813
Junior grade	11,712	15,222
Clinical Podiatrist and Optometrist Schedule		
Chief grade	$38,160	$49,608*
Senior grade	32,442	42,171
Intermediate grade	27,453	35,688
Full grade	23,087	30,017
Associate grade	19,263	25,041

*Basic pay is limited by Section 4107(d) of Title 38 of the United States Code to the rate for level V of the Executive Schedule. In addition, pursuant to Section 304 of the Legislative Branch Appropriation Act, 1979, funds are not available to pay a salary for this position or grade at a rate which exceeds the rate for level V of the Executive Schedule in effect on September 30, 1978, which is $47,500.

**Basic pay is limited by Section 4107(d) of Title 38 of the United States Code to the rate for level IV of the Executive Schedule. In addition, pursuant to Section 304 of the Legislative Branch Appropriation Act, 1979, funds are not available to pay a salary for this position at a rate which exceeds the rate for level IV of the Executive Schedule in effect on September 30, 1978, which is $50,000.

***Basic pay is limited by Section 4107(d) of Title 38 of the United States Code to the rate for level III of the Executive Schedule. In addition, pursuant to Section 304 of the Legislative Branch Appropriation Act, 1979, funds are not available to pay a salary for this position at a rate which exceeds the rate for level III of the Executive Schedule in effect on September 30, 1978, which is $52,500.

Schedule 4 - PAY AND ALLOWANCES OF THE UNIFORMED SERVICES
Part I - Monthly Basic Pay
(Years of service computed under 37 U.S.C. 205)

Commissioned Officers

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12
O-10[1]	$3298.20	$3414.30	$3414.30	$3414.30	$3414.30	$3545.10	$3545.10	$3816.90
O-9	2923.20	3000.00	3063.60	3063.60	3063.60	3141.90	3141.90	3272.10
O-8	2647.50	2727.00	2791.80	2791.80	2791.80	3000.00	3000.00	3141.90
O-7	2199.90	2349.60	2349.60	2349.60	2454.90	2454.90	2597.40	2597.40
O-6	1630.50	1791.90	1908.60	1908.60	1908.60	1908.60	1908.60	1908.60
O-5	1304.40	1531.80	1637.40	1637.40	1637.40	1637.40	1687.20	1777.50
O-4	1099.50	1338.30	1428.00	1428.00	1454.10	1518.90	1622.10	1713.60
O-3[2]	1021.80	1142.10	1220.70	1350.90	1415.40	1466.70	1545.30	1622.10
O-2[2]	890.70	972.90	1168.80	1208.10	1233.00	1233.00	1233.00	1233.00
O-1[2]	773.10	804.90	972.90	972.90	972.90	972.90	972.90	972.90

Pay Grade	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26	Over 30
O-10[1]	$3816.90	$4089.90*	$4089.90*	$4363.50*	$4363.50*	$4635.60*	$4635.60*
O-9	3272.10	3545.10	3545.10	3816.90	3816.90	4089.90*	4089.90*
O-8	3141.90	3272.10	3414.30	3545.10	3687.30	3687.30	3687.30
O-7	2727.00	3000.00	3206.10	3206.10	3206.10	3206.10	3206.10
O-6	1973.40	2286.00	2403.00	2454.90	2597.40	2817.00	2817.00
O-5	1896.30	2038.50	2155.80	2220.60	2298.30	2298.30	2298.30
O-4	1791.90	1869.90	1922.10	1922.10	1922.10	1922.10	1922.10
O-3[2]	1662.00	1662.00	1662.00	1662.00	1662.00	1662.00	1662.00
O-2[2]	1233.00	1233.00	1233.00	1233.00	1233.00	1233.00	1233.00
O-1[2]	972.90	972.90	972.90	972.90	972.90	972.90	972.90

1. While serving as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, basic pay for this grade is $5114.70* regardless of cumulative years of service computed under Section 205 of Title 37 of the United States Code.

2. Does not apply to commissioned officers who have been credited with over 4 years' active service as enlisted members.

*Basic pay is limited by Section 5308 of Title 5 of the United States Code to the rate for level V of the Executive Schedule. In addition, pursuant to Section 304 of the Legislative Branch Appropriation Act, 1979, funds are not available to pay a salary in this schedule at a rate which exceeds the rate for level V of the Executive Schedule in effect on September 30, 1978, which is $3958.20 per month.

Commissioned officers who have been credited with over 4 years' active service as enlisted members

(Years of service computed under 37 U.S.C. 205)

Pay Grade	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14
0-3	$1350.90	$1415.40	$1466.70	$1545.30	$1622.10	$1687.20
0-2	1208.10	1233.00	1272.30	1338.30	1389.90	1428.00
0-1	972.90	1039.20	1077.60	1116.60	1155.60	1208.10

Pay Grade	Over 16	Over 18	Over 20	Over 22	Over 26	Over 30
0-3	$1687.20	$1687.20	$1687.20	$1687.20	$1687.20	$1687.20
0-2	1428.00	1428.00	1428.00	1428.00	1428.00	1428.00
0-1	1208.10	1208.10	1208.10	1208.10	1208.10	1208.10

Warrant Officers

(Years of service computed under 37 U.S.C. 205)

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12
W-4	$1040.70	$1116.60	$1116.60	$1142.10	$1194.30	$1246.80	$1299.00	$1389.90
W-3	946.20	1026.30	1026.30	1039.20	1051.50	1128.30	1194.30	1233.00
W-2	828.60	896.10	896.10	922.20	972.90	1026.30	1065.00	1104.00
W-1	690.30	791.70	791.70	857.40	896.10	934.80	972.90	1013.10

Pay Grade	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26	Over 30
W-4	$1454.10	$1505.70	$1545.30	$1596.00	$1649.40	$1777.50	$1777.50
W-3	1272.30	1310.40	1350.90	1403.10	1454.10	1505.70	1505.70
W-2	1142.10	1182.00	1220.70	1259.40	1310.40	1310.40	1310.40
W-1	1051.50	1090.20	1128.30	1168.80	1168.80	1168.80	1168.80

Enlisted Members

(Years of service computed under 37 U.S.C. 205)

Pay Grade [1]	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12
E-9	$0	$0	$0	$0	$0	$0	$1182.30	$1209.30
E-8	0	0	0	0	0	992.10	1019.70	1047.00
E-7	692.70	747.60	775.50	802.20	830.10	856.20	883.50	911.10
E-6	598.20	652.20	679.50	708.00	734.40	761.40	789.30	830.10
E-5	525.30	571.50	599.40	625.50	666.30	693.60	721.20	747.60
E-4	504.90	533.10	564.30	608.40	632.40	632.40	632.40	632.40
E-3	485.40	512.10	532.80	553.80	553.80	553.80	553.80	553.80
E-2	467.40	467.40	467.40	467.40	467.40	467.40	467.40	467.40
E-1	419.40	419.40	419.40	419.40	419.40	419.40	419.40	419.40

Pay Grade [1]	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26	Over 30
E-9	$1236.90	$1265.40	$1293.30	$1318.50	$1388.10	$1522.80	$1522.80
E-8	1074.60	1102.50	1128.00	1155.90	1223.70	1360.20	1360.20
E-7	952.20	979.20	1006.80	1019.70	1088.40	1223.70	1223.70
E-6	856.20	883.50	897.00	897.00	897.00	897.00	897.00
E-5	761.40	761.40	761.40	761.40	761.40	761.40	761.40
E-4	632.40	632.40	632.40	632.40	632.40	632.40	632.40
E-3	553.80	553.80	553.80	553.80	553.80	553.80	553.80
E-2	467.40	467.40	467.40	467.40	467.40	467.40	467.40
E-1	419.40	419.40	419.40	419.40	419.40	419.40	419.40

1. While serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy or Coast Guard, Chief Master Sergeant of the Air Force, or Sergeant Major of the Marine Corps, basic pay for this grade is $1851.00 regardless of cumulative years of service computed under Section 205 of Title 37 of the United States Code.

Part II - Basic Allowance for Subsistence Rates

Officers:	$62.80 per month
Enlisted Members:	
When on leave or authorized to mess separately:	$3.00 per day
When rations in-kind are not available:	$3.38 per day
When assigned to duty under emergency conditions where no messing facilities of the United States are available:	$4.48 per day

Part III - Monthly Basic Allowance for Quarters Rates

Pay Grade	Without Dependents		With Dependents
	Full Rate 1	Partial Rate 2	
Commissioned Officers			
0-10	$357.90	$50.70	$447.60
0-9	357.90	50.70	447.60
0-8	357.90	50.70	447.60
0-7	357.90	50.70	447.60
0-6	321.30	39.60	391.80
0-5	296.10	33.00	356.70
0-4	263.70	26.70	318.30
0-3	231.90	22.20	286.20
0-2	201.30	17.70	254.70
0-1	156.90	13.20	204.60
Warrant Officers			
W-4	$254.10	$25.20	$306.60
W-3	226.50	20.70	279.30
W-2	197.10	15.90	250.50
W-1	177.90	13.80	230.40
Enlisted Members			
E-9	$191.70	$18.60	$269.70
E-8	176.70	15.30	249.30
E-7	150.30	12.00	231.90
E-6	136.50	9.90	213.30
E-5	131.10	8.70	195.90
E-4	115.80	8.10	172.50
E-3	103.50	7.80	150.30
E-2	91.50	7.20	150.30
E-1	86.40	6.90	150.30

1. Payment of the full rate of basic allowance for quarters at these rates for members of the uniformed services to personnel without dependents is authorized by 37 U.S.C. 403 and Part IV of Executive Order No. 11157, as amended.

2. Payment of the partial rate of basic allowance for quarters at these rates to members of the uniformed services without dependents who, under 37 U.S.C. 403(b) or 403(c), are not entitled to the full rate of basic allowance for quarters, is authorized by 37 U.S.C. 1009(d) and Part IV of Executive Order No. 11157, as amended.

Part IV - Monthly Rate of Cadet or Midshipman Pay

The rate of monthly cadet or midshipman pay authorized by Section 203(c) of Title 37 of the United States Code is adjusted from $332.70 to $351.00.

Schedule 5 - VICE PRESIDENT AND THE EXECUTIVE SCHEDULE

Vice President	$79,100*	Level III	$55,400****
Level I	$69,600**	Level IV	$52,800*****
Level II	$60,700***	Level V	$50,100******

Pursuant to the Legislative Branch Appropriation Act, 1979, funds are not available to pay a salary at a rate which exceeds the rate in effect on September 30, 1978, as follows:

*$75,000
**$66,000
***$57,500
****$52,500
*****$50,000
******$47,500

Schedule 6 - CONGRESSIONAL SALARIES

Senator	$60,700*
Member of the House of Representatives	60,700*
Delegate to the House of Representatives	60,700*
Resident Commissioner from Puerto Rico	60,700*
President pro tempore of the Senate	68,600**
Majority leader and minority leader of Senate	68,600**
Majority leader and minority leader of House of Representatives	68,600**
Speaker of the House of Representatives	79,100***

Pursuant to the Legislative Branch Appropriation Act, 1979, funds are not available to pay a salary at a rate which exceeds the rate in effect on September 30, 1978, as follows:

*$57,500
**$65,000
***$75,000

Schedule 7 - JUDICIAL SALARIES

Chief Justice of the United States	$79,100*
Associate Justices of the Supreme Court	$76,000**
Circuit Judges	$60,700***
District Judges	$57,500****
Judges of the Court of Claims	$60,700***
Judges of the Court of Customs and Patent Appeals	$60,700***
Judges of the Customs Court	$57,500****
Commissioners of the Court of Claims	$51,200*****
Referees in Bankruptcy (full-time)	$51,200*****

Pursuant to the Legislative Branch Appropriation Act, 1979, funds are not available to pay a salary at a rate which exceeds the rate in effect on September 30, 1978, as follows:

*$75,000
**$72,000
***$57,500
****$54,500
*****$48,500

[FR Doc. 78-28847 Filed 10-10-78; 10:05 am]

rules and regulations

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

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

[3410-02-M]

Title 7—Agriculture

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

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and a rate of assessment for the 1978-79 fiscal period, to be collected from handlers to support activities of the Cranberry Marketing Committee which locally administers the Federal marketing order covering cranberries.

DATES: Effective September 1, 1978, through August 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to marketing order No. 929, as amended (7 CFR Part 929; 43 FR 29764), regulating the handling of cranberries grown in certain specified States, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Committee, established under this marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereafter provided, will tend to effectuate the declared policy of the act.

§ 929.219 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Cranberry Marketing Committee during the period September 1, 1978, through August 31, 1979, will amount to $77,775.

(b) The rate of assessment for said period payable by each handler in accordance with § 929.41 is fixed at $0.03 per barrel or equivalent quantity of cranberries.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), as the order requires that the rate of assessment for a particular fiscal year shall apply to all assessable cranberries handled from the beginning of such year which began September 1, 1978. To enable the Committee to meet fiscal obligations which are now accruing, approval of the expenses and assessment rate is necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the Committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

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

Dated: October 5, 1978.

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

[FR Doc. 78-28594 Filed 10-10-78; 8:45 am]

[3410-02-M]

PART 966—TOMATOES GROWN IN FLORIDA

Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh market shipments of tomatoes grown in certain counties in Florida to be inspected and meet minimum grade, size, pack, container, and marking requirements. This will promote orderly marketing of such tomatoes by keeping less desirable sizes and qualities from being shipped to consumers.

EFFECTIVE DATE: October 15, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Marketing agreement No. 125 and order No. 966, both as amended (7 CFR 966) regulate the handling of tomatoes grown in designated counties of Florida. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Florida Tomato Committee, established under the order, is responsible for its local administration.

During the period October 15 through November 15, 1978, this regulation, designed to provide orderly marketing of Florida tomatoes, imposes a minimum grade of U.S. No. 3, a minimum size of 2 2/32 inches in diameter and requires inspection of fresh shipments. The establishment of such requirements under marketing order No. 966 is necessary to keep undesirable tomatoes from being shipped to consumers.

Findings. (1) Pursuant to order No. 966, as amended (7 CFR Part 966), regulating the handling of tomatoes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Florida Tomato Committee established pursuant to the order, and upon other available information, it is hereby found that the handling regulation, hereinafter set forth, will tend to effectuate the declared policy of the act.

(2) The regulation imposes minimum grade, size, pack, container, and marking requirements on the handling of tomatoes. The regulation is based upon an appraisal of the crop and prospective market conditions as required in § 966.50 of the order. This regulation is necessary to prevent the handling of any tomatoes of lower grades or smaller sizes than those specified in the regulation, and to provide the trade and consumers with tomatoes of

acceptable quality pursuant to the declared policy of the act.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because shipments of tomatoes from the production area are expected to begin on or about the effective date hereof. The recommendation and supporting information for regulation were submitted to the Department after an open meeting of the Florida Tomato Committee; said meeting was held to consider recommendations for regulation, after giving due notice of the meeting, and interested persons were afforded an opportunity to submit their views at this meeting; and handlers registered under the order as required in § 966.113 have been informed of the proposal. It is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period hereinafter set forth so as to provide for the regulation of the handling of such tomatoes, and compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective date of the regulation.

The regulation is as follows:

§ 966.317 Handling regulation.

During the period October 15, through November 15, 1978, no person shall handle any lot of tomatoes for shipment outside the regulated area unless they meet the requirements of paragraph (a) or are exempted by paragraph (b) or (d).

(a) *Grade, size, container, and inspection requirements.* (1) *Grade.* Tomatoes shall be graded and meet the requirements specified for U.S. No. 1, U.S. Combination, U.S. No. 2 or U.S. No. 3, of the U.S. Standards for Grades of Fresh Tomatoes. When not more than 15 percent of tomatoes in any lot fail to meet the requirements of U.S. No. 1 grade and not more than one-third of this 15 percent (or 5 percent) are comprised of defects causing very serious damage including not more than 1 percent of tomatoes which are soft or affected by decay, such tomatoes may be shipped and designated as at least 85 percent U.S. No. 1 grade.

(2) *Size.* (i) Tomatoes shall be at least 2 2/32 inches in diameter and be sized in accordance with § 2851.1859 of the U.S. tomato standards.

(ii) Tomatoes of designated sizes may not be commingled unless they are over 2 17/32 inches in diameter and each container shall be marked to indicate the designated sizes.

(iii) Only the generic terms as defined in § 2851.1859 may be used to indicate size designations on containers of tomatoes; except that the following abbreviations may be used—SML for small, MED for medium, LG for large, EX LG for extra large, or MAX LG for maximum large.

(3) *Containers.* (i) Tomatoes shall be packed in containers of 20, 30, or 40 pounds designated net weights and comply with the requirements of § 2851.1863 of the U.S. tomato standards.

(ii) Each container shall be marked to indicate the designated net weight and must show the name and address of the shipper in letters at least one-fourth (¼) inch high.

(iii) If the container in which the tomatoes are packed is not clean and bright in appearance without marks, stains, or other evidence of previous use, the lid of such container shall be marked in a principal display area at least 2½ inches high and 4½ inches long with the words "USED BOX" in letters not less than 1¼ inches high and the name of the shipper and point of origin in letters not less than ⅜ inch high.

(4) *Inspection.* Tomatoes shall be inspected and certified pursuant to the provisions of § 966.60. Each handler who applies for inspection shall register with the committee pursuant to § 966.113. Handlers shall pay assessments as provided in § 966.42. Evidence of inspection must accompany truck shipments.

(b) *Special purpose shipments.* The requirements of paragraph (a) of this section shall not be applicable to shipments of tomatoes for canning, relief, charity, or export if the handler thereof complies with the safeguard requirements of paragraph (c) of this section. Shipments for canning are also exempt from the assessment requirements of this part.

(c) *Safeguards.* Each handler making shipments of tomatoes for canning, relief, charity, or export in accordance with paragraph (b) of this section shall:

(1) Apply to the committee and obtain a certificate of privilege to make such shipments.

(2) Prepare on forms furnished by the committee a report in quadruplicate on such shipments authorized in paragraph (b) of this section.

(3) Bill or consign each shipment directly to the designated applicable receiver.

(4) Forward one copy of such report to the committee office and two copies to the receiver for signing and returning one copy to the committee office. Failure of the handler or receiver to report such shipments by signing and returning the applicable report to the committee office within 10 days after shipment may be caused for cancellation of such handler's certificate and/or receiver's eligibility to receive further shipments pursuant to such certificate. Upon cancellation of any such certificate, the handler may appeal to the committee for reconsideration.

(d) *Exemption.* (1) *For types.* The following types of tomatoes are exempt from these regulations: Elongated types commonly referred to as pear-shaped or paste tomatoes and including but not limited to San Marzano, Red Top, and Roma varieties; cerasiform-type tomatoes commonly referred to as cherry tomatoes; hydroponic tomatoes; and greenhouse tomatoes.

(2) *For minimum quantity.* For purposes of these regulations each person subject thereto may handle up to but not to exceed 60 pounds of tomatoes per day without regard to the requirements of these regulations but this exemption shall not apply to any shipment or any portion thereof of over 60 pounds of tomatoes.

(3) *For special packed tomatoes.* Tomatoes resorted, regraded, and repacked by a handler who has been designated as a "Certified Tomato Repacker" by the committee are exempt from the tomato grade classifications of paragraph (a)(1) and the size classifications of paragraph (a)(2) except that the tomatoes shall be at least 2 2/32 inches in diameter and the container weight requirements of paragraph (a)(3) if such tomatoes comply with the inspection requirements of paragraph (a)(4).

(4) *For varieties.* Upon recommendation of the committee, varieties of tomatoes that are elongated or otherwise misshapen due to adverse growing conditions may be exempted by the Secretary from the provisions of paragraph (a)(2) Size.

(e) *Definitions.* "Hydroponic tomatoes" means tomatoes grown in solution without soil; "greenhouse tomatoes" means tomatoes grown indoors. A "Certified Tomato Repacker" is a repacker of tomatoes in the regulated area who has the facilities for handling, regrading, resorting, and repacking tomatoes into consumer-size packages and has been certified as such by the committee. "U.S. tomato standards" means the revised U.S. Standards for Grades of Fresh Tomatoes (7 CFR 2851.1855-2851.1877), effective December 1, 1973, as amended, or variations thereof specified in this section (title 7, chapter I, part 51 was redesignated title 7, chapter 28, part 2851 on June 27, 1977). Other terms in this section shall have the same meaning as when used in marketing agreement No. 125, as amended, and this part, and the U.S. tomato standards.

(f) *Applicability to imports.* Under section 8e of the act and section

980.212 Import regulations (7 CFR 980.212) tomatoes imported during the effective period of this section shall be at least U.S. No. 3 grade and at least 2 2/32 inches in diameter. Not more than 10 percent, by count, in any lot may be smaller than the minimum specified diameter.

It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with OMB Circular A-107.

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

Dated October 5, 1978, to become effective October 15, 1978.

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

[FR Doc. 78-28620 Filed 10-10-78; 8:45 am]

[3410-05-M]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES AND OTHER OPERATIONS

PART 1464—TOBACCO

Subpart A—Tobacco Loan Program

PRICE SUPPORT REGULATIONS

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the tobacco price support regulations to provide price support for a limited quantity of 1978 crop baled burley tobacco during five specified sale dates. This change in the price support regulations will accommodate a marketing research project being conducted by a trade group to determine the feasibility of marketing burley tobacco in bales to reduce the labor required for market preparation.

EFFECTIVE DATE: October 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert P. Hieronymus, 202-447-6695, Price Support and Loan Division, ASCS, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: On July 6, 1978, notice was published in the FEDERAL REGISTER (43 FR 29130) inviting written comments, not later than August 7, 1978, on a proposal to change the price support regulations for burley tobacco. Under the proposed change, price support would be available for baled 1978-crop burley tobacco in quantities not to exceed 110 percent of the quantities approved by local ASC Committees following applications by producers. The quantity approved for any farm would be limited to the greater of 1,500 pounds or 5 percent of the effective farm quota, except that larger amounts would be approved if the total requested for all farms in a county is less than 5 percent of the effective quotas of all farms in the county. The change in price support regulations was requested by a trade group which is conducting a marketing experiment to determine whether it is feasible to market burley tobacco in bales and thus substantially reduce the costs of preparing the tobacco for market. The notice also invited comments on the grade loan rates to be applied for baled tobacco if the proposal is adopted.

Under present regulations, price support is available on burley tobacco only if it is tied in hands of about 20 leaves which is the traditional form in which burley tobacco is marketed. Under this amendment, price support will continue to be available on burley tobacco tied in hands and in addition will be available at the same grade loan rates on a limited quantity of 1978 crop baled burley tobacco under conditions substantially the same as set forth in the proposal.

DISCUSSION OF COMMENTS

Comments were received from 460 persons and organizations by the close of the comment period, August 7, 1978. The proposal was favored by 360 producers, 8 farm organizations, 1 State Department of Agriculture, 1 warehouse and 4 others. The proposal was opposed by 68 producers, 1 farm organization, 3 warehouses, 2 trade associations, 1 tobacco company and 5 others.

The responses received from 205 producers, 7 farm organizations, and 1 State Department of Agriculture recommended that the grade loan rates for baled tobacco be the same as for tobacco tied in hands. Responses received from 10 producers, 4 tobacco companies, 3 warehouses and 1 other, recommend that the grade loan rates be less for baled tobacco than for tobacco tied in hands.

Those favoring the proposal generally expressed the belief that baled marketing would enable producers to reduce costs as the labor required to prepare tobacco for market is considerably less for baled tobacco than for tobacco tied in hands. Others expressed the belief that baled marketing would enable all segments of the industry to take advantage of the cost reductions of more efficient marketing. Other reasons expressed for favoring the proposal were that: Tobacco can be packed in bales when too dry to be tied in hands and thus more time will be available for market preparation and the tobacco will be marketed with more desirable moisture content, and that labor available for preparing tobacco for market is scarce. Recommendations that the grade loan rates for baled tobacco be the same as for tobacco tied in hands generally reflected the belief that there would be no quality or value deterioration resulting from the marketing of baled tobacco.

The major thrust of the responses in opposition to the proposal was that (1) Baled marketing would be detrimental to quality, exports, prices, price support, orderly marketing and small farmers; (2) most producers are satisfied with and are not unduly burdened by marketing tobacco tied in hands as the average producer has less than 5,000 pounds and (3) a system working well (tied marketing) should not be replaced by an untried system (baled marketing). Recommendations that the grade loan rates for baled tobacco be lower than for tobacco tied in hands generally reflected the belief that the quality deterioration, additional handling costs and the inability of buyers to ascertain and select the precise qualities desired would reduce the value of baled tobacco making lower grade loan rates appropriate. The widely differing beliefs expressed by those opposing and those favoring the proposal point to a need for more definite information regarding the impact which a change to a less costly marketing package would have on the overall marketing situation. The proposed change, which would provide for the marketing with price support of a limited quantity of baled tobacco, would provide such information. Accordingly, after considering all comments received, it has been decided to adopt the proposed rules with certain editorial changes which relate to identification of the tobacco approved for baled marketing with price support. It has also been decided that the grade loan rates for the baled tobacco shall be the same as the grade loan rates to be established for burley tobacco tied in hands.

FINAL RULE

Accordingly, 7 CFR Part 1464 is amended by adding paragraph (e)(5) to § 1464.2 and by amending paragraph (a) of § 1464.7 to read as follows:

§ 1464.2 Availability of price support.

* * * * *

(e) * * *

(5) For 1978 crop burley tobacco, eligible producers may obtain price support on tied tobacco and untied burley tobacco packed in bales and offered for auction sale, subject to the follow-

ing conditions: (i) Applications for price support on baled tobacco: From September 1 through September 29, 1978, a producer who desires to market part of his/her burley tobacco in bales may request price support on such tobacco by filing an application with the local County ASC Committee. At the time of filing the application for price support on baled tobacco, the producer shall certify that all bales delivered for price support will meet the following specifications and conditions:

(A) The quality and condition of the tobacco contained in each bale offered for sale as a single lot will be representative of the quality and condition of the tobacco contained in all other bales of the same lot.

(B) The tobacco in each bale will be stalk-cured.

(C) The bales will not contain foreign matter or material.

(D) The bales will not be nested, and

(E) Any and all procedures and certifications which are normally required by law or regulation pertaining to burley production and marketing will be met and the applicable eligibility requirements for price support will also be met.

(ii) Limitation on quantity of tobacco which may be marketed in bales with price support: The maximum quantity of burley tobacco produced on a farm which a producer may market in bales with price support shall be 110 percent of the quantity approved for the farm by the County ASC Committee. A producer may make application for price support on any quantity of tobacco not in excess of the effective farm poundage quota. Approval of the quantity for price support shall be determined as follows:

(A) If the effective farm poundage quota is 1,500 pounds or less, the entire amount of tobacco specified in the application shall be approved.

(B) If the effective farm poundage quota is more than 1,500 pounds, the amount approved shall be the larger of 1,500 pounds or 5 percent of the effective farm poundage quota but not to exceed the quantity requested.

(C) Notwithstanding paragraph (e)(5)(ii)(B) of this section, if the total quantity approved in paragraphs (e)(5)(ii) A and B of this section for all farms in a county is less than 5 percent of the total effective farm poundage quota for all farms in the county, the amount approved for each farm in paragraph (e)(5)(ii)(B) of this section shall be increased by the lesser of the difference between the amount requested and the amount approved or an amount determined by subtracting the sum of the amounts approved in paragraph (e)(5)(ii) (A) and (B) from the total quantity requested on all applications, dividing the results into the amount determined by subtracting the amounts approved in paragraphs (e)(5)(ii) A and B of this section from 5 percent of the total effective farm poundage quota for all farms in the county to obtain a four place factor and multiplying the factor by the difference between the quantity requested and the amount approved for the farm in paragraph (e)(5)(ii)(B) of this section.

(iii) Limitation on the times during which price support will be available on baled tobacco: Price support shall be available on baled tobacco only on five sale dates at each warehouse. The sale dates may be specified by the Burley Sales Committee: Provided, That three of the sale dates shall be during 3 separate weeks preceding the normal Christmas holiday recess and two of the sale dates shall be during 2 separate weeks after the normal Christmas holiday recess.

(iv) Identification cards for tobacco approved for marketing in bales with price support: A Baled Burley Tobacco Identification card showing 110 percent of the pounds of baled tobacco approved for marketing with price support shall be issued for each farm for which approval is given. The identification card together with the 1978 burley tobacco marketing card shall be used to identify any baled tobacco for which price support is desired. The warehouse shall mark "No Price Support" on the basket ticket and on a sale bill for any baled tobacco not identified by an identification card. A separate basket ticket and sale bill marked "No Price Support" shall be prepared for that quantity of baled tobacco weighed in that is in excess of the balance of the pounds shown on the identification card.

(v) Specification of bales: (A) Bales accepted for price support must be approximately 1x2x3 feet in size.

(B) The leaves in bales accepted for price support must be untied and oriented.

(vi) Grade loans rates for tobacco delivered for price support: The grade loan rates for baled burley tobacco will be the same as the grade loan rates to be established for 1978-crop burley tobacco tied in hands in the traditional manner.

* * * * *

§ 1464.7 Eligible producers.

(a) All producers of Puerto Rican tobacco are eligible producers, since Puerto Rican tobacco is not under U.S. marketing quotas. All producers of any kinds of tobacco for which marketing quotas have been terminated are eligible producers during the period for which the terminations are effective. Any producer of another kind of tobacco is an eligible producer if:

(1) An acreage allotment or marketing quota has been established for his farm under the applicable regulations issued by the Secretary of Agriculture with respect to marketing quota and acreage allotments (parts 724, 725, and 726 of this title) for the applicable marketing year.

(2) All the tobacco produced on his farm is produced on acreage which does not exceed the acreage allotment or, if flue-cured tobacco, does not exceed:

(i) The acreage allotment established for his farm, or

(ii) 120 percent of the acreage allotment established for his farm in instances where the producer has left unharvested the 4 lower leaves, exclusive of plant bed leaves, on each stalk of tobacco produced on his farm and has previously entered into an agreement to do so with the local ASC county committee in accordance with procedures to be established by the Deputy Administrator, State and County Operations, ASCS; and

(3) If acreage allotments and marketing quotas are in effect for a kind of tobacco, the producer has reported the acreage planted to tobacco on his farm to the local ASC county committee in accordance with regulations issued by the Secretary of Agriculture with respect to determinations of acreage and compliance (part 718 of this title) for the applicable year, and has complied with any agreement which he may have entered into with the local ASC county committee with respect to not harvesting certain lower stalk leaves of flue-cured tobacco; and

(4) Pesticides containing DDT, TDE, toxaphene and endrin have not been used on the tobacco in the field or after being harvested, and the absence of such use of the pesticides has been reported to the local ASC county committee in accordance with applicable regulations issued under parts 724, 725, and 726 of this title; and

(5) The producer has complied with any certification he/she has signed regarding any baled 1978 crop burley tobacco delivered for price support.

An approved final Impact Analysis is available from Thomas A. VonGarlem, Acting Director, Price Support and Loan Division, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013.

Based on an assessment of the environmental impacts of the proposed action, it has also been determined that an Environmental Impact Statement need not be prepared since the proposals will have no significant effect on the quality of the human environment.

Signed at Washington, D.C., on October 3, 1978.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 78-28595 Filed 10-10-78; 8:45 am]

[6720-01-M]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 78-519]

REDUCTION AND SIMPLIFICATION OF REGULATIONS

Dated: October 3, 1978.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rules.

SUMMARY: These amendments shorten and simplify the regulations for the Federal Home Loan Bank System. Except as described below, the amendments are not intended to change the meaning or effect of the revised sections, but only to clarify them and remove unnecessary words.

EFFECTIVE DATE: November 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552, 202-377-6440.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board, by Resolution No. 78-162, dated March 31, 1978, proposed to revise 12 CFR Parts 521-527, 531, and 532 to reduce and clarify the language of those regulations. The proposed revision included 23 substantive changes which would delete certain provisions, update others to express current Bank Board policy and make certain delegations of authority. The proposed revision was published in the FEDERAL REGISTER on April 6, 1978 (43 FR 14505-14517) with public comments to be received by June 1, 1978. Based on its consideration of comments received and other information available to it, the Bank Board has decided to adopt the proposed amendments with changes as discussed below.

The language of the following sections has been clarified or further simplified, without substantive change: §§ 521.8, 522.1, 522.5, 522.10, 522.11, 522.12, 522.13, 522.25, 522.26, 522.27, 522.61, 522.72, 522.75, 522.76, 523.5, 523.8, 523.10, 523.12, 524.4, 524.12, 525.2, 525.10, 525.13, 525.30, 526.1, 526.3, 526.6, 526.7, 531.1, and 531.10

The following sections of the proposed regulations are revised or deleted for the reasons stated:

§ 521.5—The definition of "deposits in banks or trust companies" is expanded to include deposits in certain commercial banks in which Banks were authorized, under proposed § 524.11, to maintain deposits. Section 524.11 is thereby made superfluous, and it is deleted. The term "checking account" is replaced by "demand account" because that term more accurately describes the account maintained by the Banks with the Federal Reserve Bank of New York.

§ 522.21—The section is deleted, because the term of an appointed director is prescribed in section 7 of the Act.

§ 522.26—The requirement that a copy of the regulations regarding elections be sent to each nominee for Bank director is deleted, because nominees generally have access to those regulations, and printing and mailing additional copies is an unnecessary expense. The provision permitting ballots to be inspected only by Board members is deleted, because it is unnecessarily restrictive.

§ 523.1—Application forms shall be submitted in triplicate rather than duplicate. This conforms to existing Bank Board policy.

§ 523.6—The authority to adjust the amount of a member's stock in a Bank is given to the Bank rather than the board of directors, because adjustment is made in accordance with the requirements of the Act without need for director discretion.

§ 523.9—The section is deleted, because the Bank Board finds that transfer of Bank stock by members is sufficiently limited by the Act.

§ 523.11—The provision for commercial paper and Federal funds to be used as a supplement to liquid assets by mutual savings banks electing to maintain liquid assets in accordance with § 523.11(e) would be revised to delete the reference to Federal funds. Because of subsequent qalification of Federal funds as liquid assets under § 523.10, the reference to Federal funds in § 523.11 is no longer necessary.

§ 523.15—A member is required to submit its annual report to the Bank Board within 20 days of the date of the report rather than within 30 days. This change conforms to present Bank Board policy.

§ 526.10—The limitation on the total of a member's certificate accounts maturing in any consecutive three months is amended to specify that the member's total savings accounts on the day a certificate is issued or renewed shall be the basis for determining whether the issuance or renewal is prohibited.

The term "Director, Office of Federal Home Loan Banks," as used throughout the regulations has been changed to "Director, Office of District Banks," to reflect the present designation of that Office.

MAJOR PUBLIC COMMENTS

Of the 14 public comments received, 8 approved adoption of the proposed amendment without change. Suggestions for further simplification of language have been incorporated in the revised sections listed above. Comments which recommended substantive changes, other than the changes discussed above, included:

(1) The definition of "home" should be expanded to include duplexes.

The Bank Board believes the recommended change would not simplify the regulations and is therefore outside the scope of these amendments.

(2) Two commenters objected to the present prohibition of payment of bonuses to bank employees.

Permitting payment of bonuses would require a substantive change which is beyond the scope of these amendments.

(3) Two commenters objected to the proposed reduction in frequency of dividends paid by Banks.

The regulatory amendment is consistent with existing Board policy which limits Banks to annual payment of dividends.

(4) The penalty for early withdrawal should be made specific rather than remain a required minimum.

The recommended change would be substantive in nature and is therefore outside the scope of these amendments.

(5) The Bank Board should continue to set directors' fees, and outside legal fees should continue to be subject to Bank Board approval.

The Bank Board believes that added flexibility regarding such fees can be permitted without increasing risk to Banks or their members.

(6) The requirement that advertising of savings accounts include a rate that will apply to a savings account withdrawn before expiration of the time requirement applicable to it is inconsistent with the required minimum penalty for early withdrawal of certificate accounts.

The advertising requirement is applicable to savings accounts generally and is therefore broader than the penalty provision for certificate accounts.

Accordingly, the Bank Board hereby amends parts 521—527, 531, and 532, as follows:

1. Revise Part 521 to read as follows:

PART 521—DEFINITIONS

Sec.
521.1 Act.
521.2 Bank.
521.3 Board.
521.4 Creditor liabilities.
521.5 Deposits in banks or trust companies.
521.6 Home mortgage.
521.6-1 Home.
521.6-2 Other dwelling unit.
521.7 Member.
521.8 Net assets.
521.9 Obligations of the United States.
521.10 Paid-in value of stock in a bank.
521.11 State.

AUTHORITY: Sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1437, Reorg. Plan No. 3 of 1947, 3 CFR, 1943-1948 Comp., unless otherwise noted.

§ 521.1 Act.

The Federal Home Loan Bank Act, as amended (12 U.S.C. 1421 et seq.).

§ 521.2 Bank.

A Federal Home Loan Bank.

§ 521.3 Board.

The Federal Home Loan Bank Board or any official duly authorized to act in its behalf.

§ 521.4 Creditor liabilities.

Obligations, secured or unsecured, of a member.

§ 521.5 Deposits in banks or trust companies.

Includes a deposit in another Bank, a demand account of a Bank with a Federal Reserve Bank, or a deposit in such other depository as the Bank's board of directors may designate which, unless otherwise authorized, is a member of the Federal Reserve System or the Federal Deposit Insurance Corporation.

§ 521.6 Home mortgage

A mortgage on real estate in fee simple, or on a leasehold of (a) not less than 99 years which is renewable or (b) not less than 50 years from the date the mortgage was executed, which comprises one or more homes or other dwelling units, including first mortgages, real estate sales contracts, and other classes of first liens commonly given to secure advances on real estate by institutions in the State where the real estate is located which are authorized under the Act to become members, together with any credit instrument secured thereby.

§ 521.6-1 Home.

A structure designed for residential use by one family.

§ 521.6-2 Other dwelling unit.

A combination of rooms, suitable for a family, in a structure other than a home, designed primarily for residential use.

§ 521.7 Member.

An institution admitted to membership in a Bank.

§ 521.8 Net assets.

Gross assets less:
(a) The book value of accounts pledged to secure loans;
(b) If carried as a liability—
(1) Mortgages in process; and
(2) Mortgages on real estate owned;
(c) Reserves for depreciation on office building(s), fixtures, and furniture, unless these assets are carried at net figures with reserves shown as a deduction from their original cost;
(d) Special reserves established under § 545.18 of subchapter C of this chapter and similar reserves established by State-chartered institutions under State authority;
(e) Current expenses;
(f) Any similar item.

§ 521.9 Obligations of the United States.

All evidences of indebtedness issued, or fully guaranteed as to principal and interest, by the United States.

§ 521.10 Paid-in value of stock in a Bank.

Aggregate payments on the par value of stock.

§ 521.11 State.

Except as defined in § 522.29 of this subchapter, a State, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.

PART 522—ORGANIZATION OF THE BANKS

INCORPORATION

2. Revise §§ 522.1-522.25, add new § 522.26. Revise §§ 522.27-522.76 to read as follows:

§ 522.1 Charter.

A Bank's organization certificate.

CAPITAL

§ 522.5 Par value and price of stock.

The capital stock of each Bank shall be sold at par, unless the Board has fixed a higher price.

§ 522.6 Dividends.

A Bank's board of directors may, with approval of the Board, declare to stockholders of record at close of business on December 31 a dividend from net earnings or undivided profits on the paid-in value of capital stock outstanding on that date. On stock purchased during the dividend period, dividends shall be computed (after deducting amounts of any stock repurchased) only for the period such stock was outstanding.

§ 522.10 Issuance of stock certificates.

A Bank shall issue to each new member, as of the effective date of membership, a certificate of stock in the member's name for the amount of its stock subscription; but the Bank shall hold stock certificates so issued until it has received full payment therefor. If a member changes its name, a new certificate shall be issued.

§ 522.11 Stock in consolidations.

Upon consolidation of two or more member institutions into one institution operating under the charter of one of the consolidating institutions, the stock subscriptions of the institutions, other than the survivor, may be refunded to the consolidated institution after adjustment to the minimum number of shares it must hold under the act.

§ 522.12 Stock in reorganizations.

If a member institution reorganizes by transferring all or part of its assets to another institution, the Bank shall, subject to Board approval, and unless the member's stock is held to secure advances, refund to the member, or at its discretion to the institution acquiring the assets, the value thereof (not to exceed the amount paid in); or if the institution acquiring the assets has been approved for membership, the Bank may apply such value to the new member's stock subscription.

§ 522.13 Lost or destroyed certificates.

To replace lost or destroyed certificates, Banks may issue certificates marked "duplicate" on their face.

APPOINTMENT AND ELECTION OF DIRECTORS

§ 522.20 General.

Directors shall be appointed and elected as prescribed in section 7 of the Act.

§ 522.21 Director representing Puerto Rico.

Under section 7(e) of the Act, the Federal Home Loan Bank of New York shall have an additional elective director to represent members in Puerto Rico.

§ 522.22 Definition of member.

For purposes of §§ 522.23-522.26 the word "member" means a member of a Bank at the end of the calendar year preceding the election.

§ 522.23 Location of member.

Under section 7(c) of the Act, a member shall be considered located in the State in which it has its principal place of business. If a member's principal place of business is not in a State, the Board will designate a State in which such member shall be consid-

ered located, and may in its discretion change such designation from time to time.

§ 522.24 Report of stock investment.

Each Bank shall, by May 31 of each year, report to the Board, on prescribed forms, the number of shares of Bank stock each of its members was required to hold at the end of the preceding calendar year. Such number shall be conclusive for purposes of election of directors.

§ 522.25 Designation and nomination of elective directorship.

(a) By August 1 of each year, the Board will (1) notify each member of the number of elective directorships designated for the State in which the member is located; and (2) notify each member in each State for which an elective directorship is to be filled of its right to nominate an eligible person(s) therefor, and provide each such member the following:

(i) A list of members located in its State;

(ii) A current list of directors of the Bank of which it is a member, containing the name of each director, the name and address of the member institution with which he is affiliated, and the expiration date of his term; and

(iii) The nominating certificate.

(b) Each member in each State entitled under these regulations to participate in the election of directors may by resolution of its governing body nominate, or authorize one of its directors or officers to nominate, a qualified person for each directorship to be filled in its State. The nominating certificate must be received in the Washington, D.C. Office of the Secretary to the Board by September 4.

(c) A letter will be sent to each nominee by September 18 informing him of his nomination. However, no such letter will be sent to any nominee (1) then serving as an elective director whose term does not expire until after close of the calendar year during which the election is being held; (2) holding an appointive directorship, unless the Secretary has received from him, before September 4, notice of his intention to be a candidate for a directorship; or (3) determined by the Board to be ineligible under section 7(d) of the Act. With such letter will be sent a list of nominees and a questionnaire. The completed questionnaire must be received in the Office of the Secretary by October 3 for the nominee to have his name placed on the election ballot. A nominee shall be eligible for election only if his name is so placed on the ballot.

(d) Notwithstanding other provisions of this section, if at any time when nominations are required the members of a Bank hold less than $1 million of the capital stock of the Bank, the Board will, in accordance with section 7(h) of the Act, appoint a director(s) to fill the place(s) for which nominations are required.

§ 522.26 Election of directors.

(a) By November 1, the Board will mail to each member in each State for which an elective directorship is to be filled a ballot, a voting certification envelope, a ballot envelope, and a self-addressed envelope. The ballot will contain in alphabetical order the name of each candidate to represent the members located in such State who has complied with the provisions of § 522.25, the name and address of the member institution with which each candidate is affiliated, the candidate's title in the member institution, and the number of votes the member may cast, determined under the provisions of paragraph (b) of this section.

(b) The number of votes each member may cast shall equal the number of shares of stock in the Bank required by the Act to be held by such member at the end of the calendar year preceding the election, but not in excess of the average number of such shares required by the Act to be held at the end of such calendar year by members in such State.

(c) Each member entitled to receive a ballot may, by resolution of its governing body, cast its votes or authorize one of its directors or officers to cast its votes for each of as many candidates as there are directorships to be filled. The completed ballot shall be placed in the ballot envelope, which shall be sealed and placed in the certification envelope. The certification thereon shall be executed and the envelope sealed and mailed in the self-addressed envelope to the Secretary to the Board and must be received by December 3.

(d) By December 15 the Board will declare elected the candidate receiving the highest number of votes cast, and, where two or more directorships are to be filled from the ballot, the Board will declare elected each candidate receiving the next succeeding highest number of votes until the number of candidates declared elected equals the number of directorships to be filled. If required by a tied vote, the Board will declare elected one of the candidates whose votes are tied.

(e) The Board will record the results of the election in its minutes and notify the directors elected. The Board will furnish each member such results, including the name of each candidate, the name and address of the institution with which he is affiliated and his title therein, the number of votes he received, the number of members eligible to cast votes for the directorship(s), and the total eligible votes all such members were entitled to cast.

(f) Election ballots will not be opened until after 5 p.m., e.s.t., December 3. Only ballots executed on forms supplies by the Board will be considered. No ballot may be changed after it is delivered to the Secretary, who will preserve all ballots until the end of the next calendar year. If any date specified in §§ 522.24–522.26 falls on a Saturday, Sunday, or holiday, the next business day shall be included in the time allowed. No nominating certificate, questionnaire, or ballot shall be considered unless received in the Office of the Secretary to the Board by the date specified.

§ 522.27 Prohibition of actions influencing votes.

No officer, attorney, employee, or agent of the Board or a Bank may individually or collectively take any action tending to influence votes for a directorship in a Bank, and no person shall include in any letter, literature, or other paraphernalia, language or any presentation indicating, directly or indirectly, that the Board, or any officer, attorney, employee, or agent of the Board or a Bank supports the candidacy of any person for an elective directorship. The Board, after hearing, may consider any such action grounds for dismissal from a directorship or may declare vacant the directorship involved, or both.

§ 522.28 Definition of "State".

As used in §§ 522.23, 522.25, and 522.26, a State, the District of Columbia, or Puerto Rico.

Compensation and Duties of Directors

§ 522.60 Compensation.

Directors' fees shall be established by each Bank within limits set by the Board.

§ 522.61 Duties.

Bank directors, individually and collectively, have the specific duty of seeing that the Bank complies with applicable provisions of the Act and these regulations. Directors shall hold meetings and perform duties as prescribed in the Bank's bylaws.

Selection and Compensation of Officers and Employees

§ 522.70 Selection.

Officers, legal counsel, and employees of a Bank shall be elected or appointed in accordance with the Bank's bylaws. A full-time officer or employee of a Bank shall not act in any capacity for a member (other than the Federal Home Loan Mortgage Corporation) or institution insured by the Federal Sav-

ings and Loan Insurance Corporation under any understanding providing for continuous or repeated services, or act in any capacity for any such institution in any matter requiring action by the Bank or any of its directors, except when employed by, or with the consent of, the Insurance Corporation in cases involving payment of insurance, loans, purchases of assets or contributions by the Insurance Corporation under section 405 or 406 of the National Housing Act, as amended. These employment prohibitions shall apply to counsel and attorneys of any Bank, whether employed on a salary, fee, retainer, or other basis, except where such employment is with prior consent of the Board, and to the extent of such consent.

§ 522.71 Compensation.

(a) The board of directors of each Bank shall annually adopt and submit to the board for its approval an appropriate resolution showing the contemplated compensation of its President.

(b) The board of directors of each Bank may fix the compensation for each officer other than President within ranges established by the Board and the total limits for such compensation in the Bank's approved budget. Each Bank may establish the amount and form of compensation of all other employees (including legal counsel) within the limits set forth in its approved budget. A bank shall not pay any director, officer, employee, or other person a bonus.

§ 522.72 Indemnification.

(a) *Definitions and rules of construction.* (1) Definitions for purposes of this section.

(i) *Action.* Any judicial or administrative proceeding, or threatened proceeding, whether civil, criminal, or otherwise, including any appeal or other proceeding for review;

(ii) *Court.* Includes, without limitation, any court to which or in which any appeal or any proceeding for review is brought.

(iii) *Final judgment.* A judgment, decree, or order which is not appealable or as to which the period for appeal has expired with no appeal taken.

(iv) *Settlement.* Includes entry of a judgment by consent or confession or a plea of guilty or nolo contendere.

(2) References in this section to any individual or other person, including any Bank, shall include legal representatives, successors, and assigns thereof.

(b) *General.* Subject to paragraph (c) of this section, a Bank shall indemnify any person against whom an action is brought or threatened because that person is or was a director, officer, or employee of the Bank, for:

(1) Any amount for which that person becomes liable under a judgment in such action; and

(2) Reasonable costs and expenses, including reasonable attorney's fees, actually paid or incurred by that person in defending or settling such action, or in enforcing his rights under this section if he attains a favorable judgment in such enforcement action.

(c) *Requirements.* Indemnification shall be made to such person under paragraph (b) of this section only if:

(1) Final judgment on the merits is in his favor; or

(2) In case of (i) settlement, (ii) final judgment against him, or (iii) final judgment in his favor, other than on the merits, if a majority of the directors of the Bank determine that he was acting in good faith within the scope of his employment or authority as he could reasonably have perceived it under the circumstances and for a purpose he could reasonably have believed under the circumstances was in the best interests of the Bank or its members. However, no indemnification shall be made unless the Bank gives the Board at least 60 days' notice of its intention to make such indemnification. Such notice shall state the facts on which the action arose, the terms of any settlement, and any disposition of the action by a court. Such notice, a copy thereof, and a certified copy of the resolution containing the required determination by the board of directors shall be sent to the Secretary to the Board, who shall promptly acknowledge receipt thereof. The notice period shall run from the date of such receipt. No such indemnification shall be made if the Board advises the Bank in writing, within such notice period, of its objection thereto.

(d) *Insurance.* A Bank may obtain insurance to protect it and its directors, officers, and employees from potential losses arising from claims against any of them for alleged wrongful acts, or wrongful acts, committed in their capacity as directors, officers, or employees. However, no Bank may obtain insurance which provides for payment of losses of any person incurred as a consequence of his willful or criminal misconduct.

(e) *Payment of expenses.* If a majority of the directors of a Bank concludes that, in connection with an action, any person ultimately may become entitled to indemnification under this section, the directors may authorize payment of reasonable costs and expenses, including reasonable attorneys' fees, arising from the defense or settlement of such action. Before making such payment the Bank shall obtain an agreement that it will be repaid if such person is later determined not to be entitled to such indemnification.

(f) *Exclusiveness of provisions.* No Bank shall indemnify any person referred to in paragraph (b) of this section or obtain insurance referred to in paragraph (d) of this section other than in accordance with this section.

DUTIES OF OFFICERS

§ 522.75 General.

The President and other officers shall have the powers and duties prescribed in the Bank's bylaws and these regulations.

§ 522.76 President.

The President of each Bank shall be its chief administrative officer and shall supervise each member's compliance with the act and these regulations. He shall request a member not so complying to do so, and if the member does not thereafter comply, shall report the matter, or cause it to be reported, to the Board.

3. Revise paragraph (a) of § 522.80 to read as follows:

OFFICE OF FINANCE

§ 522.80 General.

(a) An Office of Finance is hereby established, which shall be located in Washington, D.C., and shall perform the functions set forth in § 522.81.

* * * * *

4. Amend the first two sentences of paragraph (b) of § 522.81 to read as follows:

§ 522.81 Functions of Office of Finance.

(a) * * *

(b) The Office of Finance shall maintain in a checking account in a commercial bank approved by the Board an "imprest fund" in a maximum amount approved by the board. Such account shall be subject to withdrawal by check or draft signed by either the Director, or by another person(s) designated by the Board. * * *

5. Amend the first sentence of § 522.82 to read as follows:

§ 522.82 Budget and expenses.

The Office of Finance shall annually submit to the Board by December 1 a budget of its proposed expenditures for the following calendar year. * * *

6. Amend the first sentence of paragraph (a) of § 522.87 to read as follows:

§ 522.87 Budget and expenses.

(a) The Office of Neighborhood Reinvestment shall annually submit to the Board by December 1 a budget of

its proposed expenditures for the following calendar year. * * *

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7. Revise §§ 523.1-523.8, delete § 523.9, Revise §§ 523.10-523.25, Revise §§ 523.30 and 523.31, delete § 523.32 to read as follows:

PART 523—MEMBERS OF BANKS

Application for Membership

§ 523.1 Application form.

An applicant for membership shall submit Board-approved forms in triplicate to its district Bank.

§ 523.2 Examination and review of application.

Bank officers designated by its board of directors shall consider the application and obtain any additional information they consider appropriate. They shall make recommendations to the board of directors or the executive committee, which may also obtain additional information, and which shall send the application with its recommendations to the Board. Between meetings of the board of directors or executive committee, such officers may, if authorized to do so by the Bank's board of directors, send applications and their recommendations to the Board, and report their action to the next meeting of the board of directors or executive committee, whichever occurs first.

§ 523.3 Board action on applications.

On receipt of notice of Board action, the Bank will inform the applicant of such action and, if the application is approved, transmit to the applicant the membership certificate received from the Board.

§ 523.3-1 Automatic Board approval in certain cases.

A member removed from membership solely because its status as an insured institution under the National Housing Act is terminated by its conversion to an institution insured by the Federal Deposit Insurance Corp. shall, on the effective date of such conversion, be automatically approved by the Board as a member, if its Bank has approved a request by the member's board of directors or board of trustees for such membership. In such case, all relationships existing between the member and the Bank at the time of such conversion may continue.

Stock Subscription

§ 523.4 Subscription.

An applicant shall subscribe for stock when it applies for membership.

§ 523.5 Additional subscription.

At the end of each calendar year, a Bank shall notify any member if additional stock subscription is required.

§ 523.6 Adjustments in holdings.

A Bank may from time to time increase or decrease the amount of stock of any member to conform to section 6(c) of the act. If such amount is decreased upon proper application of the member, the Bank shall pay for each share, on its surrender, the value thereof determined under section 6(i) of the act, or, at its election, credit any part of such payment against the member's debt to the Bank. A Bank may require a member to give 30 days' written notice of intention to apply for such a decrease, and a member's holdings shall not be reduced to an amount less than required by section 10(c) of the act.

§ 523.7 Excess subscription.

With Bank approval, a member may subscribe for stock over the minimum amount, if the law under which the member operates so permits.

§ 523.8 Payment on subscription.

An applicant may, under section 6(d) of the act, pay in installments for subscribed stock. If an applicant's admission to membership is substantially delayed following application, and it has furnished all information required and complied with applicable laws and Board regulations, it may make its second payment on admission, and succeeding payments as prescribed in section 6(d). All other subscriptions shall be paid in full before stock certificates are issued.

Liquidity

§ 523.10 Definitions for purposes of this section, § 523.11 and § 523.12.

(a) *Cash.* Cash on hand and unpledged demand deposits in a Bank, an insured bank, or the Bank for Savings and Loan Associations, Chicago, Ill., but not gold in any form.

(b) *Insured bank.* A commercial bank whose deposits are insured by the Federal Deposit Insurance Corp., not under control of any supervisory authority.

(c) *Liquidity base.* A member's net withdrawable accounts, or the policy reserve of a member insurance company required by State law, plus the member's short-term borrowings.

(d) *Net withdrawable accounts.* All withdrawable accounts less the unpaid balance of all loans secured by such accounts, but not including tax and loan accounts or note accounts.

(e) *Short-term borrowings.* All borrowings payable on demand or in 1 year or less, but not including tax and loan accounts or note accounts.

(f) *Obligations of the United States.* Evidences of indebtedness issued by the United States, or issued by an agency or instrumentality thereof and fully guaranteed as to principal and interest by the United States.

(g) *Liquid assets.* The total of cash, accrued interest on unpledged assets which qualify as liquid assets under this subsection or would so qualify except for their maturities, and the book value of the following unpledged assets (including such assets held subject to repurchase agreement), as long as principal and interest on such assets are not in default:

(1) Time deposits in a Bank or the Bank for Savings and Loan Associations, Chicago, Ill.;

(2) Except as the Board may otherwise direct in a specific case, obligations of the United States maturing in 5 years or less;

(3) Obligations with 5 years or less remaining until maturity, issued, or fully guaranteed as to principal and interest, by:

(i) A Bank(s);

(ii) The Federal National Mortgage Association;

(iii) The Government National Mortgage Association;

(iv) A Bank(s) for Cooperatives, including the Central Bank for Cooperatives;

(v) A Federal Land Bank(s);

(vi) A Federal Intermediate Credit Bank(s);

(vii) The Tennessee Valley Authority;

(viii) The Export-Import Bank of the United States;

(ix) The Commodity Credit Corporation; or

(x) The Federal Financing Bank;

(4) Time and savings deposits in an insured bank and loans of unsecured day(s) funds (Federal funds or similar unsecured loans to insured banks) to an insured bank, if:

(i) The total of all savings and time deposits, including loans of unsecured day(s) funds, of the member in one bank does not exceed the greater of (*a*) one-fourth of 1 percent of the total deposits of such bank (as shown by its last published statement preceding the date of deposits or acquisition by the member), or (*b*) $40,000;

(ii) Except for loans of unsecured day(s) funds such time deposits are (a) negotiable and will mature in 1 year or less, (b) not negotiable and will mature in 90 days or less, or (c) not withdrawable without notice and the notice periods do not exceed 90 days;

(iii) Loans of unsecured day(s) funds will mature in 6 months or less; and

(iv) The priority of claims of a lender of unsecured day(s) funds is not subordinate to claims of depositors in the borrower thereof;

(5) Bankers' acceptances of an insured bank if:

(i) The total of all such acceptances of the same bank held by the same member does not exceed one-fourth of 1 percent of total deposits of such bank (as shown by its last published statement of condition preceding the date of acceptance);

(ii) Such acceptances will mature in 9 months or less; and

(6) General obligations (other than gold-related obligations) of any State, territory, or possession of the United States, or political subdivision thereof, if:

(i) Such obligations continue to be either (*a*) rated in one of the four highest grades by the most recently published rating of such obligations by nationally recognized investment rating service or (*b*) issued by a public housing agency and have the full faith and credit of the United States pledged under § 1421a(c) or § 1437i(a) of Title 42 of the United States Code, as amended; and

(ii) Such obligations will mature in 2 years or less.

(h) *Short-term liquid assets.* The total of cash, accrued interest on unpledged assets which qualify as liquid assets under subsection (g) of this section, or would so qualify except for their maturities, and the book value of the following unpledged assets (including such assets held subject to repurchase agreement):

(1) Time deposits specified in paragraph (g)(1) of this section;

(2) Obligations specified in paragraphs (g) (2) and (g) (3) of this section, which will mature in 12 months or less;

(3) Time and savings deposits, including loans of unsecured day(s) funds, which qualify as liquid assets under paragraph (g) (4) of this section and, in the case of such time deposits which are negotiable, will mature in 6 months or less;

(4) Bankers' acceptances specified in paragraph (g) (5) of this section which will mature in 6 months or less; and

(5) General obligations specified in subdivision (g) (6) (i) (*b*) of this section which will mature in 6 months or less.

§ 523.11 Liquidity requirements.

(a) *General.* Except as otherwise provided in paragraphs (b) and (d) of this section, for each calendar month, each member, other than a mutual savings bank with an election under paragraph (e) of this section in effect, shall maintain an average daily balance of liquid assets not less than 6.5 percent of the average daily balance of its liquidity base during the preceding calendar month, and each member, other than a mutual savings bank or an insurance company, shall maintain an average daily balance of short-term liquid assets of not less than 2.5 percent of the average daily balance of its liquidity base during the preceding calendar month.

(b) *Exception.* Instead of computing its liquidity requirement under paragraph (a) of this section, a member with less than $25,000,000 in total assets at the beginning of its current fiscal year may, by resolution of its board of directors, compute such requirement as a percentage of its liquidity base as of the end of the preceding calendar month. Such election shall remain in effect so long as the member continues to meet the asset requirement, unless sooner revoked by resolution of its board of directors.

(c) *Calculation of average daily balance.* For purposes of this section, § 523.10, and 523.12, the "average daily balance of liquid assets," "average daily balance of the member's liquidity base" shall be calculated by adding, respectively, the member's liquid assets, short-term liquid assets, or liquidity base, as of the close of each business day in a calendar month, and for any non-business day, as of the close of the nearest preceding business day, and dividing the respective total by the number of days in such month.

(d) *Reduction and suspension of liquidity requirements.* The Board may, to the extent and under conditions it may prescribe, permit a member to reduce its liquid assets below the minimum amount required by paragraph (a) of this section to meet withdrawals or pay obligations. The Board may suspend part or all of the liquidity requirements of said paragraph (a) whenever it determines that conditions of national emergency or unusual economic stress exist. Any such suspension, unless sooner terminated by its terms or by the Board, shall terminate after 90 days, but the Board may again suspend part or all of such requirement at any time.

(e) *Election for mutual savings banks.* Any member mutual savings bank may maintain liquid assets in accordance with this paragraph instead of the first sentence of paragraph (a) of this section. Any such member so electing shall maintain, for each calendar month, an average daily balance of liquid assets not less than 5 percent of its average daily liquidity base balance during the preceding calendar month, except as otherwise provided in paragraph (b) and (d) of this section, and such member shall maintain commercial paper aggregating not less than the difference between (1) the amount of liquid assets which, but for such election, would have been required under the first sentence of subsection (a) of this section and (2) the actual amount of its liquid assets.

§ 523.12 Deficiencies and penalties.

(a) *Calculation of deficiency.* (1) Except as provided in paragraph (a)(2) of this section, a member's liquid assets or short-term liquid assets for any calendar month are deficient in the amount that the average daily balance of such assets for such calendar month is less than the respective minimum amount required under § 523.11.

(2) A member, other than an insurance company, may reduce any deficiency under paragraph (a)(1) of this section as follows:

(i) For the first month of a current distribution period, by the amount of its aggregate net withdrawals (excess of withdrawals over cash savings received) from withdrawable accounts during the last 3 business days of the immediately preceding month and the first 10 calendar days of the current month; and

(ii) For the second month of the same distribution period, by one-half of such amount of aggregate net withdrawals; but

(iii) No such reduction shall reduce the member's liquidity requirement below 4 percent of its liquidity base at the end of the immediately preceding distribution period.

(b) *Calculation of penalty.* A member shall calculate the penalty for any deficiency under paragraph (a) of this section by multiplying the amount of deficiency by $\frac{1}{12}$ the sum of 2 percent and the annual interest rate for advances of 1 year or less charged by the member's Bank on the last day of the month in which the deficiency occurred. The penalty for deficiencies in 1 month in both liquid assets and short-term liquid assets shall be calculated only on the larger deficiency. No penalty shall be calculated on any deficiency of $5,000 or less unless the Board so directs in a specific case.

(c) *Assessment of penalty; compromise, remission, or mitigation.* The Board hereby assesses a penalty against each member in the amount calculated under paragraph (b) of this section. The Board may, on application submitted by a member through its Bank, compromise, remit, or mitigate, any such penalty before collection thereof. The President of such Bank, or any officer thereof designated by him, may, subject to conditions he may impose, so compromise, remit, or mitigate such penalty, if he determines:

(1) The penalty would seriously harm the member; or

(2) The deficiency resulted from either:

(i) Temporary disruption of normal operation caused by negotiation or implementation of a merger or similar transaction; or

(ii) Any situation beyond the control of the member's management, including:

(*a*) Unforeseen delay in communication;

(*b*) Unexpectedly heavy savings withdrawal along with large disbursements on commitments;

(*c*) A natural disaster; or

(*d*) Abnormally heavy withdrawals caused by rumors.

However, no such penalty may be compromised, remitted, or mitigated if the member has failed to observe any condition of a prior compromise, remission, or mitigation.

§ 523.13 Reports; records.

(a) *Reports.* By the 10th day of the month following assessment of a penalty under § 523.12(c) a member shall submit to its Bank a report regarding such penalty on forms obtained from the Board or the Bank.

(b) *Records.* Each member shall maintain records verifying its compliance with liquidity requirements prescribed by the Board, and make them available to the Board, or its representative, during supervisory examinations and at other times the Board may direct.

§ 523.14 Payment of penalty.

When a member submits a report required by § 523.13(a) it shall enclose a check, payable to its Bank, in the amount of the penalty for the month covered by the report, unless the member makes application under § 523.12(c).

REPORTS AND EXAMINATIONS

§ 523.15 Reports.

Each member shall make a report of its affairs at the end of each half of its fiscal year on forms prescribed by the Board. The member shall send the original report to the Board and one copy to its Bank, within 20 days of the date of the report. A savings bank may submit, in place of such report, copies of reports which it regularly submits to the Federal Deposit Insurance Corporation or to the State supervisory authority and any additional information required to determine its minimum stock subscription.

§ 523.20 Examinations of members.

Examinations of members, if required because of inadequacy of State examination for purposes of the Banks, shall be made at least annually, as prescribed by the Board, and their costs, as determined by the Board, shall be paid by the member.

§ 523.25 Official membership insignia.

Members may display the approved insignia of membership on their documents, advertising, and quarters, and likewise use the words "Member Federal Home Loan Bank System."

WITHDRAWAL AND REMOVAL FROM MEMBERSHIP

§ 523.30 Procedure for withdrawal.

A Bank shall submit to the Board any notice of withdrawal filed with it by a member. A member may cancel its notice of withdrawal by notifying the Board any time before the effective date of withdrawal.

§ 523.31 Procedure for removal

(a) The following are grounds for removing a member from membership:

(1) Failure to comply with any provision of the Act or any regulation of the Board adopted under it.

(2) Insolvency. Any member building and loan association, savings and loan association, cooperative bank, or homestead association is insolvent if its assets are less than its obligations.

(3) Management or home-financing policies inconsistent with sound and economical home-financing or the purposes of the Act.

(b) If the Board believes any such ground exists, it will give the member at least 30 days' written notice of its intention to terminate the member's membership. Such notice shall be served as provided in Part 509 of this chapter and state the grounds for such action and the time and place of a hearing at which the member may be heard. Such hearing shall be conducted in accordance with Part 509.

7a. Part 524 is revised in its entirety as follows:

PART 524—OPERATIONS OF THE BANKS

Sec.

524.1 Investments.
524.2 Loans guaranteed under the Foreign Assistance Act of 1961.
524.3 Transfer of funds between banks.
524.4 Deposits from members.
524.5 Trustee powers.
524.6 Budgets.
524.7 Surety bonds.
524.8 Insurance.
524.9 Safe-keeping accounts.
524.10 Securities held in trust or as collateral.
524.11 Donations.
524.12 Accounting.
524.13 Gold and gold-related transactions.

AUTHORITY: Sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1437, Reorg. Plan No. 3 of 1947; 3 CFR, 1943-1948 Comp., unless otherwise noted.

§ 524.1 Investments.

(a) Banks may acquire or dispose of securities with prior approval of the Board or its designated representative or in conformity with (1) authorizations of the Board or such representative or (2) stated Board policy. A Bank's board of directors may authorize Bank officer(s) to acquire or dispose of securities qualifying as liquidity for deposits under the investment policy of the Board as in the judgment of the officer(s) is necessary in the operation of the Bank. Any other acquisition or disposition must be authorized in advance by a majority of the board of directors, executive committee, or investment committee consisting of three or more persons a majority of whom are directors of the Bank. Single acquisitions or dispositions may be so authorized, or acquisitions and/or dispositions of securities of a stated amount maturing within specified dates as in the judgment of the officer(s) designated in the authorization are necessary in the operation of the Bank, may be so authorized, for periods of 90 days or less.

(b) Compliance with sections 11 and 16 of the act shall be determined based on the principal amount of obligations of the United States.

(c) Advances to members maturing within 18 months secured by home mortgages or obligations of the United States are investments in compliance with section 11(g) of the Act.

(d) Cash reserves may be held temporarily, awaiting investment opportunity, without violating section 16 of the Act.

§ 524.2 Loans guaranteed under the Foreign Assistance Act of 1961.

With prior approval of the Board, a Bank's board of directors may authorize it to acquire, hold, or dispose of any of the following loans, or interests therein, primarily to facilitate acquisition of participation interests in such loans by members authorized to make such investment:

(a) Housing project loans with any guaranty under section 221 of the Foreign Assistance Act of 1961, as in effect before December 30, 1969;

(b) Loans with any guaranty under section 224 of such Act, as in effect before December 30, 1969; or

(c) Loans with any guaranty under sections 221 or 222 of such Act, as in effect after December 29, 1969.

Prior approval of the Board is not required to repurchase a participation interest previously sold to a member.

§ 524.3 Transfer of funds between Banks.

Interbank borrowing shall be through unsecured deposits bearing interest at rates negotiated between Banks. If agreement on terms cannot be reached, the Director, Office of District Banks, may establish terms.

§ 524.4 Deposits from members.

(a) Banks may accept demand deposits from members, but shall pay no interest thereon.

(b) Banks may accept time deposits from members, reserving the right to require notice of intention to withdraw any part of such deposits. Rates of interest paid on such deposits shall be set by the Bank's board of directors, or between regular meetings thereof, by a committee of directors selected by the board, or the Bank President if he is so authorized by the board. Unless otherwise specified by the board, a Bank President may delegate to any officer or employee of the Bank any authority he possesses under this subsection.

§ 524.5 Trustee powers.

A Bank may act, and make reasonable charges for doing so, as trustee of any trust affecting the business of any member or any institution or group applying for membership or for insurance of accounts, or any group applying for a charter for a Federal Savings and Loan Association, if:

(a) Such trust is created or arises for the benefit of the institution or its savers, investors, or borrowers, or for promotion of sound and economical home financing; and

(b) In the case of applicants, the Bank ceases to act as trustee if the application is withdrawn or rejected.

§ 524.6 Budgets.

As prescribed by the Board or its designee, each Bank shall prepare and submit to the Board for its approval a budget and certification of compliance of this subchapter signed by the Bank President. Each Bank will operate within such budget as approved or as it may be amended by the Bank's board of directors within limits set by the Board. Any amendment beyond such limits must be submitted to the Board for approval. The Director or Deputy Director, Office of District Banks, may approve amendments within limits set by the Board.

§ 524.7 Surety bonds.

Each Bank shall maintain adequate surety bonds covering all officers, employees, attorneys, or agents having control over, or access to, moneys or securities owned by the Bank or in its possession. The form, amount, and issuer of such bonds shall be approved by the Director or Deputy Director, Office of District Banks. Each bond shall require the insurer to notify the Board of cancellation of the bond or reduction of its coverage. A copy of the bond and evidence of its continuation shall be submitted to the Board.

§ 524.8 Insurance.

Each Bank shall maintain insurance required by law, and may maintain any additional insurance its board of directors considers necessary for its protection.

§ 524.9 Safe-keeping accounts.

Securities owned by each Bank shall be held in the Federal Reserve Bank of New York or the Federal Reserve Bank of Chicago, subject to order of the Secretary of the Treasury, who will promptly transmit to the Federal Reserve Bank concerned all orders affecting such holding which the Board delivers to him. However, a Bank may arrange with a Federal Reserve Bank or one of its depositary commercial banks to hold United States Treasury Bills or Certificates of Indebtedness owned by it subject only to its order. Any special series United States Treasury Notes held by or for the account of any Bank may be held with the Treasurer of the United States or any depositary Designated by the Board.

§ 524.10 Securities held in trust or as collateral.

Bonds and negotiable securities held by a Bank as collateral or in trust shall be placed in custody of a Federal Reserve Bank or branch thereof, a financial institution which is a member of the Federal Reserve System or the Federal Deposit Insurance Corporation, or under other arrangement approved by the Board. However this section shall not apply to bonds and negotiable securities held in custody under the plan for holding security transactions of member institutions approved August 13, 1943.

§ 524.11 Donations.

A Bank may contribute to charitable organizations provided that in any calendar year donations do not exceed $1,000 to any one organization or $5,000 in total. Each donation shall be approved by the Bank's board of directors. Exceptions shall be made only with prior approval of the Director or Deputy Director, Office of District Banks.

§ 524.12 Accounting.

Each Bank's accounting system is subject to approval by the Board, and its accounting forms are subject to approval by the Director, Office of District Banks.

§ 524.13 Gold and gold-related transactions.

No Bank may engage in any capacity or manner in any transaction or activity involving gold (including gold coin) or gold-related instruments or securities.

7b. Part 525 is revised in its entirety to read as follows:

PART 525—ADVANCES

GENERAL PROVISIONS RESPECTING ADVANCE

Sec.
525.1 Limitations on advances.
525.2 Extension of credit.
525.3 Interest rates.
525.4 Bank stock collateral.
525.7 Gold and gold-related securities ineligible as collateral.

ADVANCES SECURED BY HOME MORTGAGES OR OBLIGATIONS OF THE UNITED STATES

525.10 Terms of advances.
525.11 Determination of value of mortgage collateral.
525.12 Joint home and business property, joint dwelling units and business property.
525.13 Home mortgages exceeding $60,000.
525.14 Past due mortgages.
525.15 Curing delinquencies on past due mortgages.
525.16 Mortgage moratoria.
525.17 Mortgage collateral becoming past due.
525.18 Mortgages subject to prior tax liens.
525.19 Reports on mortgage collateral.
525.20 Split mortgages.
525.21 Additional collateral.
525.25 Advances secured by other securities.
525.26 Advances secured by members' deposits.
525.30 Acceleration of maturity.
525.31 Advances to pay debts.
525.32 Short term advances.

ADVANCES TO NON-MEMBER MORTGAGEES

525.33 Lines of credit.
525.34 Eligible institutions.
525.35 Rates of interest.
525.36 Application for advances.

AUTHORITY: Sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1437, Reorg. Plan No. 3 of 1947; 3 CFR, 1943-1948 Comp., unless otherwise noted.

GENERAL PROVISIONS RESPECTING ADVANCES

§ 525.1 Limitations on advances.

A Bank shall not, unless the Board otherwise directs, make advances to any member exceeding in the aggregate the lesser of (a) the amount for which such member can legally obligate itself, or (b) 50 percent of its net assets, or (c) 50 percent of its liability for shares and deposits.

§ 525.2 Extension of credit.

Each Bank's board of directors shall adopt, and review at least semiannually, a policy on extension of credit to members consistent with this subchapter and stated Board policy. A Bank's officers designated by its board of directors may extend or deny credit and take other action consistent with such credit policy. Exception shall be made only with prior approval of the board of directors, or a committee it

has designated to approve exceptions, and in accordance with this subchapter and Board policy. The board of directors shall require such officers to report promptly to it or the executive committee all actions taken under this section and shall review such actions for compliance therewith.

§ 525.3 Interest rates.

Rates of interest on advances to members shall, within the range established by the Board, be set by the board of directors of each Bank, or between regular meetings of the board, by a committee of directors selected by the board, or the Bank President if he is so authorized by the board. Unless the board otherwise specifies, a Bank President may delegate any authority he possesses under this section to any officer or employee of the Bank.

§ 525.4 Bank stock collateral.

Under section 10(c) of the act, a Bank need not actually possess fully paid stock certificates before making an advance to a member, but such stock should be assigned in the note or other form of obligation used.

§ 525.7 Gold and gold-related securities ineligible as collateral.

No Bank may make an advance secured by, or accept as security for any obligation, gold or gold-related instruments or securities.

ADVANCES SECURED BY HOME MORTGAGES OR OBLIGATIONS OF THE UNITED STATES

§ 525.10 Terms of advances.

Banks may, under section 10 of the act, make advances to members for periods up to 10 years secured by home mortgages or obligations of the United States.

§ 525.11 Determination of value of mortgage collateral.

Subject to limitations in the act, each Bank shall determine the collateral value of each mortgage.

§ 525.12 Joint home and business property; joint dwelling units and business property.

An otherwise eligible home mortgage is no ineligible because the real estate also comprises improvements other than a home or other dwelling unit(s).

§ 525.13 Home mortgages exceeding $60,000.

Banks may make advances to members secured by home mortgages up to $60,000, or $90,000 on dwellings in Alaska, Guam, or Hawaii. A home mortgage originally written for more than those amounts for each home or other dwelling unit covered by the mortgage, but reduced to not more than that sum, may secure advances, if otherwise eligible.

§ 525.14 Past due mortgages.

A home mortgage is "past due more than 6 months when presented", if presented (a) 6 months after its final maturity date, (b) 6 months after the holder has declared a default, or (c) when 6 months' payments thereon have accrued and remain unpaid after the holder of the mortgage could have declared the whole debt due.

§ 525.15 Curing delinquencies on past due mortgages.

Modification of a delinquent mortgage to make it eligible as collateral must be in writing.

§ 525.16 Mortgage moratoria.

Banks may give full faith and credit to acts of State legislatures extending home mortgage indebtedness.

§ 525.17 Mortgage collateral becoming past due.

A home mortgage which becomes more than 6 months past due while held by a Bank as collateral may be retained if the Bank obtains additional collateral it considers adequate to secure the loan.

§ 525.18 Mortgages subject to prior tax liens.

A home mortgage on property subject to a prior tax lien is eligible as collateral unless there is substantial danger such property will be sold for taxes. Full consideration shall be given to unpaid taxes when fixing the collateral value of such mortgages.

§ 525.19 Reports on mortgage collateral.

At least annually, each borrowing member shall report to its Bank the current status of each home mortgage pledged to the bank as collateral. The form of such report is subject to approval by the Director, Office of District Banks.

§ 525.20 Split mortgages.

If two or more mortgages on identical property secure a home mortgage loan(s) only part of which is amortized and othewise qualified, the amortized part may secure advances under sections 10(a)(2) and (3) of the act, but the unamortized part may secure advances only under section 10(a)(3) thereof. No such "split mortgage" may secure advances unless the entire mortgage debt is pledged.

§ 525.21 Additional collateral.

If eligible collateral for outstanding advances becomes deficient and the bank cannot correspondingly reduce the amount of advances, it may obtain any collateral to strengthen its position.

ADVANCES ON OTHER SECURITY AND UNSECURED ADVANCES

§ 525.25 Advances secured by other securities.

Banks may, under section 11(g)(3) of the act, make advances to members secured by securities othe than obligations of the United States, if (a) the member may legally invest in such securities and (b) the securities have a readily ascertainable market value and are not in default as to principal or interest. Such advances shall not exceed the lesse of 80 percent of the market value or principal amount of such securities, except that advances secured by Federal Home Loan Bank obligations may equal the face value thereof.

§ 525.26 Advances secured by members' deposits.

Under section 11(g)(3) of the act, advances secured by a member's time deposits may be made up to the total thereof for periods not exceeding 5 years or the maturity of such deposits, whichever is shorter.

§ 525.30 Acceleration of maturity.

Unless the Board authorizes othewise, each obligation representing an advance under section 11(g)(4) of the act shall permit the Bank to declare the obligation immediately due if the borrower's creditor liabilities, excluding liabilities to the Bank, exceed 5 percent of its net assets.

§ 525.31 Advances to pay debts.

Under section 11(g)(4) of the act, a Bank may make advances to a member whose creditor liabilities other than advances from the Bank exceed 5 percent of its net assets, if such other liabilities will be thereby reduced below that percentage.

§ 525.32 Short term advances.

In addition to advances permitted under section 11(g)(4) of the act, unsecured advances, or advances on any kind of readily available security, may be made to members under section 11(g)(3) of the act. Such advances must be approved by the Bank's executive committee, a majority of its directors, or two of its officers. Except with prior approval of the Board, the aggregate unpaid principal of advances made under this section and any other advances having an unexpired maturity of more than 30 days, excluding advances under § 525.10, 525.25, or 525.26, shall not exceed 5 percent of the member's withdrawable accounts.

ADVANCES TO NON-MEMBER MORTGAGEES

§ 525.33 Lines of credit.

A Bank's board of directors or executive committee may establish a line of credit for each prospective nonmember mortgagee under section 10b of the act.

§ 525.34 Eligible institutions.

The term "chartered institution having succession and subject to the inspection and supervision of some governmental agency" in section 10b of the act means institutions subject by law to continual examination and supervision by some competent governmental agency. An institution may not qualify merely by contracting with the Federal National Mortgage Association, the Federal Housing Administration, or a similar agency to audit or examine it.

§ 525.35 Rates of interest.

Because non-member mortgagees have no capital investment in Bank stock, rates of interest on advances to them shall be at least one-half of 1 percent, but not more than 1 percent, higher than rates charged to members, unless the Board authorizes otherwise.

§ 525.36 Application for advances.

Applications non-member mortgagees shall be in writing on forms approved by the Director, Office of District Banks. A Bank may deny such an application or grant it on terms no more liberal than apply to advances to members.

PART 526—LIMITATION ON RATE OF RETURN

8. Revise §§ 526.1, 526.2, 526.2-1, and 526.3 to read as follows:

§ 526.1 Definitions used in this Part.

(a) *Member.* A member as defined in § 521.7 of this subchapter, other than a savings bank whose accounts are insured by the Federal Deposit Insurance Corporation or an institution whose home office is located on Guam.

(b) *Certificate account.* A savings account evidenced by a certificate which, if held for a fixed or minimum term, will receive a rate of return greater than on regular accounts.

(c) *Notice account.* A savings account requiring the holder to give 90 days' written notice before each withdrawal from the account, except as applicable law or regulation permits.

(d) *Regular account.* A savings account that is not a certificate account or a notice account.

(e) *Savings account.* Any withdrawable account, except a tax and loan account or note account.

(f) *Return.* Any economic benefit received by any person on, or with respect to, a savings account, except as otherwise provided in § 526.2.

(g) *Distribution period.* The period of time a member uses as a basis for distributing a return.

(h) *Announced rate.* The rate of return an institution has declared or advertised it will pay or anticipates paying for a distribution period or, if none, the rate of return paid for the immediately preceding distribution period.

(i) *Give-away.* Any premium given by a member to induce new savings accounts or additions to existing ones.

(j) *Supervisory Agent.* The president of the member's Bank or any other officer or employee of the Bank designated by the Board as agent under §§ 501.10 or 501.11 of this chapter.

(k) *Instrument.* Includes any paper writing by which payment or credit is made.

(l) *Transaction account.* A regular account of a member from which the owner may make withdrawals by negotiable or transferable instruments to make transfers to third parties and which consists of funds deposited to the credit of, or the entire beneficial interest is held by, one or more individuals, or of a corporation, association, or other organization operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes and not operated for profit.

(m) *Public unit account.* Any savings account held by—

(1) An officer, employee, or agent of the United States having official custody of public funds and lawfully investing them in an institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation.

(2) An officer, employee, or agent of any State of the United States, Puerto Rico, or the Virgin Islands, or any county, municipality, or political subdivision thereof, as defined in § 561.5a of this chapter, having official custody of public funds and lawfully investing them in such an insured institution in such State, Puerto Rico, or the Virgin Islands, respectively.

(3) An officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing them in such an insured institution in the District of Columbia.

(n) *Tax and loan account.* An account, the balance of which is subject to the right of immediate withdrawal, established for receipt of payments of Federal taxes and certain United States obligations; such accounts are not savings accounts or savings deposits.

(o) *Note account.* A note, subject to the right of immediate call, evidencing funds held by depositories electing the note option under applicable U.S. Treasury Department regulations. Note accounts are not savings accounts or savings deposits.

§ 526.2 Maximum rate of return.

(a) *Prohibition on paying more than the maximum prescribed rate.* Except as this Part provides, no member shall pay a return, directly or indirectly, by any means whatsoever. No member may pay a return at a rate exceeding the applicable maximum rate prescribed by the Board.

(b) *Exceptions.* Notwithstanding any reduction in such maximum prescribed rates, a member may pay a return on any savings account outstanding on the date of such reduction, as follows:

(1) *Regular account.* At the announced rate, for any part of a distribution period occuring before such effective date.

(2) *Certificate account.* At the rate specified in the certificate, for such period, including any renewal period (except that certificate accounts under § 536.5(a)(8) may not be renewed at rates in excess of one-quarter of 1 percent above the Treasury bill rate in effect at the time of renewal), as the account remains outstanding.

(c) *Grace periods in computing return.* Members may treat funds received by the 10th of the month as if received on the 1st, and funds withdrawn during the last 3 business days of a calendar month ending a distribution period as if withdrawn at the end of such month, even if thereby the effective rate of return exceeds the maximum prescribed rate. This subsection (c) is not applicable to certificate accounts issued under § 526.3(a)(8).

(d) *Compounding.* In calculating rate of return, the effect of compounding may be disregarded.

(e) *Loans secured by savings accounts.* In calculating rate of return, the effect of monthly loans secured by a certificate or regular account equalling the proprotionate amount of the announced rate for the distribution period may be disregarded. A member shall make no loan secured by a savings account at a rate of interest less than 1 percent per year more than the rate of return on the account.

(f) *Give-aways.* In calculating rate of return, the value of give-aways shall not be included, if:

(1) The give-away is part of a nonrecurring promotional campaign to increase savings accounts; and

(2) The cost of the give-away to the member (excluding any shipping and packaging costs) does not exceed—

(i) $5 for investment of less than $5,000.

(ii) $10 for investment of $5,000 or more.

(g) *Calculation of earnings.* The time factor used to calculate earnings on a savings account shall be a fraction having as numerator the actual number of days funds in the account earn a return and as denominator 365 or, in leap year, 366. If an account matures in multiples of 1 month, the numerator may be the corresponding multiple of 30 days. A time factor of 360/360 may also be used, but a time factor of 365/360 may be used only if the Supervisory Agent determines the member would otherwise be at a disadvantage competing with other types of financial institutions in its savings service area.

§ 526.2-1 Rate of return payable on note accounts.

Members shall pay a return on note accounts at rates required by the U.S. Treasury Department.

§ 526.3 Maximum rates of return payable by members on savings accounts.

(a) Except as provided in § 526.3-1 for certificate accounts of $100,000 or more, no member may pay an annual rate of return on a savings account exceeding the applicable maximum percentage, as follows:

(1) 5.25 percent—regular accounts.

(2) 5.75 percent—notice accounts, except public unit accounts, which may receive a rate of return as prescribed in § 526.3(c), and certificate accounts with a term or qualifying period of 90 days or more.

(3) 6.50 percent—certificate accounts of $1,000 or more with a term or qualifying period of 1 year or more.

(4) 6.75 percent—certificate accounts of $1,000 or more with a term or qualifying period of 30 months or more.

(5) 7.50 percent—certificate accounts of $1,000 or more with a term or qualifying period of 4 years or more.

(6) 7.75 percent—certificate accounts of $1,000 or more with a term or qualifying period of 6 years or more.

(7) 8 percent—certificate accounts of $1,000 or more with a term or qualifying period of 8 years or more.

(8) One-quarter of 1 percent above the rate established (auction average on a discount basis) for 6-month U.S. Treasury bills issued on or immediately prior to the date of deposit—certificate accounts of $10,000 or more having a term or qualifying period of 6 months (26 weeks). The rate may be rounded off only by rounding down.

(b) *Exceptions as to minimum amount.* (1) If a Bank determines that in the Standard Metropolitan Statistical Area, or county not in such Area, in which a member has its home office, a mutual savings bank with an office therein is paying a return on deposits with a minimum amount lower than the corresponding minimum prescribed in paragraph (a) of this section for certificates with the same maturity, the member may issue certificate accounts of the same maturity in such lower minimum amount.

(2) If a Bank determines that in the State in which a member has its home office (i) the total amount of savings capital in mutual savings banks exceeds 30 percent of total savings capital in mutual savings banks, savings and loan associations, building and loan associations, homestead associations, and cooperative banks and (ii) a mutual savings bank with an office in the State is paying a return on deposits with a minimum amount lower than the corresponding minimum prescribed in paragraph (a) of this section for certificate accounts of the same maturity, the member may issue certificate accounts of the same maturity in such lower minimum amount.

(3) Without regard to the minimum amount requirements, a member may pay a return as permitted by paragraph (a) of this section on certificate accounts issued under a plan providing for payment of a bonus if the saver makes at least 12 regular monthly payments.

(4) Without regard to the minimum amount requirements, a member may pay a return as permitted by subsection (a) of this section on certificate accounts which qualify as retirement accounts under section 401(d) or section 408(a) of the Internal Revenue Code of 1954.

(c) *Exceptions as to terms or qualifying periods.* A member may pay a rate of return not exceeding the highest rate permitted under paragraph (a) of this section on (i) a public unit account of $1,000 or more which is a certificate account with a maturity of 30 days or more or a notice account (except that certificate accounts under paragraph (a) (8) must meet the minimum amount and maturity requirements prescribed therein), or (ii) a certificate account which qualities as a retirement account under section 401 (d) or section 408(a) of the Internal Revenue Code of 1954 and has a term of 3 years or more.

§§ 526.4 and 526.5 [Deleted]

9. Delete §§ 526.4 and 526.5.

§ 526.5-1 [Redesignated]

10. Renumber § 526.5-1 as § 526.3-1.

11. Revise §§ 526.6, 526.6-1, 526.7, 526.8, 526.9, and revise paragraph (a) of 526.10 to read as follows:

§ 526.6 Advertising interest or dividends on savings accounts.

The following rules apply to advertisements, announcements, or solicitations relating to interest or dividends paid on a member's savings accounts:

(a) *Annual rate of simple interest.* Interest or dividend rates shall be stated in terms of annual rates of simple interest or dividends.

(b) *Percentage yield based on 1 year.* If a percentage yield achieved by compounding interest or dividends during one year is stated, the annual rate of simple interest shall be stated with equal prominence, with reference to the basis of compounding. A percentage yield based on the effect of grace periods shall not be stated.

(c) *Percentage yield based on more than 1 year.* A total percentage yield, compounded or simple, based on more than 1 year, or an average annual percentage yield achieved by compounding during more than 1 year, shall not be indicated.

(d) *Time or amount requirements.* If a stated rate is payable only on savings accounts that meet time or amount requirements, such requirements shall be clearly and conspicuously stated. If the time requirement for a stated rate exceeds 1 year, the requred number of years shall be stated with equal prominence, with an indication of any lower rate(s) applicable if the savings account is withdrawn earlier.

(e) *Penalty for early withdrawals.* A clear and conspicuous notice shall be included stating that Federal regulations require a substantial interest penalty for withdrawal from a certificate account before maturity. Such notice may state, "A substantial interest penalty is required for early withdrawal."

(f) *Profit.* Interest or dividends paid on savings account shall not be called "profit."

(g) *Accuracy of advertising.* No representation may be inaccurate or misleading.

(h) *Solicitation of savings accounts for members.* This section applies to any person or organization soliciting savings accounts for a member.

(i) *Gold.* Any statement that any portion of interest or dividends is payable in gold (including gold coin), gold related instruments or securities, or an amount of money determined in any manner related to gold is prohibited.

§ 526.6-1 Disclosure on acceptance.

A member accepting a certificate account deposit shall give the depositor a written description of the applicable premature withdrawal penalty. Such statement need not be given on renewal of an existing certificate account.

§ 526.7 Penalty for early withdrawal.

(a) For any certificate account issued after October 31, 1973 (except as paragraph (b) of this section provides), a member shall impose the following conditions on any withdrawal before the end of the term or qualify-

ing period: (1) The account holder shall receive interest or dividends from the date of issuance of the account on the amount withdrawn at a rate not exceeding the rate being paid on regular accounts; and (2) the account holder shall pay a penalty of at least (i) the interest or dividends at such rate for 90 days (3 months) on the amount withdrawn or (ii) all interest or dividends at such rate (since issuance or renewal of the certificate account) on the amount withdrawn.

(b) Such penalty need not be applied if (i) such withdrawal is made after death of the owner of the account; the "owner" is an individual who at death had full legal and beneficial title to all or part of the account and full power of disposition or alienation with respect thereto, including but not limited to power of revocation with respect to any trust, regardless of whether such owner was a trustee, of which such account comprises all or part of the trust assets; or (ii) the account qualifies as a retirement account under section 401(d) or section 408(a) of the Internal Revenue Code of 1954, and withdrawal is made to distribute the funds in the account following the participant's death or disability or after he becomes 59½ years of age.

§ 526.8 Transaction accounts.

A member having its home office in New Hampshire, Massachusetts, Connecticut, Rhode Island, Maine, or Vermont may pay a return on transaction accounts, as follows:

(a) The rate of return shall not exceed 5 percent per year.

(b) A service charge may be imposed for handling instruments relating to such accounts.

(c) To the extent practicable, every advertisement, announcement, or solicitation relating to such accounts shall be limited to media directed toward residents of New Hampshire, Massachusetts, Connecticut, Rhode Island, Maine, or Vermont with a substantial circulation or audience within those States. Section 526.6 shall apply to such advertisements, announcements, and solicitations.

§ 526.9 Payment of interest or dividends in gold or its equivalent.

No member shall pay any interest or dividend in (a) gold (including gold coin), (b) gold-related instruments or securities, or (c) an amount of money determined in any manner related to gold.

§ 526.10 Distribution of maturities of certificate accounts.

(a) *General.* No member shall issue or renew a certificate account if the issuance or renewal would cause the total of its certificate accounts maturing in any consecutive 3 months to exceed 30 percent of its total savings accounts on the date of the issuance or renewal.

* * * * *

12. Part 527 is revised in its entirety.

PART 527—HOUSING OPPORTUNITY ALLOWANCE PROGRAM

Sec.

527.1 General.
527.2 Definitions.
527.3 Middle-income families.
527.4 Low-income families.
527.5 Credit to member institutions.
527.6 Disbursement of funds to banks.
527.7 Retention of documents.
527.8 Recertification of income.

AUTHORITY: Sec. 101, 84 Stat. 450; 12 U.S.C. 1430nt.; sec. 16, 47 Stat. 736, as amended; 12 U.S.C. 1437, Reorg. Plan No. 3 of 1947, 3 CFR 1943-48 Comp.

§ 527.1 General.

Title I of the Emergency Home Finance Act of 1970, Pub. L. 91-351, authorizes the Board to disburse appropriated funds to Banks to adjust the effective interest rate on advances to member institutions and prescribe terms to assure that such funds are used to assist in providing housing for low- and middle-income families. This Part applies to loans for purchase of single-family dwellings.

§ 527.2 Definitions.

(a) *Adjusted annual income.* The total of—

(1) Adjusted gross income as defined in section 62 of the Internal Revenue Code; and

(2) "Tax-free" interest on governmental obligations.

(b) *Allowance.* A Housing Opportunity Allowance to be credited against interest due on loans and Bank advances.

(c) *Member institution.* A member, as defined in § 521.7 of this subchapter, whose accounts or deposits are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation, or which agrees to permit and pay the cost of any examination the Board may require to insure compliance with this Part.

§ 527.3 Middle-income families.

Middle-income families receiving an allowance of $20 from a member institution under an outstanding commitment shall continue to receive that allowance until the commitment expires.

§ 527.4 Low-income families.

Low-income families receiving an allowance from a member institution under an outstanding commitment shall continue to receive that allowance. Subject to recertification of income category under § 527.8, the amount of such allowance and the number of monthly payments against which such allowance is credited are based on the adjusted annual income of the borrower when the application for an allowance was approved, expressed as a percentage of the applicable HOAP limits in the following table:

Adjusted annual income as percentage of maximum HOAP limits	Allowance for each of 1st 60 payments	Allowance for each of 2d 60 payments	Total allowances[1]
65 to 66.7	$25	0	$1,500
63 to 64.9	30	0	1,800
61 to 62.9	35	0	2,100
59 to 60.9	40	20	3,600
57 to 58.9	45	25	4,200
54 to 56.9	50	30	4,800
52 to 53.9	55	35	5,400
50 to 51.9	60	40	6,000
40 to 49.9	65	45	6,600
39.9 and under	70	50	7,200

[1] The amount of the allowance may not exceed 75 percent of the principal and interest portion of a monthly installment payment.

§ 527.5 Credits to member institutions.

(a) *General.* Each member institution shall receive from its Bank a credit against interest due on advances equalling the total amount of allowances the member institution has properly credited.

(b) *Procedure.* Each member institution crediting allowances during a month shall, by the 20th day of the next month, submit to its Bank a report under subsection (c) of this section. Such member shall deduct from any subsequent bill for interest due on outstanding advances from the Bank an amount equalling the allowances so reported, and remit only the net amount.

(c) *Form of report.* The report required by subsection (b) shall be on a form prescribed by the Board and obtained from the Banks, and shall be signed by an officer of the member institution.

§ 527.6 Disbursement of funds to Banks.

Each Bank shall periodically submit vouchers certifying the amount of credits made under § 527.5 by the Bank against interest due on advances, and the Board shall promptly disburse to each Bank an amount equalling the total amount of such credits properly made by the Bank during the relevant period.

§ 527.7 Retention of documents.

A member institution shall retain its copy of each application for an allowance and the original of all other closing documents required at the closing of the loan on which the allowance is credited.

§ 527.8 Recertification of income.

If at the time of application for an allowance under § 527.4 the borrower's income did not exceed 60.9 percent of the applicable maximum HOAP limits, such income shall be recertified after the first 60 monthly installment payments are accepted by the member institution. The borrower shall provide information for the member institution to determine the borrower's continued eligibility and current income category. If, at the time of such recertification, the borrower's adjusted annual income still does not exceed the 60.9 percent limit, the borrower may receive allowance credits on 60 additional monthly installment payments. The amount of such credits shall correspond to the borrower's income category in the table in § 527.4, as of the time of approval of the original application for allowance or the time of recertification, whichever is lower. A copy of the recertification, signed by an officer of the member institution shall be promptly submitted to the member institution's Bank.

PART 531—STATEMENTS OF POLICY

13. Part 531 is amended by revising §§ 531.1, 531.4, 531.9, and 531.10 and by deleting §§ 531.3, 531.5, and 531.6. As amended Part 531 reads as follows:

§ 531.1 Policy on advances.

(a) Banks may make advances to members, subject to regulations and restrictions the Board may prescribe. Access by members to advances is a privilege which may be limited under the Act. Advances may be made to meet withdrawals, cover seasonal requirements, and expand residential mortgage portfolios. Advances shall not be made to permit redemption of accounts or payment of withdrawals requested or suggested by the member, but in a rare circumstance and for compelling reasons, a Bank may request the Board to approve making such an advance. In making advances to expand residential mortgage portfolios, Banks shall give due consideration to soundness of credit, need to stabilize home financing, discouragement of building booms, and prevention of distressed conditions in housing and mortgage markets.

(b) In granting advances, the soundness of the borrowing member shall be considered. Members with unsatisfactory credit practices, lower than desirable reserve levels or additions to reserves, high expense ratios, or other relevant unsatisfactory characteristics should be limited in or denied the use of advances for expansion.

(c) Advances should be used to meet clear needs for funds rather than to take advantage of rate differential. They should be made only for purposes consistent with the Act. Members should not seek credit in anticipation of withdrawals, and credit should not be granted to increase cash positions or purchase securities, except to permit the member to re-establish its normal liquidity.

(d) Members loan commitments should not exceed reasonable levels, giving due consideration to (1) the member's condition and anticipated cash flows, (2) residential mortgage market requirements, and (3) the amount of credit the member's Bank has indicated it will make available.

(e) Regardless of previous credit determinations, loan officers of Banks should carefully examine advance applications to determine it they should be accepted, rejected, or modified. Particular attention should be given to precise purposes of the proposed advance and the type of properties and transactions for which funds are sought.

§ 531.4 Verification of collateral held by members under trust receipt.

A member may retain documents evidencing home mortgages it has assigned to its Bank to secure advances, if it provides a trust receipt or otherwise agrees to hold such documents for the benefit and subject to the direction and control of the Bank. In such cases, the Bank shall periodically verify that such mortgages exist and that the member has not intermingled such documents with other documents. This verification should be done by the member's auditor when the member is audited or, if the member is not audited regularly, by representatives of the appropriate supervisory authority when the member is examined. Such verification may also be made at any time by a representative of the Bank, and shall be so made if the Bank was not satisfied with the verification during the preceding 16 month period. Verification shall be done in accordance with generally accepted auditing standards and shall include tests of the member's books, records, and documents necessary to provided a reasonable basis for a conclusion and certification thereof. The Bank shall prescribe the type and form of certification.

§ 531.9 Interest rates on advances.

Except as the Board may otherwise provide, the following requirements shall apply to advances by Banks to their members:

(a) Obligations evidencing such advances shall, except under paragraph (b) of this section, be written at rates of interest within the range approved by the Board, calculated on the unpaid principal balance from time to time outstanding, and Banks shall not, except under paragraph (c) of this section, collect interest on such advances at a rate outside such approved range of rates, so calculated;

(b) Obligations evidencing such advances may provide that the holder of the obligation may (1) decrease the interest rate thereon and (2) by giving the member or principal obligor notice specified in the obligation, not exceeding 30 days, increase such rate to a rate not in excess of the maxmum rate then permitted by the Board.

(c) Obligations evidencing such advances shall provide for an increase of not less than 1 percent and not more than 5 percent per year in the then current rate on past due principal and interest.

(d) All forms of obligations used to evidence such advances, and the opinion of Bank counsel as to their validity in the jurisdiction(s) where they will be used, shall be submitted for approval to the Director or Deputy Director, Office of District Banks.

§ 531.10 Liquidating dividends in mergers.

(a) The Board will consider payment to holders of savings accounts in a disappearing institution as part of a merger with a member as defined in § 526.1 of this chapter, a violation of § 526.2(a) of this chapter if the payment, together with any other return to such holders, exceeds the maximum rate of return prescribed in § 526.3 of this chapter. The term "merger" includes consolidations and bulk purchases of assets in exchange for assumption of savings accounts and other liabilities. However, payment as part of a transaction involving bulk transfer of assets without assumption of savings accounts and other liabilities will not be considered part of a merger, and such payment would not violate § 526.3. In a merger of the bulk-purchase-of-assets type, with assumption of savings accounts and other liabilities, a disappearing mutual institution is not actually liquidated so as to entitle holders of its savings accounts to a distribution of its net worth. For these purposes, a savings account is considered assumed unless full payment therefor has been made to the holder.

(b) The Board will not consider a payment by a disappearing nonmember institution to holders of its savings accounts, in contemplation of a merger with a member, but before execution of a merger commitment, a violation of § 526.2(a). However, in acting on any application under § 546.2 or § 563.22 of this chapter, the board will consider relevant to the insurance risk of the Federal Savings and Loan Insurance Corporation the effect of any such payment on the financial condition of the member.

(c) This Statement of Policy does not apply to payment under merger

agreements, executed by both institutions prior to March 11, 1975.

PART 532—BOARD RULINGS

Part 532 is revised.

§ 532.1 Payment in gold or its equivalent.

Section 463(a) of 31 U.S.C. provides, in part, that "[e]very provision contained in or made with respect to any obligation which purports to give the obligee a right to require payment in gold or a particular kind of coin or currency, or in an amount of money of the United States measured thereby, is declared to be against public policy; and no such provision shall be contained in or made with respect to any obligation [incurred after June 5, 1933]." The board believes that section remains in effect even though Pub. L. 93-373 invalidated laws prohibiting persons from purchasing, holding, selling, or otherwise dealing with gold, effective December 31, 1974. The board interprets 31 U.S.C. § 463 as prohibiting members from agreeing to pay any part of the principal of their savings accounts in gold (including gold coin), gold related instruments or securities, or an amount of money determined with reference to gold.

(Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-44 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 78-28615 Filed 10-10-78; 8:45 am]

[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-4581]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the national flood insurance program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATE: The third date ("Susp.") listed in the fourth column.

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 national flood insurance program (NFIP), administered by the Federal Insurance Administration, enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the national flood insurance program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (24 CFR Part 1909 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administration has identified the special flood hazard areas in these communities by publishing a flood hazard boundary map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elasped since publication of a flood insurance map. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of suspended communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Hazard area identified	Date [1]
California	Riverside	Hemet, city of	060253-A	Nov. 2, 1974, emergency, Sept. 29, 1978, regular, Oct. 17, 1978, suspended.	May 24, 1974	Oct. 17, 1978.
Do	San Bernardino	Unincorporated areas	060270-A	Jan. 29, 1971, emergency, Sept. 29, 1978, regular, Oct. 17, 1978, suspended.	Sept. 29, 1978	Do.
Do	Ventura	Thousand Oaks, city of	060422-A	Nov. 13, 1970, emergency, Sept. 29, 1978, regular, Oct. 17, 1978, suspended.	June 7, 1974	Do.
Connecticut	Fairfield	Weston, town of	090018-A	Sept. 8, 1972, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Mar. 8, 1974	Do.
Illinois	St. Clair	Cahokia, village of	170620-B	Oct. 4, 1973, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Mar. 29, 1974	Do.
Do	DuPage	Lombard, village of	170212-B	Dec. 29, 1972, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	July 19, 1974 Aug. 29, 1975	Do.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Hazard area identified	Date [1]
Do	Winnebago	Loves Park, city of	170722-B	Feb. 23, 1973, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	June 28, 1974 Apr. 2, 1976	Do.
Do	Cook	Rolling Meadows, city of	170155-B	May 25, 1973, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Feb. 1, 1974 May 28, 1976	Do.
Massachusetts	Middlesex	Wakefield, town of	250221-A	Mar. 26, 1974, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Aug. 2, 1974	Do.
North Carolina	Cumberland	Fayetteville, city of	370077-B	July 26, 1973, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Nov. 2, 1973 Oct. 24, 1975	Do.
New Mexico	San Juan	Farmington, city of	350067	Aug. 30, 1974, emergency, Sept. 29, 1978, regular, Oct. 17, 1978, suspended.	May 24, 1974 Dec. 19, 1975	Do.
New York	Westchester	Irvington, village of	360914-B	Jan. 10, 1974, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	June 28, 1974 Jan. 16, 1976	Do.
Do	do	Mount Vernon, city of	360920-B	Apr. 22, 1975, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	June 28, 1974 Nov. 28, 1975	Do.
Do	Wayne	Williamson, town of	360900-C	Mar. 23, 1973, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	June 28, 1974 Feb. 27, 1976	Do.
Do	Monroe	Perinton, town of	360428-B	Aug. 13, 1973, emergency, Sept. 29, 1978, regular, Oct. 17, 1978, suspended.	Apr. 5, 1974 Sept. 24, 1976	Do.
Ohio	Sandusky and Huron	Bellevue, city of	390487-B	Oct. 21, 1974, emergency, Oct. 17, 1978, regular, Oct. 17, 1978 suspended.	Mar. 15, 1974 Apr. 30, 1976	Do.
Do	Ottawa	Unincorporated areas	390432-A	Apr. 25, 1973, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Oct. 17, 1978	Do.
Pennsylvania	Northampton	Easton, city of	425383	June 18, 1971, emergency, Feb. 9, 1973, regular, Oct. 17, 1978, suspended.	Feb. 9, 1973	Do.
Do	Westmoreland	Greensburg, city of	420877-B	May 24, 1973, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Dec. 28, 1973 June 18, 1976	Do.
Do	Mercer	Sharon, city of	420678-B	Nov. 19, 1973, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Aug. 2, 1974 July 30, 1976	Do.
South Dakota	Brookings	Brookings, city of	460004-B	Apr. 16, 1974, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Mar. 22, 1974 Oct. 8, 1976	Do.
Tennessee	Coffee	Manchester, city of	470035-A	Aug. 3, 1973, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	May 24, 1974	Do.
Virginia	Campbell	Unincorporated areas	510028-A	Dec. 27, 1973, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Nov. 22, 1974	Do.
Do	Montgomery	do	510099-A	Feb. 19, 1974, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Apr. 18, 1975	Do.
Do	Roanoke	do	510190-A	Oct. 11, 1973, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Sept. 13, 1974	Do.
Do	Wythe	do	510180-A	Mar. 15, 1974, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Aug. 15, 1975	Do.
Wyoming	Converse	Douglas, town of	560013-B	Oct. 2, 1975, emergency, Oct. 17, 1978, regular, Oct. 17, 1978, suspended.	Nov. 1, 1974 Aug. 27, 1976	Do.

[1] Date certain Federal assistance no longer available in special flood hazard area.

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

Issued: September 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28483 Filed 10-10-78; 8:45 am]

[4310-70-M]

Title 36—Parks, Forests, and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Rocky Mountain National Park, Colo., Lights for Wildlife Viewing Prohibited; Parking and Crossing Areas for Hunters Established

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The purposes of this amendment are to prohibit the use of artificial lights, including hand-held or vehicle-mounted spotlights and vehicle headlights, for wildlife viewing purposes, and to permit hunters to park vehicles in designated areas on parklands during the hunting seasons prescribed by the State of Colorado. The first amendment is needed to reduce the disturbance of wildlife by visitors using lights. The second change will give hunters access to adjoining national forest lands which are open to

hunting and which are nearly inaccessible except by crossing parklands.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

David J. Essex, Chief Park Ranger, Rocky Mountain National Park, Estes Park, Colo. 80517, 303-586-2371, extension 218.

SUPPLEMENTARY INFORMATION: On July 14, 1978, there was published in the FEDERAL REGISTER (43 FR 136) a notice of proposed rulemaking to amend 36 CFR 7.7 by the addition of new paragraphs (g) and (h), to prohibit the use of artificial lights for wildlife viewing and to establish parking and crossing areas for hunters. No comments, suggestions, or objections were received in response to this notice; therefore the proposed regulations are adopted without change and are set forth below:

§ 7.7 Rocky Mountain National Park.

* * * * *

(g) *Lights for wildlife viewing.* Without the previous consent of the Superintendent, no artificial lights shall be used as an aid in viewing wildlife. Such lights include, but are not limited to, hand-held or vehicle-mounted spotlights, flashlights powered by batteries whose total voltage exceeds 4.5 volts, and vehicle headlights.

(h) *Parking and crossing areas for hunters.* During hunting seasons prescribed by the State of Colorado, special parking areas and corridors for hunters may be designated within the park. The locations of parking areas will be announced in local newspapers prior to each hunting season; parking areas and corridors will be designated by signs. Hunters may use these designated areas and corridors only as follows:

(1) The possession of unloaded firearms is permitted, if the breech or chamber of the weapon is open. Muzzle-loading weapons must not contain a powder charge or percussion cap.

(2) Archers must have bows unstrung and arrows cased or otherwise secured.

(3) Game killed on lands adjacent to the park, in accordance with Colorado hunting laws and regulations, may be possessed and transported.

(4) The loading or unloading of hunters or game within the park is permitted only at the designated parking areas.

Dated: September 18, 1978.

GLEN T. BEAN,
Regional Director,
Rocky Mountain Region.

[FR Doc. 78-28575 Filed 10-10-78; 8:45 am]

[4310-84-M]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5648]

[I-4837]

IDAHO

Amendment of Public Land Order No. 5462

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This order will amend PLO 5462 by correcting an error in the legal description of certain land withdrawn for the Middle Fork Bar Recreation Area. The error was created by the subsequent issuance of protraction diagrams delineating the section lines within the township. The land described in PLO 5462 by metes and bounds in section 28 is hereby amended to read section 33. The land deleted in section 28 will be restored to such disposition as may be made of national forest lands.

EFFECTIVE DATE: November 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Keith Corrigall, 202-343-8731.

By virtue of the authority contained in section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 5462 of December 27, 1974, withdrawing national forest lands for administrative and recreation sites, so far as it described lands by metes and bounds in section 28, T. 23 N., R. 16 E., for the Middle Fork Bar Recreation Area, is hereby amended as follows:

SALMON NATIONAL FOREST

BOISE MERIDIAN

A tract of land located in unsurveyed section 33, T. 23 N., R. 16 E., more particularly described by metes and bounds as follows:

Beginning at corner No. 1 of M.S. No. 3355, which is located S. 76°50' W., and 28.9 feet from U.S.M.M. No. 3355; thence S. 6°10' W., 400 feet to corner No. 2 of M.S. No. 3355; thence N. 75°35' W., 411.3 feet to corner No. 3 of M.S. No. 3355; thence N. 88°25' W., 540 feet to corner No. 4 of M.S. No. 3355; thence N. 52°10' E., 780.7 feet to corner No. 5 of M.S. No. 3355; thence S. 61°25' E., 415.0 feet to corner No. 1 of M.S. No. 3355, the place of beginning, including the area between this claim and the mean high waterline of the Middle Fork and main Salmon River.

Containing approximately 7.182 acres.

2. At 10 a.m. on November 8, 1978, the lands previously included in the description for the Middle Fork Bar Recreation Area in section 28 shall be open to such forms of disposition as may by law be made of national forest lands.

GUY R. MARTIN,
Assistant Secretary of the Interior.

OCTOBER 3, 1978.

[FR Doc. 78-28570 Filed 10-10-78; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1342]

PART 1033—CAR SERVICE

Illinois Terminal Railroad Co. Authorized To Operate Over Tracks of Illinois Central Gulf Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order, service order No. 1342.

SUMMARY: The Illinois Terminal Railroad Co. (ITC) operates between Peoria, Ill., and East St. Louis, Ill., over lines of the Illinois Central Gulf (ICG) between Lincoln, Ill., and Springfield, Ill., via Mount Pulaski, Ill., and over the ICG between Springfield and Mont, Ill. Certain of these lines, or of the ITC lines connecting with them are unserviceable because of track conditions. Service order No. 1342 authorizes the ITC to operate over the ICG between Kenney and Mount Pulaski, Ill., and over the ICG between Springfield and Wood River, Ill., via Carlinville, Ill. This restructuring of the ITC will provide it with a through route between Peoria and St.

Louis via ITC tracks between Peoria and Kenney—ICG tracks between Kenney and Springfield—ITC tracks at Springfield—ICG tracks between Springfield and Wood River via Carlinville, thence ITC tracks between Wood River and East St. Louis in place of its present route via ICG tracks between Lincoln and Springfield and between Springfield and Mont. Ill., via Litchfield, Ill.

DATES: Effective 12:01 a.m., October 6, 1978. Expires 11:59 p.m., March 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided: October 5, 1978.

The line of the Illinois Central Gulf Railroad Co. (ICG) between Springfield, Ill., and Mont, Ill., presently used by the Illinois Terminal Railroad Co. (ITC) as a part of its main line between Springfield and East St. Louis, Ill., via Litchfield, Ill., has deteriorated and is inoperable. In docket AB-43 (Sub-30) the ICG, on August, 9, 1978, was authorized to abandon this line subject to the completion of arrangements for the routing of ITC trains between Springfield and East St. Louis over parallel trackage. The ICG and the ITC have now agreed to route ITC trains between Springfield and East St. Louis over other tracks of the ITC via the ICG line between Springfield and Wood River, Ill., via Carlinville, Ill., a distance of approximately 77.0 miles.

The ITC presently is authorized to operate over the ICG between Springfield and Lincoln, Ill., via Mount Pulaski, Ill., thence over its own tracks between Lincoln and Peoria, Ill. That portion of this route between Lincoln and Peoria is inoperable because of the destruction of a bridge north of Mackinaw, Ill. The ITC has acquired from the trustees of the former Penn Central a line extending from Maroa, Ill., through Kenney, Ill., to Peoria. Rehabilitation of this line to permit through freight train operations unhampered by excessively low speed restrictions will be completed during October 1978. The ICG has agreed to permit use of its tracks between Mount Pulaski and Kenney to enable the ITC to connect its East St. Louis-Springfield line with its newly acquired line between Maroa and Peoria.

It is the opinion of the Commission that an emergency exists requiring operation of ITC trains over these tracks of the ICG in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered:

§ 1033. 1342 Service Order No. 1342.

(a) *Illinois Terminal Railroad Company authorized to operate over tracks of Illinois Central Gulf Railroad Co.* The Illinois Terminal Railroad Co. (ITC) is authorized to operate over tracks of the Illinois Central Gulf Railroad Co. (ICG) between Springfield, Ill., and Wood River, Ill., a distance of approximately 77.0 miles, and between Mount Pulaski, Ill., and Kenney, Ill., a distance of approximately 12.4 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the ITC over tracks of the ICG is deemed to be due to carrier's disability, the rates applicable to traffic moved by the ITC over the tracks of the ICG shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) Nothing in this order shall be deemed to prejudge the decisions of the Commission in the applications of the ITC seeking permanent authority to operate over these tracks of the ICG.

(e) *Effective date.* This order shall ecome effective at 12:01 a.m., October 6, 1978.

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 31, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

(49) U.S.C. 1(10-17).)

This order shall be served upon the Association of American Railroads, Car Service Division, as Agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

H.G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-28621 Filed 10-10-78; 8:45 am]

[7035-01-M]

SUBCHAPTER C—ACCOUNTS, REPORTS, AND RECORDS

[No. 34364 (Sub-No. 3)

PART 1252—PIGGYBACK TRAFFIC STATISTICS

Piggyback Traffic Statistics—Rail, Motor, Water, and Freight Forwarder Forms Revisions

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The rules adopted in this decision revise the Commission's reporting requirements for piggyback traffic statistics. The new rules require reporting on an annual rather than a semiannual basis and make class II rail carriers and class II intercity motor carriers of property subject to the reporting requirements. Revised forms for reporting the data are being issued with these rules.

DATES: Effective November 24, 1978.

ADDRESS: Send comments to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423

FOR FURTHER INFORMATION CONTACT:

Alice Farley, telephone 202-275-7375.

SUPPLEMENTARY INFORMATION: Beginning with the first quarter of 1964, class I railroads, class I intercity motor carriers of property, class A water carriers, and class A freight forwarders were required to file quarterly reports of piggyback traffic statistics on forms PTR-R, PTR-M, PTR-W, and PTR-FF, respectively. Effective January 1, 1978, the filing frequency of piggyback data was changed from a quarterly to a semiannual basis (order No. 34364 (Sub-2), served October 21, 1977). Now, we find that having these data reported on an annual basis will be sufficient. Also, requiring annual rather than semiannual reporting will futher the Federal paperwork reduction program.

In addition, revisions are being made in the forms for reporting piggyback data. These revisions will decrease the data reporting requirements for each mode. However, due to numerous changes in piggyback operations, a minor amount of new data will be required by the forms for rail carriers and freight forwarders. For rail carriers, the new data will consist of information on minibridge, landbridge, and microbridge movements and will include the number of containers moved. Freight forwarders will now be required to submit data on plan II 1/2 piggyback movements.

In light of the changes in classifications of rail and motor carriers over the years, the Commission is extending the filing requirements to class II rail carriers and to class II intercity motor carriers of freight. This should provide a more complete picture of piggyback traffic.

The Commission does not believe that these revisions require a rulemaking proceeding pursuant to section 553 of the Administrative Procedure Act (5 U.S.C. § 553). The rules involved are procedural in nature; the reports required are for informational purposes only and are not considered to be permanent books and records of the reporting carriers; and the revisions actually lessen the reporting requirements for all except class II rail and motor carriers. Furthermore, the Commission would like to implement the changes at the earliest possible date. Therefore, the rules set forth below will become effective November 24, 1978.

However, in keeping with our belief that any rule can benefit from public scrutiny, we are requesting that the public study the rules and report, at the earliest possible time, any changes which need to be made. In addition, persons who desire to study the revised reporting forms may obtain copies from the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423 or by calling 800-424-5403.

If the Commission concludes, after reviewing the comments, that it is necessary to make changes in the revised rules and reporting forms, a further notice will be published in the FEDERAL REGISTER on the effective date of the rules, identifying the changes made. Otherwise the revisions proposed in this notice will take effect on that date.

During the course of the next year, the Commission intends to examine whether there is a need to continue to keep piggyback statistical reports confidential. The Commission would like to receive comments from the Public on this question.

This decision does not significantly affect the quality of the human environment.

Accordingly, §§ 1252.1 through 1252.4, part 1252 of title 49 of the Code of Federal Regulations are amended to read as follows:

§ 1252.1 General.

Beginning with reports for the year ending December 31, 1979, carriers shall file the piggyback traffic reports required by this section on an annual basis. Two copies of the reports should be submitted to the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 60 days of the close of the reporting period. Carriers that do not perform piggyback service during the period should file a statement to that effect instead of filing a report. The individual reports filed pursuant to this section are not open to public inspection.

§ 1252.2 Rail carriers.

All class I and class II railroads, except switching and terminal companies, shall file form PTR-R, revenue piggyback and container traffic.

§ 1252.3 Motor carriers.

All class I and class II intercity motor carriers of property shall file form PTR-M, piggyback traffic of class I and class II motor carriers of property.

§ 1252.4 Water carriers.

All class A water carriers and all maritime carriers shall file form PTR-W, piggyback traffic terminated by class A water carriers and maritime carriers.

§ 1252.5 Freight forwarders.

All class A freight forwarders shall file form PTR-FF, piggyback traffic originated by class A freight forwarders.

The Commission will serve this decision on all class I and class II railroads, class I and class II motor carriers of property, class A water carriers and maritime carriers, and class A freight forwarders; the Governor of every State; and all State agencies having jurisdiction over transportation.

(49 U.S.C. 12, 20, 304, 320, 904, 913, 1003, and 1012.)

Decided: October 2, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp.

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

[FR Doc. 78-28609 Filed 10-10-78; 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.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1002]

[Docket No. AO-71-A71]

MILK IN THE NEW YORK-NEW JERSEY MARKETING AREA

Recommended Decision and Opportunity to File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and To Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends a change in the procedure for classifying unaccounted for disappearances (shrinkage) of milk in a handler's operations, based on industry proposals considered at a hearing held in February 1976. The proposed change would classify shrinkage on essentially the same basis as now provided under all other Federal milk orders.

DATE: Comments are due on or before October 31, 1978.

ADDRESS: Comments (6 copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202-447-4829.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing, Issued January 9, 1976; published January 14, 1976 (41 FR 2092).

Extension of time for Filing Briefs, Issued April 15, 1976; published April 21, 1976 (41 FR 16660).

Recommended Decision (Partial), Issued April 5, 1977; published April 11, 1977 (42 FR 18950).

Extension of Time for Filing Exceptions to the Recommended Decision (Partial), Issued May 6, 1977; published May 11, 1977 (42 FR 23841).

Final Decision (Partial), Issued August 12, 1977; published August 17, 1977 (42 FR 41582).

Order Amending Order, Issued September 27, 1977; published September 30, 1977 (42 FR 52379).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the New York-New Jersey marketing area, and of the opportunity to file written exceptions thereto. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, Room 1077, South Building, United States Deaprtment of Agriculture, Washington, D.C. 20250, by October 31, 1978. Six copies are required for this proceeding. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at New York, New York, on February 17-20, 1976, and at Syracuse, New York on February 23-26, 1976, pursuant to notice thereof.

The material issues on the record of the hearing relate to:

1. Whether changes should be made in the following provisions for purposes of permitting a more equitable competitive situation, on both an intramarket and intermarket basis, for order 2 handlers:
   a. Class I price differential.
   b. Transportation differentials.
   c. Pool transportation credit to handlers for bulk tank milk.
   d. Tank truck service charge.
   e. Direct delivery differential.
2. Whether the classification provisions should be changed with respect to the following:
   a. Milk moved between Order 2 pool plants and plants regulated under an order administered solely by the State of New York.
   b. Bulk milk received at an Order 2 pool plant from a plant regulated under another Federal order.
   c. Milk dumped, disposed of for animal feed, or lost under extraordinary circumstances.
3. Whether the procedure for classifying shrinkage should be changed.
4. Whether the order should provide for charges on overdue accounts.

This decision deals only with issue No. 3. The other issues were the subject of earlier actions that resulted in the issuance of an amended order effective November 1, 1977.

Findings and Conclusions

The following findings and conclusions on this material issue are based on evidence presented at the hearing and the record thereof:

3. *Shrinking.* The treatment of shrinkage under the New York-New Jersey order should be modified to generally conform with the shrinkage provisions of the Middle Atlantic order.

Currently, Order 2 provides that shrinkage shall be classified by assigning the skrinkage pro rata to the actual utilization of milk in each class. However, such assignment to Class II may not exceed two percent of the skim milk and butterfat actually accounted for as Class II milk. Under the Middle Atlantic order, on the other hand, shrinkage is basically assigned to Class II. The order provides, however, that not more than two percent of a handler's receipts of producer milk may be classified as Class II shrinkage. Additional shrinkage of producer milk is included in Class I.

A handler organization proposed that Class II include skim milk and butterfat in shrinkage, but not to exceed two percent of producer milk or bulk tank unit milk received at a plant, plus 1.5 percent of milk received from other plants, plus free milk to employees that does not exceed two quarts per day per employee. Shrinkage of such receipts in excess of these limits would be Class I. Shrinkage of receipts other than milk from producers, units, and plants would be prorated to Class I and Class II with the amount assigned to Class II not to exceed two percent of the quantity actually accounted for in that class.

The proponent's spokeman contended that under Order 2 a higher pro-

portion of shrinkage experienced in fluid milk processing operations is assigned to Class I than under the shrinkage provisions in most other orders. The spokesman estimated that in 1975 the current provisions added an average of 4.3 cents per hundredweight to handlers' costs for Class I milk. He contended that a comparable element of cost is not incurred by handlers in adjacent markets with different order provisions for classifying shrinkage, and that Order 2 handlers are therefore disadvantaged in competing for Class I sales with handlers under the other orders. Because of this, the proponent organization urged that the shrinkage provisions be changed to conform with those found in most other orders.

Individual handlers also urged that the proposed shrinkage provisions be adopted. They indicated that no basis exists for having shrinkage provisions in Order 2 that differ substantially from the generally uniform shrinkage provisions of other orders. To this end, it was proposed that Class II shrinkage be divided between receipts of pool milk and certain receipts of other source milk, and that there be limits on the Class II allowance for receiving and processing operations. Handlers expressed the view that, subject to reasonable limitations, shrinkage should be assigned to Class II because handlers receive no return on milk losses experienced in the receiving and processing operations.

A number of cooperatives in the market opposed any change from the present shrinkage provisions. Their spokesman indicated that the current procedure for classifying shrinkage is superior to the procedure generally used under other orders and should be continued. He stressed that the present order provisions penalize inefficient processing operations. In contrast, he claimed, the proposed provisions would reward inefficiency and would provide an incentive to "hide" Class I sales in order to take advantage of the maximum allowable Class II skrinkage. Moreover, he contended, adoption of the shrinkage proposals would reduce returns to producers and provide windfall gains for handlers.

Handlers normally experience some shrinkage in milk processing operations. Some milk is unavoidably lost because it adheres to surfaces of pipes, tanks, and other plant equipment, and subsequently is rinsed away in cleaning operations. Additional losses can be expected due to such things as accidental spillage, a breakdown of equipment or leaky packages. Also, shrinkage is normally experienced in the receipt of farm bulk tank milk at receiving stations and processing plants.

Since a handler's total receipts must be classified in order to carry out the pricing and pooling provisions of the order, it is necessary to provide for the classification and pricing of shrinkage. A handler's costs are affected by the proportions of shrinkage priced as Class I milk and Class II milk.

The shrinkage provisions proposed by the handler organization would establish Class II shrinkage allowances for milk received from producers, bulk tank units, and other plants. Shrinkage associated with other receipts would be assigned pro rata to Class I and Class II, except that the quantity assigned to Class II could not exceed two percent of the milk actually used in that class. In effect, the proposal represents a combination of some of the present order provisions and certain other provisions common to most other Federal orders. The record clearly indicates, however, that the intent of the proponent and other supporting witnesses is to have the shrinkage provisions of Order 2 closely coordinated with the shrinkage provisions in most other orders, and particularly the Middle Atlantic order.

The central issue in this proceeding is the need for establishing an equitable interorder relationship of raw milk costs imposed on handlers regulated under the New York-New Jersey order and on handlers regulated under the Middle Atlantic order. The shrinkage classification under Order 2 is a factor in this regard. In the interest of minimizing interorder competitive problems attributable to differences in regulatory provisions, it is desirable that shrinkage be classified under Order 2 in essentially the same manner as provided under the Middle Atlantic order.

The shrinkage provisions adopted herein set forth maximum Class II shrinkage allowances for various sources of receipts. Pool milk received at a plant, both in cans and in bulk from pool units, would have a two percent allowance in Class II. A maximum Class II Shrinkage allowance of 1.5 percent would apply to receipts of bulk milk from other pool plants, and to receipts of bulk fluid milk products from other order plants, except such receipts for which Class II use is requested. Receipts of milk from units other than pool units, other than for requested Class II use, would be allowed up to 2.0 percent Class II shrinkage. When milk is moved in bulk tank lots from a plant to other plants, the shipping handler's Class II shrinkage allowance would be reduced by 1.5 percent of the quantity moved. Shrinkage on other source bulk fluid milk, other than that for which a specific allowance is otherwise provided, would be assigned to Class II, with no limitation. A handler's total shrinkage would be prorated between those receipts to which specific shrinkage allowances apply and remaining receipts of other source milk. Shrinkage in excess of the total Class II allowance would be assigned to Class I.

The adopted shrinkage provisions have been found suitable for other markets and similarly should be compatible with the handling practices existing in the Order 2 market. Shrinkage normally varies with the type of handling involved. More loss is usually experienced in the processing operations of a plant than in merely receiving the milk. There is no reason to believe that the operations of Order 2 handlers are significantly different from those of handlers in other markets. Thus, the commonly-used Class II shrinkage allowances of 0.5 percent and 1.5 percent for receiving and processing operations, respectively, should be reasonable for the Order 2 market.

Most of the milk on the Order 2 market is received from farms equipped with bulk tanks. Under the "Classification and Accounting Rules and Regulations" established by the market administrator for administering the order (which were adopted after meetings with the industry), plants receive milk from bulk tank units on the basis of weights and butterfat tests determined from measurements and samples taken at the farm. Thus, a maximum Class II shrinkage allowance of 2.0 percent should be applicable at the receiving plant to all receipts of milk from units. No shrinkage allowance would accrue to the operator of the bulk tank unit. While this procedure differs from that used under other orders, it is consistent with the accounting rules already established for the market.

The shrinkage provisions provided herein would preclude any accumulation of Class II shrinkage on milk movements between plants. When a plant operator disposes of bulk milk by transfer to another plant, his shrinkage allowance would be reduced by 1.5 percent of the quantity transferred. The maximum Class II shrinkage on milk that may be moved from the farm to a receiving station and then on to a distributing plant for processing thus would be limited to two percent.

Also adopted is the commonly-used method of prorating total plant shrinkage to (1) those receipts of bulk fluid milk products that are generally intended for Class I use, and on which Class II shrinkage limitations apply, and (2) other receipts of bulk fluid milk products generally intended for manufacturing use, such as nonpool milk for which a Class II classification is requested. To the extent that the quantity of shrinkage prorated to the first category exceeds the established limit, the excess would be classified in Class I.

The shrinkage provisions adopted herein are generally the same as those provided in most other orders, including the MIddle Atlantic order. Any minor differences between the latter order and the other orders have been decided in favor of the uniform provisions established for a large number of orders throughout the country. These uniform provisions were proposed at the hearing by a handler in the Order 2 market.

Milk that a handler gives to employees should continue to be accounted for as a Class I disposition. The proposed inclusion of such disposition as Class II shrinkage was prompted by the terms of a labor contract that requires a handler to provide free milk to his employees. Proponent's witness expressed the view that since the handler receives no return on this milk he should not have to account for it at the Class I price.

Whether a handler receives payment for milk or milk products is not an appropriate basis for establishing the classification of milk under the order. The Act requires that classification be "in accordance with the form in which or the purpose for which it is used * * *" These are the criteria that must be followed in establishing the classification of milk under the Federal order program. Milk given free of charge to a handler's employees cannot be distinguished from other fluid milk products disposed of by the handler for fluid consumption. A Class I classification of milk so provided to employees for fluid use should be continued under the order.

Testimony offered by cooperatives in opposition to the shrinkage proposal centered on the contention that the present classification of shrinkage more nearly reflects the nature of the operations involved. It was argued, for example, that producer returns should reflect a Class I value for shrinkage experienced in a bottling plant since the milk lost would have been disposed of as Class I milk had it not disappeared. Such classification, it was maintained, provides an incentive for operating a plant efficiently and does not penalize producers if a handler conducts an inefficient operation.

Whether or not a plant is operated efficiently, producers are paid for all their pool milk delivered to such plant. As a minimum, the Class II price must be paid on any milk lost through shrinkage, and there are no returns to the handler from the lost milk. This certainly provides an incentive to operate a plant as efficiently as possible.

Moreover, under the proposed provisions, a handler processing milk for distribution to consumers will continue to need the same quantity of milk for his route sales irrespective of how much of his receipts at the plant may be lost through shrinkage. Any milk lost will have to be replaced with additional receipts if the handler expects to meet his fluid sales commitments. Presumably, such additional receipts are drawn from the market's reserve supplies that otherwise would be processed into Class II products. Thus, in terms of returns to producers, it makes little difference whether milk is classified in Class II as shrinkage or as milk that is surplus to the fluid needs of a plant.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth below.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the New York-New Jersey marketing area is recommended as the detailed and approporaite means by which the foregoing conclusions may be carried out:

1. Section 1002.41 is revised to read as follows:

§ 1002.41 Classes of utilization.

Subject to the conditions set forth in §§ 1002.42 through 1002.46, the classes of utilization shall be as follows:

(a) Class I-A milk shall be all skim milk and butterfat:

(1) Disposed of as a fluid milk product:

(i) Inside the marketing area;

(ii) As route disposition in another order marketing area;

(iii) To another order plant and assigned under such other order to Class I;

(iv) In packaged form to another order plant if such product is not defined as a fluid milk product under such other order; and

(v) To a partially regulated plant under another order and there applied as an offset to Class I sales in any other order market.

(2) Contained in inventory of packaged fluid milk products on hand at the end of the month except as provided in paragraph (c)(3) of this section;

(3) In shrinkage assigned to Class I-A pursuant to paragraph (d) of this section; and

(4) Not specifically accounted for as Class I-B or Class II milk.

(b) Class I-B milk shall be all skim milk and butterfat:

(1) Disposed of as a fluid milk product outside the marketing area, except as provided in paragraphs (a)(1) (ii) through (v) and (c) (3), (4) and (5) of this section; and

(2) In shrinkage assigned to Class I-B pursuant to paragraph (d) of this section.

(c) Class II milk shall be all skim milk and butterfat:

(1) Disposed of in any product other than a fluid milk product;

(2) Disposed of as a fluid milk product in bulk to any establishment (other than a plant defined in § 1002.8) at which food products are processed and packed and at which establishment there is no disposition of fluid milk products other than those received in consumer packages for consumption on the premises;

(3) Contained in inventory of fluid milk products in bulk which are on hand at the end of the month, and also with respect to any plant not defined in § 1002.8 (b) or (d) in inventory of fluid milk products in packaged form;

(4) Disposed of as a packaged fluid milk product to an other order plant and assigned under such other order as a fluid milk product to Class II;

(5) Disposed of in bulk as a fluid milk product to an other order plant and assigned to Class II under such other order;

(6) In skim milk represented by the nonfat solids added to a fluid milk product for fortification which is in excess of the volume included within the fluid milk product definition pursuant to § 1002.15;

(7) Contained in fluid milk products that are disposed of for animal feed;

(8) Contained in fluid milk products that are dumped, if the market administrator is notified in advance and is given the opportunity to verify such disposition;

(9) Contained in fluid milk products that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond his control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(10) In shrinkage of skim milk and butterfat, respectively, at a plant that is allocated pursuant to § 1002.42 to the receipts specified in § 1002.42(b)(1), but not to exceed the following:

(i) Two percent of the skim milk and butterfat, respectively, in milk received from producers;

(ii) Plus 2.0 percent of the skim milk and butterfat, respectively, in milk received from pool units;

(iii) Plus 2.0 percent of the skim milk and butterfat, respectively, in milk received from units other than pool units, exclusive of the quantity for which Class II utilization was requested by the handler;

(iv) Plus 1.5 percent of the skim milk and butterfat, respectively, in receipts of fluid milk products in bulk from other pool plants;

(v) Plus 1.5 percent of the skim milk and butterfat, respectively, in receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operators of both plants;

(vi) Plus 1.5 percent of the skim milk and butterfat, respectively, in receipts of fluid milk products in bulk from plants other than those defined in § 1002.8 (b) or (d), exclusive of the quantity for which Class II utilization was requested by the handler; and

(vii) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (c)(10) (i) through (vi) of this section.

(11) In shrinkage of skim milk and butterfat, respectively, at a plant that is allocated pursuant to § 1002.42 to the receipts specified in § 1002.42(b)(2).

(d) Shrinkage in excess of the amounts assigned to Class II pursuant to paragraph (c) (10) and (11) of this section shall be assigned pro rata to Class I-A and Class I-B in accordance with the respective volumes of skim milk and butterfat actually accounted for in each such class.

2. Section 1002.42 is revised to reas as follows:

§ 1002.42 Shrinkage.

Shrinkage shall be allocated to a handler's receipts at each plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, at each plant.

(b) Shrinkage of skim milk and butterfat, respectively, shall be prorated between the respective quantities of skim milk and butterfat:

(1) In receipts described in § 1002.41(c)(10); and

(2) In other source milk not specified in § 1002.41(c)(10) which was received in bulk fluid form.

3. In § 1002.45(a), new subparagraphs (1-a) and (7-a) are added to read as follows:

§ 1002.45 Allocation of skim milk and butterfat classified.

* * * * *

(a) * * *

(1-a) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1002.41(c)(10);

* * * * *

(7-a) Add to the remaining pounds of skim milk in Class II the pounds subtracted pursuant to paragraph (a) (1-a) of this section;

* * * * *

Signed at Washington, D.C., on October 5, 1978.

JAMES E. SPRINGFIELD,
Acting Deputy Administration, Marketing Program Operations.

[FR Doc. 78-28593 Filed 10-10-78; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 781 0024]

AMERICAN SOCIETY OF ANESTHESIOLOGISTS, INC.

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 a Park Ridge, Ill., medical society, composed mainly of physicians who have limited their professional activities to the practice of anesthesiology, to cease including statements relating to compensation arrangements in membership documents; conditioning membership privileges on such arrangements; or engaging in any act or practice which would serve to influence the prices members charge for their services. The society would be further required to delete from its files any record of disciplinary sanctions imposed upon members for failure to adhere to past pricing policies, and advise affected parties of such deletion. Additionally, the society would be required to revoke the charter of any component society which fails to comply with the terms of the order.

DATE: Comments must be received on or before December 8, 1978.

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

FOR FURTHER INFORMATION CONTACT:

FTC/C, Alfred F. Dougherty, Jr., Washington, D.C., 202-523-3601.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission 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, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, 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)).

[File No. 781 0024]

AMERICAN SOCIETY OF ANESTHESIOLOGISTS, INC.

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of the American Society of Anesthesiologists, Inc. (hereinafter referred to as "ASA"), a corporation, and it now appearing that ASA is 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 ASA, by its duly authorized officer and its attorneys, and counsel for the Federal Trade Commission that:

1. ASA is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 515 Busse Highway, Park Ridge, Ill.

2. Only for the purpose of this proceeding, and for compliance and enforcement proceedings under the order contemplated hereby, ASA admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. ASA waives:

(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 part of the public 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 and related material pursuant to rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify ASA, in which event it will take such action as it may consider appropriate, or issue and serve its complaint and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by ASA 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 ASA, (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 ASA's address as stated in this agreement shall constitute service. ASA waives any right it 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. ASA has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. ASA further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

8. Nothing in this agreement shall affect any complaint or order which the commission may issue with the respect to ASA if this agreement is not accepted by the Commission.

ORDER

I

For purposes of this order, the following definitions shall apply:

A. The term "ASA" means the American Society of Anesthesiologists, Inc., its successors or assigns, its committees or organizational subdivisions, and, in their capacities as such or while representing the society, its officers, agents, representatives, employees, or authorized delegates;

B. The term "Membership Document" means any document the acceptance of which or adherence to the terms of which is a condition of membership privileges;

C. The term "Official Position" means an oral or written statement which is made by ASA or any of its component societies;

D. The term "Component Society" means any organization duly chartered as such by ASA, any successor or assign to any Component Society, any committee or organizational subdivision of any Component Society, and, in their capacities as such or while representing a Component Society, any officers, agents, representatives, employees, or authorized delegates; and

E. The term "Effective Date of This Order" means the date of service of this order.

II

It is ordered, That ASA directly or through any corporation, subsidiary, division, or other device, or through employment of any method, act, practice, or procedure, shall cease and desist from:

A. Importuning or engaging in threats or acts of reprisal, coercion, or intimidation with the purpose or effect of restraining or impeding anesthesiologists individually or as a class of practitioners from engaging in the practice of anesthesiology other than on a fee-for-service arrangement;

B. Including within any Membership Document any statement which relates to the fee-for-service, salary, or any other compensation arrangement of anesthesiologists individually or as a class of practitioners; and

C. Conditioning any privilege of membership upon the fee-for-service, salary or any other compensation arrangement of anesthesiologists individually or as a class of practitioners.

III

It is further ordered, That ASA within forty-five (45) days after the Effective Date of This Order, permanently delete from its files any record of censure or other sanction against any present or former member, the grounds for which was failure of such member to accept or to adhere to the terms of any Membership Document or Official Position which prohibited anesthesiologists individually or as a class of practitioners from engaging in the practice of anesthesiology on other than a fee-for-service arrangement; and formally advise any such members (if living) of such deletion.

IV

It is further ordered, That ASA shall for a period of ten (10) years following the Effective Date of This Order cease and desist from making any statement which contains an Official Position which relates to the fee-for-service, salary, or other compensation arrangement of anesthesiologists individually or as a class of practitioners, unless such statement contains and is not inconsistent with the following langauge:

It is the official policy of the American Society of Anesthesiologists, Inc. that an anesthesiologist is free to choose whatever arrangement he prefers for compensation of his professional services. The society does not consider the compensation arrangement so chosen to be a matter of professional ethics.

This part does not modify the requirements of part II of this order.

V

It is further ordered, That ASA shall:

A. At the first annual meeting of ASA's house of delegates subsequent to 180 days after the Effective Date of This Order, revoke the charter of any Component Society which, prior to the meeting of ASA's board of directors immediately preceding such annual meting, has not informed ASA by a sworn statement of an authorized officer that the Component Society has (1) agreed to comply with the requirements of part II of this order, and brought its own Membership Documents and Official Positions into conformity with the requirements of that part, (2) conformed its files to the requirements of part III of this order, and (3) agreed to abide by the requirements of part IV of this order, so that every statement of the component Society which contains an Official Position which relates to the fee-for-service, salary, or other compensation arrangement of anesthesiologists individually or as a class of practitioners, contains and is not inconsistent with the following language:

It is the official policy of (name of Component Society) that an anesthesiologist is free to choose whatever arrangement he prefers for compensation of his professional sevices. The (name of Component Society) does not consider the arrangement so chosen to be a matter of professional ethics.

B. Within 60 days after the Effective Date of This Order, distribute by first-class mail a copy of the commission's complaint and order in this matter to each of the aforesaid Component Societies and to each of ASA's

then current members, together with a letter on ASA's regular letterhead in the form shown in the appendix attached hereto.

VI

It is further ordered, That nothing in this order shall prohibit or limit the organizations and persons subject to this order from petitioning the government for a redress of grievances by:

A. Preparing or furnishing testimony, information, or advice to, or negotiating with, any government body or agency or furnishing drafts thereof to any organization which is preparing or furnishing testimony, information or advice to, or negotiating with, any government body or agency with respect to the same subject matter;

B. Advising its members and others of legislation, programs, policies, regulations, procedures, or interpretations of any government body or agency and soliciting their views thereon;

C. Informing members and others of any testimony, information or advice supplied to, or negotiations with, any government body or agency; and

D. Suggesting or recommending that members or others undertake the activities enumerated in subparagraphs (A), (B), and (C) above;

but only as long as the activities enumerated in this part VI are not undertaken with the purpose or intent of achieving a result prohibited by part II of this order through means other than the action of a government body or agency.

VII

It is further ordered, That ASA shall, within sixty (60) days following the effective date of this order, and thereafter on the first anniversary date of the effective date of this order, and at such other times as the Commission may by written notice to the respondent require, file, or cause to be filed with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order. All compliance reports shall include such other information and documentation as may be required to show compliance with this order.

VIII

It is further ordered, That ASA shall notify the Commission at least thirty (30) days prior to any proposed change in its structure resulting in the emergence of a successor corporation, or any other change in its structure, which may affect obligations arising out of this order.

APPENDIX

[ASA REGULAR LETTERHEAD]

To the Members and Component Societies of the American Society of Anesthesiologists, Inc.:

As some of you have been aware, the Federal Trade Commission ("FTC") in September 1977 initiated an investigation of the extent to which members and component societies of ASA were required to accept or adhere to certain principles, contained in documents approved by the ASA House of Delegates, which related to the fee-for-service, salary or other compensation arrangements of anesthesiologists.

The Board of Directors and House of Delegates have determined that they do not desire to impose any such condition nor to impose any sanction against an ASA member for failure to accept or adhere to such principles. Accordingly, ASA has with approval of its House of Delegates reached agreement with the FCT, resulting in the issuance by the FTC of a complaint on ————, and the entry of a consent order. The complaint and the order are attached to this letter. The order, rather than this letter, is the document which legally binds ASA and others. You should carefully review it.

The complaint alleges that the promulgation and enforcement of those provisions of the statement of policy and guidelines to the ethical practice of anesthesiology which relate to compensation arrangements have had the effect of:

(a) Fixing, establishing, maintaining or otherwise influencing the prices which anesthesiologists charge for their services;

(b) Limiting the ability of hospitals to freely negotiate and conclude contracts with ASA members and others;

(c) Otherwise restraining, limiting and foreclosing competition among anesthesiologists; and

(d) Depriving consumers of the benefits of competition.

The agreement containing the consent order states that it is for settlement purposes only and does not constitute an admission by ASA of the charges in the complaint or that the law has been violated. The consent order itself requires, in summary, that ASA:

(a) Refrain from importuning or engaging in threats or acts of reprisal, coercion, or intimidation with the purpose or effect of restraining or impeding anesthesiologists individually or as a class of practitioners from engaging in the practice of anesthesiology other than on a fee-for-service arrangement;

(b) Not include within any membership document any statement which relates to the fee-for-service, salary or any other compensation arrangement of anesthesiologists;

(c) Not condition any privilege of membership upon the fee-for-service, salary, or any other compensation arrangement of anesthesiologists;

(d) Delete from its files any record of censure or other sanction imposed upon any ASA member for failure to accept or adhere to any provision which prohibited anesthesiologists from practicing on other than a fee-for-service arrangement, and notify any such member of the deletion;

(e) For a period of 10 years, refrain from making any statement which contains an ASA official position which relates to the fee-for-service, salary or other compensation arrangement of anesthesiologists unless the statement contains and is not inconsistent with the following language:

It is the official policy of The American Society of Anesthesiologists, Inc., that an anesthesiologist is free to choose whatever arrangement he prefers for compensation of his professional services. The society does not consider the compensation arrangement so chosen to be a matter of professional ethics; and

(f) Revoke the charter of any component society which does not: (1) Agree to abide by the provisions of the order; and (2) bring its own membership documents, guidelines, policies, records, and statements into conformity with these provisions.

The order also provides that nothing in it shall prohibit or limit the organizations and persons subject to the order from petitioning the government for a redress of grievances by:

(a) Preparing or furnishing testimony, information, or advice to, or negotiating with, any government body or agency or furnishing drafts thereof to any organization which is preparing or furnishing testimony, information, or advice to, or negotiating with, any government body or agency with respect to the same subject matter;

(b) Advising its members and others of legislation, programs, policies, regulations, procedures, or interpretations of any government body or agency and soliciting their views thereon;

(c) Informing members and others of any testimony, information, or advice supplied to, or negotiations with, any government body or agency; and

(d) Suggesting or recommending that members or others undertake the activities enumerated in subparagraphs (a), (b), and (c) above;

but only as long as the activities enumerated above are not undertaken with the purpose or intent of achieving a result which is prohibited by the order through means other than the action of a government body or agency.

Henceforth, it will be the official policy of ASA that an anesthesiologist is free to choose whatever method he prefers for compensation of his professional services, and that the compensation arrangement so chosen will not be a matter of professional ethics. The financial arrangements between an anesthesiologist and a hospital or other instutional provider of health care will not be the basis for the denial to an anesthesiologist of ASA membership or any privilege of ASA membership.

Sincerely,

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement containing a proposed consent order from The American Society of Anesthesiologists, Inc. ("ASA").

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.

The American Society of Anesthesiologists, Inc., is a corporation with about 15,000 members. Its members are comprised mainly of physicians who have completed postgraduate training in, and who have limited their professional activities to, the practice of anesthesiology or are otherwise especially interested in anesthesiology.

According to a complaint proposed by the Commission's staff, ASA allegedly has promulgated, published, approved and enforced documents entitled Guidelines to the Ethical Practice of Anesthesiology and Statement of Policy. These documents include provisions which provide that anesthesiologists should be compensated only on a fee-for-service basis and that ASA members should not practice as salaried employees of organizations such as hospitals. The pro-

posed complaint further alleges that these activities have had the effect of:

(a) Fixing, establishing, maintaining or otherwise influencing the prices which anesthesiologists charge for their services;

(b) Limiting the ability of hospitals to freely negotiate and conclue contracts with ASA members and others;

(c) Otherwise restraining, limiting and foreclosing competition among anesthesiologists; and

(d) Depriving consumers of the benefits of competition.

The proposed order would prevent ASA* from imposing upon anyone any policy relating to compensation arrangements of anesthesiologists. The proposed order specifically would prohibit ASA from:

(a) Importuning or engaging in threats or acts of reprisal, coercion, or intimidation with the purpose or effect of restraining or impeding anesthesiologists from practicing anesthesiology other than on a fee-for-service arrangement;

(b) Including within any document which lists terms ASA members must adhere to any statement which relates to compensation arrangements of anesthesiologists; and

(c) Conditioning any privilege of membership in ASA upon the compensation arrangement of an anesthesiologist.

The proposed order would further require that if in the next ten (10) years ASA makes any statement which relates to compensation arrangements of anesthesiologists, that statement must contain and not be inconsistent with the following language:

It is the official policy of The American Society of Anesthesiologists, Inc. that an anesthesiologist is free to choose whatever arrangement he prefers for compensation of his professional services. The Society does not consider the compensation arrangement so chosen to be a matter of professional ethics.

The proposed order would permit ASA to furnish testimony, information or advice to, or negotiate with any government body or agency; to advise its members of legislation and other government activities; to inform its members of its testimony, information, advice or negotiations; and to recommend that its members undertake these activities. This provision of the order is limited by the restriction that the activities listed would be permitted only as long as they are not undertaken with the purpose or intent of achieving a result prohibited by the order through means other than the action of a government body.

The proposed order would require that ASA delete from its files any record of past censure or other disciplinary sanction which was imposed upon an ASA member for failure to adhere to past ASA policies regarding compensation arrangements, and that ASA notify the affected member of the deletion. The proposed order would also require that ASA revoke the charter of any component society of ASA which does not (1) Agree to abide by the provisions of the order, and (2) bring its own membership documents, guidelines, policies, records and statements into conformity with the provisions. ASA would also be required to send a copy of the complaint, order and a cover letter which is appended to the order ot each of its component societies and members.

The remaining provisions of the order deal with compliance. ASA would be required to submit periodic compliance reports to the Commission and to notify the Commission of any significant changes in ASA's organization.

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. 78-28588 Filed 10-10-78; 8:45 am]

* In the proposed order "ASA" is defined to include the American Society of Anesthesiologists, Inc.; any committees or subdivisions of ASA; and ASA officers, representatives, employees or authorized delegates when acting in their capacities as such or while representing ASA.

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-2-78]

REQUIREMENTS RELATING TO CERTAIN EXCHANGES INVOLVING A FOREIGN CORPORATION

Income Tax

AGENCY: Internal Revenue Service, Treasury.

ACTION: Extension of time for comments and requests for a public hearing.

SUMMARY: This document provides notice of an extension of time for submitting comments and requests for a public hearing concerning the notice of proposed rulemaking with respect to requirements relating to certain exchanges involving a foreign corporation. The extended deadline for submission of comments and requests for a public hearing is December 1, 1978.

DATE: Written comments and requests for a public hearing must be delivered or mailed by December 1, 1978.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-2-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: By a notice of proposed rulemaking published in the FEDERAL REGISTER for Friday, December 30, 1977 (42 FR 65152 and 65204), comments and requests for a public hearing with respect to the proposed rules were to be delivered or mailed to the Commissioner of Internal Revenue, Attention: CC:LR:T (LR-2-78), Washington, D.C. 20224, by February 28, 1978. By a notice published in the FEDERAL REGISTER for Tuesday, February 21, 1978 (43 FR 7245), this date was extended to May 1, 1978. By another notice published in the FEDERAL REGISTER for Monday, May 1, 1978 (43 FR 18570), this date was extended to August 1, 1978, and was additionally extended to October 2, 1978, by a notice published in the FEDERAL REGISTER for Friday, July 28, 1978 (43 FR 32824). The date by which such comments and requests must be delivered or mailed is hereby extended to December 1, 1978.

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.

DAVID E. DICKINSON,
Assistant Director, Legislation and Regulations Division.

[FR Doc. 78-28576 Filed 10-10-78; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

U.S. PAROLE COMMISSION

[28 CFR Part 2]

PAROLE, RELEASE, SUPERVISION, AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Proposed Rulemaking

AGENCY: U. S. Parole Commission.

ACTION: Proposed rule.

SUMMARY: This proposal would make a number of changes in the offense severity examples and policy instructions contained in the Commission's paroling policy guidelines. These examples and policy instructions constitute the standards and rules by which the Commission evaluates the relative seriousness of each prisoner's offense behavior in determining when to set a release date. The greater part of these amendments merely clarify present policy, while others are expected to result in some actual changes in time customarily served.

DATE: Comments must be received by January 1, 1979.

ADDRESS: Send comments to U.S. Parole Commission, 320 First Street NW., Washington, D.C. 20537; Attn: General Counsel.

FOR FURTHER INFORMATION CONTACT:

Micheal A. Stover, attorney, U.S. Parole Commission, telephone 202-724-3092.

SUPPLEMENTARY INFORMATION:

I. *Introduction.*

THE RULEMAKING PROCESS

The Commission's paroling policy guidelines are the means by which it makes explicit the national paroling policy that Congress has required it to establish (18 U.S.C. § 4203 (1976)). One component of these guidelines is a table indicating the relative seriousness of common types of criminal behavior. Because the changes proposed herein involve some complex issues in evaluating the relative seriousness of the various types of offenses listed, the Commission has deemed it appropriate to provide and extended period for study and for the submission of public comment.

The amendments proposed herein cover a wide variety of criminal offenses, ranging from nearly all types of drug offenses to income tax evasion, kidnaping, burglary, and murder. Moreover, since the Commission is dealing with a comparative scale of seriousness, each proposal will have some bearing upon numerous collateral issues. Therefore, it is to be stressed that the Commission invites public comment not only on the actual changes proposed, but on any aspect of the offense severity table or the guideline ranges themselves that may be of concern to interested members of the public. In conjunction with the extended period for public comment (initially until January 1, 1979), the Commission will also be making active efforts to obtain advice and comment from a wide variety of individuals and groups, and is presently planning the holding of public hearings, notice of which will be given in the FEDERAL REGISTER.

BACKGROUND

The factors which the Commission must consider in evaluating the application of a Federal prisoner for release on parole have been established by Congress at 18 U.S.C. § 4206(a)(1976):

> If an eligible prisoner has substantially observed the rules of the institution or institutions to which he has been confined, and if the Commission, upon consideration of the nature and circumstances of the offense and the history and characteristics of the prisoner, determines:
>
> (1) That release would not depreciate the seriousness of his offense or promote disrespect for the law; and
>
> (2) That release would not jeopardize the public welfare; subject to the provisions of subsections (b) and (c) of this section, and pursuant to guidelines promulgated by the Commission pursuant to section 4203(a)(1), such prisoner shall be released.[1]

[1] Subsec. (b) provides that written reasons be furnished each prisoner and subsec. (c) permits a decision outside the guidelines if the Commission finds "good cause" and explains such decision in its reasons.

The paroling policy guidelines that have been established pursuant to this statutory mandate (at 28 CFR § 2.20) contain two components. The first is a table of offense behavior examples ranked in order of seriousness) that provides a means by which the Commission may rate the seriousness of each prisoner's offense. (The offense behavior examples are listed in seven categories: Low, low moderate, moderate, high, very high, and greatest I and II.) The second is an actuarial table (salient factor score) which aids the Commission in assessing the degree to which the applicant's background indicates likely success or failure on parole (i.e. whether release would jeopardize the public welfare).

For each combination of offense severity rating and degree of parole risk, the guidelines provide a suggested range of months to be served (assuming the prisoner's good institutional conduct). Once it has calculated the appropriate guideline range in the case under consideration, the Commission exercises its discretion to determine whether individual circumstances justify a decision above or below the indicated range. If a decision to require service of a term within the guidelines is reached, then the Commission also exercises discretion to determine at what point within the guidelines release is most appropriate. The most recent publication of these guidelines may be found at 42 FR 39813 (Friday, August 5, 1977) and 42 FR 52398 (Friday, September 30, 1977).

In this manner, the Parole Commission discharges its complex duty of converting three separate judgments (as to prison conduct, the severity of the offense, and the risk that release would entail) into a term of imprisonment that reflects an appropriate balancing of each consideration.

NATURE OF THE PROPOSED CHANGES

The proposed changes would after the placement and definitional language of a number of the offense behavior example within the offense severity table as well as some of the policy instructions (footnotes) accompanying the guidelines.

Two important points should be kept in mind in evaluating these proposed changes. First, the examples within the severity categories are not intended to be used as a form of criminal code. They are merely guideposts for the exercise of discretion, and individual circumstances in actual cases may justify a decision or a severity rating different from that listed. Second, the examples are not comprehensive either as to all possible variations in circumstances or as to all types of behavior that are deemed criminal under Federal law. Only the most commonly recurring types have been selected, and are defined in general terms so as to focus attention on what the Commission considers to be the most relevant factors (e.g., for drug offenses, the amount and purity of the illicit substance involved).

IMPACT OF THE PROPOSED CHANGES

Most of the proposed changes have for their purpose a clarification of present practice. Some new offense behavior examples are added because the increasing frequency of such cases in the Federal prison system requires the Commission to be concerned about avoiding inconsistent severity ratings. (If an offense behavior is not presently listed in the guidelines, the proper category is obtained by comparing the severity of that offense behavior with that of similar behaviors listed.) The rating of such offense behaviors is intended to reflect present practice of the Commission.

In other cases, amendments would be made to the offense behavior examples that would result in changing the duration of confinement such prisoners would serve. For example, certain income tax evaders, and persons possessing or transporting explosives, would be expected to serve longer periods of confinement under the proposed guidelines. On the other hand, levels of incarceration for other tax offenders and certain illicit drug offenders would be decreased to some extent. In general, the Commission's conclusion is that the proposed changes would not be the cause of any appreciable difference in prison population.

IMPLEMENTATION

The Commission has adopted a general policy that guideline changes requiring more confinement will not be applied retroactively to any prisoner who has received his or her initial hearing prior to the effective date of the final rule. However, the Commission will apply changes in the direction of leniency retroactively to prisoners already considered for parole, whose cases would be directly affected by such a change. This reconsideration would be accomplished either at the prisoner's next scheduled review hearing, or on a specially ordered review. Given the extended time for public comment, the Commission contemplates that the final rule would become effective some time in the spring of 1979.

II. *The specific amendments proposed:*

ATTENTION

The text of the following proposed amendment uses ► ◄ arrows to indicate additions and [ ] brackets to indicate deletions.

1. *Property offenses.* It is proposed that the property offense categories be modified as follows:

LOW

Property offenses [theft, ►income tax evasion◄, or simple possession of stolen property] less than $1,000.

LOW MODERATE

Property offenses [forgery/fraud/theft from mail/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property with intent to resell] less than $1,000.

[Income tax evasion (less than $10,000.)]

MODERATE

Property offenses [theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/►income tax evasion◄/receiving stolen property] $1,000 to $19,999.

[Income tax evasion ($10,000 to $50,000.)[

[Theft of motor vehicle (not multiple theft or for resale.)]

HIGH

Property offenses [theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/►income tax evasion◄/receiving stolen property] $20,000 to $100,000.

[Theft of motor vehicle for resale.]

VERY HIGH

Property offenses [theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/►income tax evasion◄/receiving stolen property] over $100,000 but not exceeding $500,000.

►NOTE.—Theft of motor vehicles shall be treated as property offense (theft).◄

Comment

The above changes would (1) treat income tax evaders on the same level of seriousness with ordinary property offenders (i.e. theft), that is, according to the amount by which the Government was defrauded; and (2) also treat auto thefts as equivalent to ordinary property offenses.

In the case of income tax evaders, the practical result would be a lower severity rating for offenses involving less than $1,000, and an increased severity rating for offenses between $1,000 and $9,999 and for offenses between $20,000 and $50,000. There would be no change for offenses involving $10,000 to $20,000. (Offenses involving more than $50,000 are now presently rated by extrapolation.)

In the case of motor vehicle thefts, the practical results would be to reduce the severity level for theft of a motor vehicle with intent to resell unless the value of the vehicles stolen was between $20,000 and $100,000, in which case the offense would still be rated as high severity. In addition, theft of a vehicle worth less than $1,000 would be rated as low severity (a reduction from high severity if the theft was for resale, and a reduction from moderate severity if not for resale).

2. *Counterfeiting offenses.* It is proposed that counterfeiting and related offenses be modified as follows:

LOW MODERATE

Counterfeit currency [(passing/possession) less than $1,000].

MODERATE

Counterfeit currency [(passing/possession) $1,000 to $19,999].

HIGH

Counterfeit currency [(passing/possession) $20,000 to $100,000◄].

Counterfeit [(manufacturing/►possession of plates) not exceeding $100,000◄].

VERY HIGH

►Counterfeiting [(passing/possession/manufacturing/possession of plates) over $100,000 but not exceeding $500,000].◄

* * * * *

Comment

The above changes would clarify present practice by equating the possession of plates with actual manufacturing of counterfeit currency. Because of the obvious potential gain to be derived from having the means to manufacture currency, both offenses are rated at a minimum in the high category. Also, it would be made clear by this change that any counterfeiting offense actually involving more than $100,000 but not exceeding $500,000 would fall into the very high category.

3. *Breaking and entering.* It is proposed that offenses involving breaking and entering be modified as follows:

HIGH

►1Breaking and entering/burglary—residence (not occupied).◄

VERY HIGH

Breaking and entering [bank or post office—entry or attempted entry to vault; ◄1 or armory with intent to steal weapons◄]

►Breaking and entering/burglary—residence (occupied), or other premises with confrontation with victim.◄

►NOTE.—Breaking and entering not specifically listed above shall normally be treated as a low moderate severity offense; however, if the monetary loss amounts to $1,000 or more, the applicable property offense category is to be used.◄

* * * * *

Comment

This change primarily reflects the increasing frequency of burglary cases (reflecting the use of the guidelines in revocation cases) and the need for establishment of an explicit policy governing these cases. See 28 CFR § 2.21. Breaking and entering into an armory is also reflected for the first time, and equated with breaking and entry into a bank or post office with entry or attempted entry to the vault.

4. *Gambling law violations.* It is proposed that offenses involving gambling law violations be modified as follows:

MODERATE

►Gambling law violations—small scale (e.g., estimated daily gross of under $5,000).◄

HIGH

►Gambling law violations—medium scale (e.g., estimated daily gross from $5,000 to $15,000).◄

VERY HIGH

►Gambling law violations—large scale (e.g., estimated daily gross over $15,000).◄

* * * * *

Comment

This proposed change would introduce specific examples for the rating of gambling law violations to increase consistency in present practice in the rating of such offenses.

5. *Violent crimes.* It is proposed that the rating of the offenses of arson, murder, and kidnapping be modified as follows:

HIGH

►Involuntary manslaughter (e.g., negligent homicide).◄

GREATEST I

Aggravated felony (e.g., robbery: Weapon fired [no serious injury] or injury of a type normally requiring medical attention◄.

►Arson or◄ explosive detonation [involving potential risk of physical injury to person(s) ►(e.g., premises occupied or likely to be occupied)◄—no serious injury occurred].

►Kidnapping [other than listed below; limited duration; no harm to victim (e.g., kidnapping the driver of a

truck during a hijacking, driving him to a secluded location, and releasing him unharmed)].◄

►Voluntary manslaughter (unlawful killing of a human being without malice; sudden quarrel or heat of passion).◄

GREATEST II

Aggravated felony—serious injury (e.g., injury involving substantial risk of death, or protracted disability, or disfigurement) ►or extreme cruelty/brutality toward victim.◄

Kidnaping ►(for ransom or terrorism; as hostage; or harm to victim).◄

[Homicide (intentional or committed during other crime).]

►Murder.◄

►Treason.◄

* * * * *

Comment

This proposal (1) equates arson with detonation of explosives and clarifies the requirement for potential risk of injury to justify a greatest I severity rating; (2) distinguishes the various forms of homicide as involuntary manslaughter, voluntary manslaughter, and murder; and (3) distinguishes between different types of kidnaping to avoid equating an incidental kidnaping of brief duration with a kidnaping for ransom, terrorism, or the like motive. The proposal would also avoid the possibility that a minimal form of battery (during a brief scuffle, for example, in the course of an arrest) might result in a greatest I rating, by specifying that if an offense is to be rated as greatest I, an injury must have been inflicted that would normally require medical attention.

6. *Extortions, threatening communications, and robberies by threat.* It is proposed to modify these examples as follows:

MODERATE

[Mailing] Threatening communications ►(e.g., mail/phone)—not for purposes of extortion and no other overt act.◄

VERY HIGH

Extortion►[threat (explicit or implied) of physical harm (to person or property)]◄.

Robbery [weapon or threat ►(explicit or implied)◄].

* * * * *

COMMENT

This proposal clarifies that all forms of threatening communications (provided they are not for the purpose of extortion and are not actually extended to an overt act) are to be rated in the moderate category. The proposal also clarifies that an extortion or robbery can be accomplished by an implicit as well as an explicit threat.

7. *Bribery.* It is proposed that the offense example of "bribery of a public official (offering or accepting)" be deleted from the moderate category and that the following note be added to the guidelines to cover this subject:

►NOTE.—Bribery of a public official (offering or accepting) or extortion (by use of official position—no threat of physical harm) shall be guided by the applicable property offense category (according to the value of the bribe/demand or favor received in return, whichever is greater), but in any event shall not be less than moderate severity for instance limited in scope (e.g., single instance, not multiple victims); and shall be rated as no less than high severity in any other case.◄

* * * * *

COMMENT

This change would require a distinction between small and large bribery offenses. It also distinguishes between extortion involving a physical threat and "extortion" by use of official position.

8. *Drug law violations.* It is proposed that the drug categories be modified as follows:

LOW

[Marihuana or soft] ►Illicit◄ drugs, simple possession (small quantity for own use).

LOW MODERATE

►Marihuana, possession with intent to distribute/sale [very small scale (e.g., less than 10 lbs)—.◄

►Hashish or hash oil, possession with intent to distribute/sale [very small scale (e.g., less than 1 lb. of hashish or less than one centiliter of hash oil)].◄

MODERATE

Marihuana, possession with intent to distribute/sale [small scale (e.g., [less than 50 lbs.] ►10 to 49.9 lbs.)◄].

Hashish or hash oil; possession with intent to distribute/sale [small scale (e.g., 1 to 4.9 lbs. of hashish or 1 to 4.9 centiliters of hash oil)].

Soft drugs, possession with intent to distribute/sale [(less than $500)] ►[small scale (e.g., less than 1,000 doses)].◄

►Cocaine, possession with intent to distribute/sale [small scale (e.g., less than 1.5 grams of 100 percent purity, or equivalent amounts)].◄

HIGH

Marihuana, possession with intent to distribute/sale [medium scale (e.g., 50 to 1,999 lbs.)].

►Hashish or hash oil, possession with intent to distribute/sale [medium scale (e.g., 5 to 199 lbs. of hashish or 5 to 199 centiliters of hash oil)].◄

Soft drugs, possession with intent to distribute/sale [($500 to $5,000)] ►[medium scale (e.g., 1,000 to 9,999 doses)].◄

►Cocaine, possession with intent to distribute/sale [medium scale (e.g., 1.5 to 15 grams of 100 percent purity, or equivalent amount)].◄

►Opiates, possession with intent to distribute/sale [small scale (e.g., less than 5 grams of heroin of 100 percent purity, or equivalent amount)].◄

VERY HIGH

Marihuana, possession with intent to distribute/sale [large scale (e.g., 2,000 lbs. or more)].

►Hashish or hash oil, possession with intent to distribute/sale [large scale (e.g., 200 lbs. or more of hashish or 200 centiliters or more of hash oil)].◄

Soft drugs, possession with intent to distribute/sale [(over $5,000)] ►[large scale (e.g., 10,000 to 100,000 doses)].◄

►Cocaine, possession with intent to distribute/sale [large-scale (e.g., 15 to 150 grams of 100 percent purity, or equivalent amounts)].◄I11[Hard drugs], ►Opiates,◄ possession with intent to distribute/sale [(not exceeding $100,000)] ►[medium scale (e.g., 5 to 50 grams of heroin of 100 percent purity, or equivalent amount)].◄

GREATEST I

►Soft drugs, possession with intent to distribute/sale [very large scale (e.g., over 100,000 doses)].◄

►Cocaine, possession with intent to distribute/sale [very large scale (e.g., over 150 grams of 100 percent purity, or equivalent amount)].◄

[Hard drugs] ►Opiates,◄ possession with intent to distribute/sale [large scale [(e.g., over $100,000)] ►(e.g., over 50 grams of heroin of 100 percent purity, or equivalent amount)].◄

Change footntoe 6:

["Hard drugs"] ►Opiates◄ include heroin, [cocaine], morphine, or opiate derivatives, and synthetic opiate substitutes.

"Soft drugs" include, but are not limited to, barbiturates, amphetamines, LSD, [and hashish].

►"Equivalent amounts" for opiates or cocaine may be computed, for example, as follows: Five (5) grams of 100 percent purity is equivalent to 10 grams of 50 percent purity or 20 grams of 25 percent purity.◄

* * * * *

Comment

The changes may be summarized as follows:

(1) Simple possession of a small quantity of any illicit drug for the possessor's own use would be rated as low severity. This type of offense is encountered almost entirely in the context of revocation cases, rather than new Federal prison sentences. Thus, enlarging this category to include all illicit drugs (rather than just simple possession of marihuana or "soft" drugs) does not amount to an actual change, since "drug abuse" (including hard drugs) under the reparole guidelines is presently treated as the equivalent of low severity offense. (The 2-month difference between the 12- to 18-month low severity guideline range and the 12- to 16-month negative supervision range in the reparole guidelines is a matter that the Commission needs to resolve after review of the public comment.)

(2) A new offense behavior example for small sales of marihuana and hashish (and possession with intent to distribute) is created in the low-moderate category. The proposal also includes a 1 to 10 proportionate relation of hash oil to hashish to marihuana in term of potency. (These substances are merely the grosser and purer refinements of the same plant product.)

(3) The rating of hashish and hash oil is also given specific guidance.

(4) "Soft drugs" would be rated according to amount (doses) rather than estimated monetary value. While the exact amount involved in a "dose" (pill, cube, etc.) may vary somewhat, the Commission feels that this system would be ultimately more equitable than continued dependence on estimated street value. The ratings are designed not to effect any significant change in the treatment of soft drugs (barbituates, amphetamines, "PCP," etc.).

(5) Cocaine under this proposal would not be equated with heroin (as it is at present) because it is not a narcotic drug. Thus, it has been rated separately, according to the weight and purity involved. This change would result in cocaine offenders generally serving less time.

(6) Ratings for heroin and other opiates would be based upon both weight and purity. The commission feels that the policy of rating all heroin sales of up to $100,000 in the very high category is not appropriate and is attempting to distinguish between small- and medium-scale dealers. This will reduce the severity rating for relatively small-scale offenses (i.e., those involving 5 grams or less of 100 percent purity or equivalent).

9. *Alcohol law violations.* It is proposed to decrease the severity rating for alcohol law violators from low moderate to low.

10. *Possession and transportation of explosives.* It is proposed to raise the rating of explosives (possession/transportation) from hight to very high.

11. *Obstruction of justice.* An obstruction of justice classification is to be created by deleting "misprision of felony" from the moderate severity category and substituting the following footnote:

►Obstructing justice [e.g., misprision/concealing of felony] shall normally be rated as one category lower than the underlying offense concerned [e.g., obstruction of justice involving a robbery (very high severity offense) shall be rated as one category lower (i.e., high severity)]. If the underlying offense is low severity, obstruction of justice shall also be rated as low severity. Perjury for the purpose of frustrating a criminal proceeding shall be rated as one category lower than the underlying offense concerned; but in no case as less than low moderate severity.◄

Comment

The Commission has found that obstruction of justice offenses might be more appropriately rated in specific relation to the underlying offense involved, rather than by a simple equation with "misprision of felony" in the moderate category.

12. *Selective Service violators.* It is proposed that Selective Service violations be deleted altogether.

13. *Continuances.* It is proposed that footnote 5 to the guidelines (dealing with continuances) be deleted in view of the Commission's present policy of setting presumptive release dates at the outset of confinement. See 42 FR 39808 (Friday, August 5, 1977).

THE PROPOSED GUIDELINE TABLE

The changes proposed above would result in the following revised guideline table, which is set forth below for the reader's convenience:

Adult

Offense characteristics: severity of offense behavior (examples)	Offender characteristics: parole prognosis (salient factor score)			
	Very good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
LOW				
Alcohol law violations Escape (open institution or program (e.g., CTC, work release) absent less than 7 days). Illicit drugs, simple possession (small quantity for own use). Property offenses (theft, income tax evasion, or simple possession of stolen property) less than $1,000.	6 to 10 mo..	8 to 12 mo..	10 to 14 mo	12 to 18 mo.
LOW MODERATE				
Counterfeit currency ((passing/possession) less than $1,000). Drugs: Marihuana, possession with intent to distribute/sale (very small scale (e.g., less than 10 lb.)). Hashish or hash oil, possession with intent to distribute /sale (very small scale (e.g., less than 1 lb of hashish or less than 1 centiliter of hash oil)). Immigration law violations Property offenses (forgery/fraud/theft from mail/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property with intent to resell) less than $1,000.	8 to 12 mo..	12 to 16 mo	16 to 20 mo	20 to 28 mo.
MODERATE				
Counterfeit currency ((passing/possession) $1,000 to $19,999). Drugs: Marihuana, possession with intent to distribute/sale (small scale (e.g., 10 to 49.9 lb)). Hashish or hash oil, possession with intent to distribute/sale (small scale (e.g., 1 to 4.9 lb of hashish or 1 to 4.9 centiliters of hash oil)). Soft drugs, possession with intent to distribute/sale small scale, (e.g., less than 1,000 doses)). Cocaine, possession with intent to distribute/sale (small scale (e.g., less than 1.5 grams of 100 pct purity, or equivalent amount)). Escape (secure program or institution, or absent 7 days or more, no fear or threat used). Firearms Act, possession/purchase/sale (single weapon: not sawed-off shotgun or machine gun). Gambling law violations to small scale (e.g. estimated daily gross of under $5,000). Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) $1,000 to $19,999. Smuggling/transporting of alien(s) Threatening communications (e.g., mail/phone)—not for purposes of extortion and no other overt act.	12 to 16 mo	16 to 20 mo	20 to 24 mo	24 to 32 mo.

Adult—Continued

Offense characteristics: severity of offense behavior (examples)	Offender characteristics: parole prognosis (salient factor score)			
	Very good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
HIGH				
Breaking and entering/burglary—residence (not occupied). Counterfeit currency ((passing/possession) $20,000 to $100,000). Counterfeiting ((manufacturing/possession of plates)—not exceeding $100,000).. Drugs: Marihuana, possession with intent to distribute/sale (medium scale (e.g., 50 to 1,999 lbs.)). Hashish or hash oil, possession with intent to distribute/sale (medium scale (e.g., 5 to 199 lbs. of hashish or 5 to 199 centiliters of hash oil)). Soft drugs, possession with intent to distribute/sale (medium scale (e.g., 1,000 to 9,999 doses)).. Cocaine, possession with intent to distribute/sale (medium scale (e.g., 1.5 to 15 grams of 100 pct purity, or equivalent amount)). Opiates, possession with intent to distribute/sale (small scale (e.g., less than 5 grams of heroin of 100 pct purity, or equivalent amount)). Firearms Act, possession/purchase/sale (sawed-off shotgun(s), machine gun(s), or multiple weapons). Gambling law violations—medium scale (e.g., estimated daily gross from $5,000 to $15,000). Involuntary manslaughter (e.g., negligent homicide)..... Mann Act (no force—commercial purposes)..... Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) $20,000 to $100,000.	16 to 20 mo	20 to 26 mo	26 to 34 mo	34 to 44 mo.
VERY HIGH				
Robbery (weapon or threat (explicit or implied))..... Breaking and entering (bank or post office—entry or attempted entry to vault; or armory with intent to steal weapons). Breaking and entering/burglary—residence (occupied), or other premises with confrontation with victim. Counterfeiting ((passing/possession/manufacturing/possession of plates) more than $100,000 but less than $500,000)). Drugs: Marihuana, possession with intent to distribute/sale (large scale (e.g., 2,000 lb or more)). Hashish or hash oil, possession with intent to distribute/sale (large scale (e.g., 200 lb or more of hashish or 200 centiliters or more of hash oil)). Soft drugs, possession with intent to distribute/sale (large scale (e.g., 10,000 to 100,000 doses)). Cocaine, possession with intent to distribute/sale (large scale (e.g., 15 to 150 grams of 100 pct purity, or equivalent amount)). Opiates, possession with intent to distribute/sale (medium scale (e.g., 5 to 50 grams of heroin of 100 pct purity, or equivalent amount)). Extortion (threat (explicit or implied) of physical harm (to person or property)). Explosives, possession/transportation..... Gambling law violations—large scale (e.g., estimated daily gross over $15,000). Mann Act (force)..... Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) over $100,000 but not exceeding $500,000.	26 to 36 mo	36 to 48 mo	48 to 60 mo	60 to 72 mo.
GREATEST I				
Aggravated felony (e.g., robbery: weapon fired or injury of a type normally requiring medical attention). Arson or explosive detonation (involving potential risk of physical injury to person(s) (e.g., premises occupied or likely to be occupied)—no serious injury occurred). Drugs: Soft drugs, possession with intent to distribute/sale (very large scale (e.g., over 100,000 doses)). Cocaine, possession with intent to distribute/sale (very large scale (e.g., over 150 grams of 100 pct purity, or equivalent amount)). Opiates, possession with intent to distribute/sale (large scale (e.g., over 50 grams of heroin of 100 pct purity, or equivalent amount)). Kidnaping (other than listed below; limited duration; no harm to victim (e.g., kidnaping the driver of a truck during a hijacking, driving him to a secluded location, and releasing him unharmed)).	40 to 55 mo	55 to 70 mo	70 to 85 mo	85 to 110 mo.

Adult—Continued

Offense characteristics: severity of offense behavior (examples)	Offender characteristics: parole prognosis (salient factor score)			
	Very good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
Robbery (multiple instances (2-3))				
Sexual act: force (e.g., forcible rape)				
Voluntary manslaughter (unlawful killing of a human being without malice; sudden quarrel or heat of passion).				
GREATEST II				
Murder				
Aggravated felony—serious injury (e.g., injury involving substantial risk of death, or protracted disability, or disfigurement) or extreme cruelty/brutality towards victim.	Greater than above—however, specific ranges are not given due to the limited number of cases and the extreme variation possible within the category.			
Aircraft hijacking				
Espionage				
Kidnaping (for ransom or terrorism; as hostage; or harm to victim).				
Treason				

Youth and NARA

LOW				
Alcohol law violations				
Escape (open institution or program (e.g., CTC, work release) absent less than 7 days).				
Illicit drugs, simple possession (small quantity for own use).	6 to 10 mo..	8 to 12 mo..	10 to 14 mo	12 to 18 mo
Property offenses (theft, income tax evasion, or simple possession of stolen property) less than $1,000.				
LOW MODERATE				
Counterfeit currency ((passing/possession) less than $1,000))..				
Drugs:				
Marihuana, possession with intent to distribute/sale (very small scale (e.g., less than 10 lb.)).				
Hashish or hash oil, possession with intent to distribute/sale (very small scale (e.g., less than 1 lb of hashish or less than 1 centiliter of hash oil)).	8 to 12 mo..	12 to 16 mo	16 to 20 mo	20 to 26 mo.
Immigration law violations				
Property offenses (forgery/fraud/theft from mail/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property with intent to resell) less than $1,000.				
MODERATE				
Counterfeit currency ((passing/possession) $1,000 to $19,999).				
Drugs:				
Marihuana, possession with intent to distribute/sale (small scale (e.g., 10 to 49.9 lb)).				
Hashish or hash oil, possession with intent to distribute/sale (small scale (e.g., 1 to 4.9 lb of hashish or 1 to 4.9 centiliters of hash oil)).				
Soft drugs, possession with intent to distribute/sale (small scale e.g., less than 1,000 doses).				
Cocaine, possession with intent to distribute/sale (small scale 1.5 grams of 100 pct purity, or equivalent amount)).				
Escape (secure program or institution, or absent 7 days or more, no fear or threat used).	9 to 13 mo..	13 to 17 mo	17 to 21 mo	21 to 28 mo.
Firearms Act, possession/purchase/sale (single weapon: not sawed-off shotgun or machine gun).				
Gambling law violations to small scale (e.g. estimated daily gross of under $5,000).				
Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) $1,000 to $19,999.				
Smuggling/transporting of alien(s)				
Threatening communications (e.g., mail/phone)—not for purposes of extortion and no other overt act.				
HIGH				
Breaking and entering/burglary—residence (not occupied).				
Counterfeit currency ((passing/possession) $20,000 to $100,000).				
Counterfeiting ((manufacturing/possession of plates)—not exceeding $100,000)..				

Youth and NARA—Continued

Offense characteristics: severity of offense behavior (examples)	Offender characteristics: parole prognosis (salient factor score)			
	Very good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
Drugs: Marihuana, possession with intent to distribute/sale (medium scale (e.g., 50 to 1,999 lb.)). Hashish or hash oil, possession with intent to distribute/sale (medium scale (e.g., 5 to 199 lb. of hashish or 5 to 199 centiliters of hash oil)). Soft drugs, possession with intent to distribute/sale (medium scale (e.g., 1,000 to 9,999 doses).. Cocaine, possession with intent to distribute/sale (medium scale (e.g., 1.5 to 15 grams of 100 pct purity, or equivalent amount)). Opiates, possession with intent to distribute/sale (small scale (e.g., less than 5 grams of heroin of 100 pct purity, or equivalent amount)). Firearms Act, possession/purchase/sale (sawed-off shotgun(s), machine gun(s), or multiple weapons). Gambling law violations—medium scale (e.g., estimated daily gross from $5,000 to $15,000). Involuntary manslaughter (e.g., negligent homicide)..... Mann Act (no force—commercial purposes)..... Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) $20,000 to $100,000.	12 to 16 mo	16 to 20 mo	20 to 26 mo	26 to 32 mo
VERY HIGH				
Robbery (weapon or threat (explicit or implied))..... Breaking and entering (bank or post office—entry or attempted entry to vault; or armory with intent to steal weapons). Breaking and entering/burglary—residence (occupied), or other premises with confrontation with victim. Counterfeiting ((passing/possession/manufacturing/possession of plates) more than $100,000 but less than $500,000). Drugs: Marihuana, possession with intent to distribute/sale (large scale (e.g., 2,000 lb or more)). Hashish or hash oil, possession with intent to distribute/sale (large scale (e.g., 200 lb or more of hashish or 200 centiliters or more of hash oil)). Soft drugs, possession with intent to distribute/sale (large scale (e.g., 10,000 to 100,000 doses)). Cocaine, possession with intent to distribute/sale (large scale (e.g., 15 to 150 grams of 100 pct purity, or equivalent amount)). Opiates, possession with intent to distribute/sale (medium scale (e.g., 5 to 50 grams of heroin of 100 pct purity, or equivalent amount)). Extortion (threat (explicit or implied) of physical harm (to person or property)). Explosives, possession/transportation..... Gambling law violations—large scale (e.g., estimated daily gross over $15,000). Mann Act (force)..... Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) over $100,000 but not exceeding $500,000.	20 to 27 mo	27 to 34 mo	34 to 41 mo	41 to 48 mo
GREATEST I				
Aggravated felony (e.g., robbery: weapon fired or injury of a type normally requiring medical attention). Arson or explosive detonation (involving potential risk of physical injury to person(s) e.g., premises occupied or likely to be occupied)—no serious injury occurred). Drugs: Soft drugs, possession with intent to distribute/sale (very large scale (e.g., over 100,000 doses)). Cocaine, possession with intent to distribute/sale (very large scale (e.g., over 150 grams of 100 pct purity, or equivalent amount)). Opiates, possession with intent to distribute/sale (large scale (e.g., over 50 grams of heroin of 100 pct purity, or equivalent amount)). Kidnaping (other than listed below; limited duration; no harm to victim (e.g., kidnaping the driver of a truck during a hijacking, driving him to a secluded location, and releasing him unharmed)). Robbery (multiple instances (2-3))..... Sexual act: force (e.g., forcible rape)..... Voluntary manslaughter (unlawful killing of a human being without malice; sudden quarrel or heat of passion).	30 to 40 mo	40 to 50 mo	50 to 60 mo	60 to 78 mo.

Youth and NARA—Continued

Offense characteristics: severity of offense behavior (examples)	Offender characteristics: parole prognosis (salient factor score)			
	Very good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
GREATEST II				
Murder Aggravated felony—serious injury (e.g., injury involving substantial risk of death, or protracted disability, or disfigurement) or extreme cruelty/brutality towards victim. Aircraft hijacking Espionage Kidnaping (for ransom or terrorism; as hostage; or harm to victim). Treason	Greater than above—however, specific ranges are not given due to the limited number of cases and the extreme variation possible within the category.			

NOTES

1. These gudelines are predicated upon good institutional conduct and program performance.

2. If an offense behavior is not listed above, the proper category may be obtained by comparing the severity of the offense behavior with those of similar offense behaviors listed.

3. If an offense behavior can be classified under more than one category, the most serious applicable category is to be used.

4. If an offense behavior involved multiple separate offenses, the severity level mey be increased.

5. "Opiates" include heroin, morphine, or opiate derivatives, and synthetic opiate substitutes. "Soft drugs" include, but are not limited to, barbiturates, amphetamines, LSD.

6. "Equivalent amounts" for opiates or cocaine may be computed, for example, as follows: five (5) grams of 100 pct purity is equivalent to 10 grams of 50 percent purity; or 20 grams of 25 pct purity.

7. Manufacturing of synthetic drugs for commercial purposes shall be rated as not less than "very high" severity.

8. Conspiracy shall be rated for guideline purposes according to the underlying offense behavior if such behavior was consummated. If the offense is unconsumated, the conspiracy will be rated one step below the consummated offense.

9. Theft of motor vehicles shall be treated as a property offense (theft).

10. Breaking and entering not specifically listed above shall normally be treated as a "low moderate" severity offense; however, if the monetary loss amounts to $1,000 or more, the applicable property offense category is to be used.

11. Bribery of a public official (offering or accepting) or extortion (by use of official position—no threat of physical harm shall be guided by the applicable property offense category (according to the value of the bribe/demand of favor received in return, whichever is greater), but in any event shall not be less than moderate severity for instances limited in scope (e.g., single instance, not multiple victims); and shall be rated as no less than high severity in any other case.

12. Obstructing justice [e.g., misprison/concealing of a felony] shall normally be rated as one category lower than the underlying offense concerned [e.g., obstruction of justice involving a robbery (very high severity offense) shall be rated as one category lower (i.e., high severity)]. If the underlying offense is low severity, obstruction of justice shall also be rated as low severity. Perjury for the purpose of frustrating a criminal proceeding shall be rated as one category lower than the underlying offense concerned; but in no case as less than low moderate severity.

Dated October 2, 1978.

CECIL C. MCCALL,
Chairman,
U.S. Parole Commission.

[FR Doc. 78-28239 Filed 10-10-78; 8:45 am]

[7708-01-M]

PENSION BENEFIT GUARANTY CORPORATION

[29 CFR Part 2610]

VALUATION OF PLAN BENEFITS

Inerim Regulation; Proposed Amendment

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed amendment to the interim regulation.

SUMMARY: This proposed rule prescribes the rates and factors to be used for valuing plan benefits under Title IV of the Employee Retirement Income Security Act of 1974 for plans that terminated on or after June 1, 1978, but before September 1, 1978. It is necessary because the PBGC has not yet published valuation rates and factors for plans that terminated during the period covered by the proposed amendment. The proposed amendment's effect is to provide notice of the rates and factors that will be used to value benefits provided under such plans.

DATES: Comments should be submitted on or before November 13, 1978.

ADDRESSES: Comments should be sent to: Office of the General Counsel, Pension Benefit Guaranty Corporation, Room 7200, 2020 K Street NW., Washington, D.C. 20006. Copies of written comments will be available for examination in: Office of Communications, Pension Benefit Guaranty Corporation, Suite 7100, 2020 K Street NW., Washington, D.C., between the hours of 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT:

William E. Seals, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006; 202-254-4895.

SUPPLEMENTARY INFORMATION: On November 3, 1976, the Pension Benefit Guaranty Corporation (the "PBGC") issued an interim regulation establishing the methods for valuing plan benefits under Title IV of the Employee Retirement Income Security Act of 1974 (the "Act") (41 FR 48484 et seq.). The regulation included an appendix containing rates and factors to be used to value benefits in plans that terminated on or after September 2, 1974, but before October 1, 1975. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after October 1, 1975, but before March 1, 1978 (42 FR 2678 et seq., 42 FR 32777 et seq., 42 FR 41858 et seq., 42 FR 59753 et seq., 43 FR 10560 et seq., 43 FR 25337 et seq.). On July 19, 1978, the PBGC published for comment in the FEDERAL REGISTER Additional rates and factors for valuing benefits in plans that terminate on or after March 1, 1978, but before June 1, 1978 (43 FR 31043 et seq.). The PBGC has now developed and factors for valuing benefits in plans that terminate on or after June 1, 1978 but before September 1, 1978, and proposes to amend the interim regulation to add these factors.

The PBGC has determined that this proposed amendment to the Valuation of Benefits regulation is not "significant" under the criteria prescribed by Executive Order 12044, "Improving Government Regulations," 43 FR 12661 (Mar. 24, 1978), and the PBGC's proposed Statement of Policy implementing the Order, 43 FR 22608 (May 25, 1978). The reasons for this determination are that this proposal is not likely to engender substantial public interest or controversy, does not affect another Federal agency, and will not have a major economic impact.

Each person submitting comments on this proposal should include his/her name and address, identify this notice and give reasons for any recommendation. The proposal may be changed in the light of comments received.

In consideration of the foregoing, it is proposed to amend Part 2610 of Chapter XXVI of Title 29, Code of Federal Regulations, by adding a new table XII to Appendix B to read as follows:

XII. *The following interest rates and quantities used to value benefits shall*

be effective for plans that terminate on or after June 1, 1978, but before September 1, 1978.

I. *Interest rate for valuing immediate annuities.*

An interest rate of 7¼ percent shall be used to value immediate annuities, to compute the quantity "Gy" in § 2610.6 and for valuing both portions of a cash refund annuity.

II. *Interest rate for valuing death benefits.*

An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a cash refund annuity pursuant to § 2610.8.

III. *Interest rates and quantities used for valuing deferred annuities.*

The following factors shall be used to value deferred annuities pursuant to § 2610.6:

(1) $k_1 = 1.0675$
(2) $k_2 = 1.0475$
(3) $k_3 = 1.035$
(4) $n_1 = 7$
(5) $n_2 = 10$

(Secs. 4002(b)(3), 4041(b), 4044, 4062(b)(1)(A), Pub. L. 93-406, 88 Stat. 1004, 1020, 1025-27, 1029 (29 U.S.C. 1302(b)(3), 1341(b), 1344, 1362(b)(1)(A)).)

Issued at Washington, D.C., on this 4th day of October 1978.

MATTHEW M. LIND,
Executive Director, Pension Benefit Guaranty Corporation.

Issued on the date set forth above, pursuant to a resolution of the Board of Directors authorizing its Executive Director to issue same.

HENRY ROSE,
Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 78-28764 Filed 10-10-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 985-3]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Arkansas Air Quality Surveillance Network Revision

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This rule proposes approval of revisions to Arkansas' Air Quality Surveillance Network. The revisions involve movement of 12 monitoring sites from the original locations and the elimination of a hi-vol sampler. The moves range in distance from 73 meters to approximately 73 kilometers. The new site locations will provide better operator access and better site facilities. As a result, both the quantity and accuracy of air quality data are expected to increase. The elimination of the hi-vol sampler was evaluated and the remaining network is an adequate SIP network.

DATE: Comments on the proposed approval should be submitted before November 13, 1978, in order to be considered by EPA in arriving at a final approval/disapproval decision.

ADDRESSES: Please forward your comments to the Environmental Protection Agency, Attention: Jerry Stubberfield (6AAHAP), 1201 Elm Street, Dallas, Tex. 75270. Copies of the State's submittals are available for inspection during normal business hours at the following locations: Environmental Protection Agency, Region VI, Air Program Branch, 1201 Elm Street, Dallas, Tex. 75270; Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Room 2922, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Anita B. Turpin, Air Program Branch, Region VI, Dallas, Tex. 75270, 214-767-2742.

SUPPLEMENTARY INFORMATION: The proposed revisions were submitted by the Arkansas Department of Pollution Control and Ecology on February 15, 1977, January 10, 1978, and March 27, 1978. A detailed discussion of each revision is provided below. The table below lists all of the sites to be changed by the three proposed revisions.

12 MONITORING SITES

ID No.	City	Sampler
1. 041260001F01[1]	Jacksonville	Hi vol.
2. 042280002F01[1]	Russellville	Do.
3. 041140002F01[1]	Hot Springs	Do.
4. 0425600D2F01[1]	Texarkana	Hi vol, SO_2 and NO_2 bubbler.
5. 041120002F01[1]	Hope	Hi vol.
6. 040620002F01[1]	Crossett	Do.
7. 040780002F01[1]	El Dorado	Hi vol, SO_2 and NO_2 bubbler.
8. 040900001F01[1]	Forest City	Hi vol.
9. 040860003F01[1]	Fayetteville	Do.
10. 042480002F01[1]	Springdale	Do.
11. 040920008F01[1]	Fort Smith	Hi vol, SO_2 and NO_2 bubbler.
12. 040200001F01[2,3]	Blytheville	Do.

[1] Feb. 15, 1977—1 of 11 monitoring sites to be moved.
[2] Jan. 10, 1978—SO_2 and NO_2 bubbler to be moved to Jonesboro.
[3] Mar. 27, 1978—Hi vol to be deleted from network.

FEBRUARY 15, 1977

Arkansas proposes to move 11 monitoring sites. Through an audit of the Arkansas surveillance network, the State developed information for designating an official SIP network. The original network was designed to be operated by part-time help. However, much data was found to be unreliable and the State determined a network designed around part-time help would not yield information needed. After numerous problems, a network was developed and completed by January 1973. An evaluation of data showed the proposed moves would generate more reliable data and establish a network which will be more easily operated than originally designated.

JANUARY 10, 1978

Arkansas has attempted to operate a sulfur dioxide (SO_2) and nitrogen dioxide (NO_2) gas sampler at Blytheville, Ark. However, due to poor transportation facilities for handling samples, the State requested permission to move the samplers from the Blytheville site to the Jonesboro site. Evaluation of the proposed network change has determined the proposed relocation will not adversely affect the adequacy of the Arkansas Air Quality Surveillance Network for determining compliance with the National Ambient Air Quality Standards for SO_2 and NO_2.

MARCH 27, 1978

Arkansas has been operating a hi-vol sampler at Blytheville, Ark. The Agency was requested to remove the sampler from the building by the building owner. The State is presently operating six other hi-vol samplers in the surrounding area and has verified that the remaining hi-vols in the area should measure concentration of particulate matter similar to concentrations would be measured at Blytheville. The remaining network is considered an adequate SIP network.

(This notice of proposed rulemaking is issued under the authority of sec. 110(a) of

the Clean Air Act, as amended, 42 U.S.C. 7410-(a).)

Dated: September 15, 1978.

EARL N. KARL,
Acting Regional Administrator.

It is proposed to amend part 52 of chapter 1, title 40 of the Code of Federal Regulations as follows:

Subpart E—Arkansas

1. In § 52.170, paragraph (c) is amended by adding a new subparagraph (6) as follows:

§ 52.170 Identification of plan.

* * * * *

(c) * * *

(6) Administrative changes to the Arkansas Air Quality Surveillance Network were submitted by the Arkansas Department of Pollution Control and Ecology on February 15, 1977, January 10, 1978, and March 27, 1978. (Nonregulatory.)

[FR Doc. 78-28546 Filed 10-10-78; 8:45 am]

[6560-01-M]

[40 CFR Part 52]

[FRL 985-4]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Bay Area Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the Bay Area Air Pollution Control District's (APCD) rules and regulations have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board for the purpose of revising the California State implementation plan (SIP). The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted by November 13, 1978.

ADDRESSES: Comments may be sent to Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco Calif. 94105. Copies of the proposed revisions are available for public inspection during normal business hours at the EPA region IX office at the above address and at the following locations:

Bay Area Air Pollution Control District, 939 Ellis Street, San Francisco, Calif. 94109.

California Air Resources Board, 1102 Q Street, P.O. 2815, Sacramento, Calif. 95814.

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

Comments received will be available for public inspection at the EPA region IX office and the EPA public information reference unit.

FOR FURTHER INFORMATION CONTACT:

Wallace Woo, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted the following rules under regulation 3 on the indicated dates:

JANUARY 10, 1975

Division 1—Scope.
Chapter 2—Exclusions from application of this regulation.
Sections 1200 and 1218.
Division 2—Definitions.
Sections 2009 [deletion], 2010, 2011, 2032, 2032.1, and 2040.1.
Division 3—General limitations and requirements.
Chapter 1—General limitations.
Sections 3101.4, 3102.2, 3103.4, and 3103.6.

NOVEMBER 10, 1976

Division 1—Scope.
Chapter 1—Application of this regulation.
Section 1101.1.
Division 3—General limitations and requirements.
Chapter 1—General limitations.
Section 3103.5.
Chapter 2—General requirements.
Section 3202, Registration.

OCTOBER 13, 1977

Division 1—Scope.
Chapter 2—Exclusions from application of this regulation.
Section 1219.

NOVEMBER 4, 1977

Division 1—Scope.
Chapter 2—Exclusions from application of this regulation.
Sections 1208, 1212, 1214, and 1215.
Division 2—Definitions.
Section 2045.
Division 3—General limitations and requirements.
Chapter 1—General limitations.
Sections 3101.1, 3101.2, 3101.3.
Chapter 3—Expected source operations to conform to modern maintenance and operating practices.
Section 3317.
Sections 1200, 1218, 2009 [deletion], 2010, 2011, 2032, 2032.1, 2040,1, 3101.4, 3102.2, 3103.4, and 3103.6 were previously proposed for disapproval on January 28, 1977 (42 FR 5385). That proposal action is superseded by this notice, which proposes to take action to approve or disapprove the rules listed above.

Under section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations submitted as revisions to the SIP. The regional administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the region IX office. Comments received on or before November 13, 1978, will be considered. Comments received will be available for public inspection at the EPA region IX office and the EPA public information reference unit.

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

Dated: September 26, 1978.

SHEILA M. PRINDIVILLE,
Acting Regional Administrator.

[FR Doc. 78-28548 Filed 10-10-78; 8:45 am]

[6560-01—M]

[40 CFR Part 52]

[FRL 985-5]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Louisiana Air Quality Surveillance Network

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This action proposes approval of an administrative revision to the Louisiana State implementation plan (SIP) showing the change in location of an ozone and sulfur dioxide sampling site in New Orleans and the deletion of the list of equipment needed to complete the SIP network. This revision was submitted by the Louisiana Air Control Commission after public hearings were conducted in accordance with EPA requirements. The sampling site was moved because the original location was no longer available. Since the location of the new sampling site is in close proximity to the location of the original site, no significant differences in monitoring results will occur. The list of equipment, as compiled, is obsolete.

DATE: Comments on the proposed approval should be submitted before November 13, 1978, in order to be considered by EPA in arriving at a final approval/disapproval decision.

ADDRESSES: Please forward your comments to the Environmental Protection Agency, Attn: Jerry Stubberfield (6AAHAP), 1201 Elm Street, Dallas, Tex. 75270. Copies of the State's submittals are available for inspection during normal business hours at the following location: Environmental Protection Agency, Region VI, Air Program Branch, 1201 Elm Street, Dallas, Tex. 75270, and Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Room 2922, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Jack S. Divita, Air Program Branch, Region VI, Dallas, Tex. 75270, 214-767-2742.

SUPPLEMENTARY INFORMATION: On April 3, 1978, after adequate notice and public hearing, the Louisiana Air Control Commission (LACC) submitted a SIP revision to the Environmental Protection Agency which was approved and adopted by the Commission on March 28, 1978. The revision proposes that (1) sampling site No. 2 of table II in the Louisiana SIP be changed from "Campsite," corner of Orleans 29°58', 90°4' to State Office Building, 325 Loyola Avenue, New Orleans, 29°57', 90°4', (2) site "S-2" be deleted from the remarks column of the sulfur dioxide continuous sampling section of table I and added to the remarks column of the sulfur dioxide 24-hour sampling section of table I, and (3) the list of equipment needed to complete the SIP network be deleted as it is obsolete and no longer of any value in the plan. That page which carried the equipment list will read "Intentionally Left Blank."

BACKGROUND: The Louisiana SIP, as amended, specifies a monitoring site for ozone and sulfur dioxide to be operated in New Orleans at the intersection of Orleans Avenue and Lafitte Street. This site was located on city-owned property. In late 1974 the city of New Orleans removed the building, requiring the LACC to move the monitoring equipment. It was moved approximately three-fourths mile southwest of the original site, to the State Office Building at 325 Loyola Avenue, which maintains surroundings similar to the original site. Both sites are in a commercial district with well-traveled streets and approximately one-fourth mile from a limited access highway. Analysis of the ozone data from the original and the new site show no significant differences. The lack of personnel coupled with mechanical and maintenance difficulties precluded the operation of a continuous SO_2 monitor at the new site. Instead, the Commission is using the noncontinuous EPA reference method to monitor the SO_2 concentration.

(This notice of proposed rulemaking is issued under the authority of section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7410-(a).)

Dated: September 6, 1978.

EARL N. KARL,
Acting Regional Administrator.

It is proposed to amend part 52 of chapter 1, title 40 of the Code of Federal Regulations as follows:

Subpart T—Louisiana

1. In § 52.970, paragraph (c) is amended by adding subparagraph (10) as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

(10) An administrative revision of Air quality Surveillance was submitted by the Louisiana Air Control Commission on April 3, 1978. (Nonregulatory.)

[FR Doc. 78-28547 Filed 10-10-78; 8:45 am]

[4110-12-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 50]

Office of Education

[45 CFR Part 100b]

Office of Human Development Services

[45 CFR Chapter XIII]

CONSOLIDATED GRANTS TO THE PACIFIC ISLAND TERRITORIES AND THE VIRGIN ISLANDS

AGENCIES: Office of Education (OE), Office of Human Development Services (OHDS), and Public Health Services (PHS), HEW.

ACTION: Notice of decision to issue regulations.

SUMMARY: Title V, of Pub. L. 95-134 of the Omnibus Territories Act, authorizes the Department to consolidate grants to the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands. The purpose of title V is to minimize the burden of existing application and reporting procedures imposed on the island territories and provide flexibility in applying Federal resources to meet their needs. The Secretary has decided that formula grant programs will be eligible for consolidation and that OE, PHS, and OHDS will each make a consolidated grant. Under this new law, the Department must issue regulations spelling out the method by which island territories may apply for the PHS, OE, and OHDS consolidated grants. each agency will develop its own regulations. This regulation initiative has been classified by the Department as "policy significant."

FOR FURTHER INFORMATION CONTACT:

Jonathan D. Breul, 513-D, Hubert Humphrey Building, Department of Health, Education, and Welfare, Washington, D.C. 20201, telephone 202-245-8901.

Dated: September 25, 1978.

LEONARD SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-28590 Filed 10-10-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2 and 87]

[Gen. Docket No. 78-323; RM-3058; FCC 78-699; BC Docket No. 78-320, RM-3141]

Authorizing the use of aeronautical advisory frequencies by aeronautical utility mobile stations located at certain landing areas which do not have a control tower or FAA flight service station.

AGENCY: Federal Communications Commission.

ACTION: Proposed rule making.

SUMMARY: Amendment of the rules to permit aeronautical advisory frequencies to be utilized by certain ground vehicles at landing areas which are served by an aeronautical advisory station (unicom), but which do not have a control tower or FAA flight service station in operation. The FAA requested that this proposed rule change be considered. The additional communications capability of the eligible vehicles is intended to improve aviation safety at the many airports affected.

DATES: Comments must be received on or before November 15, 1978, and reply comments must be received on or before November 27, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Robert H. McNamara, Safety and Special Radio Services Bureau, 202-63207197.

SUPPLEMENTARY INFORMATION:

Adopted: September 28, 1978.

Released: October 4, 1978.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Springfield, Missouri).

1. The Commission has before it for consideration a petition for rule making,[1] filed by Christian Center of

[1] Public Notice of the petition was given on July 10, 1978, Report No. 1132.

the Ozarks, Inc.,[2] seeking amendment of § 73.606(b) of the Commission's Rules. It proposes that UHF television Channel 33 be assigned to Springfield, Missouri, on a non-reserved basis. Channel 33 can be assigned to Springfield in compliance with the minimum distance separation requirements and other technical criteria. No responses to the proposal have been received.

2. Springfield (pop. 120,096), seat of Greene County (pop. 152,929),[3] is located in southwest Missouri, approximately 305 kilometers (190 miles) southwest of St. Louis, Missouri. Springfield has three commercial television stations (KYTV, Channel 3; KOLR-TV, Channel 10; and KMTC, Channel 27). It also has assigned to it Channel *21, which is used by Station KOZK, an educational station. Thus, all of the channels assigned to Springfield are occupied by operating stations.

3. Petitioner states that the population of Springfield has increased by more than 25 percent between 1960 and 1970 and predicts that the city will have a population of 133,278 by 1980. We are told that a labor survey encompassing Greene and Christian Counties shows a work force of 92,900, 82 percent of which are employed in non-agricultural employment, including 20 percent in manufacturing. Petitioner has submitted information with respect to education, churches, transportation, and recreation in order to demonstrate the need for an additional television assignment in Springfield. Petitioner asserts that the absence of a non-network television station deprives the people of Springfield and the surrounding area of the many and varied programs carried in numerous other cities by independent television stations. It states that if the proposed channel is assigned, it will apply for a construction permit to construct and operate the facility.

4. In view of the foregoing, and the fact that the proposed assignment could provide the Springfield area with a first non-network commercial television service, the Commission finds that it would serve the public interest to seek comments in a rulemaking proceeding.

5. Therefore, notice is hereby given that the Commission proposes to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, with respect to Springfield, Missouri, as follows:

City	Channel No.	
	Present	Proposed
Springfield, Mo	3+, 10, *21–, 27–	3+, 10,

6. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. *Note:* A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

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

7. Interested parties may file comments on or before November 27, 1978, and reply comments on or before December 18, 1978.

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

APPENDIX

Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rulemaking to which this Appendix is attached.

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

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

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

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

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

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

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

[FR Doc. 78-28721 Filed 10-10-78; 8:45 am]

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[2] Petitioner advises that its name is presently Shiloh, Inc., but the Board of Directors has authorized change of name to Christian Center of the Ozarks, Inc., and the requisite papers are being filed with the Office of the Secretary of the State of Missouri.

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

[6712-01-M]

[47 CFR Part 73]

[BC Docket No. 78-317; RM-3104]

FM BROADCAST STATION IN THOMSON, GA.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a second class A FM channel to Thomson, Ga., in response to a petition filed by Hickory Hill Broadcasting Co. The proposed assignment could provide for a second FM broadcast service to the community.

DATES: Comments must be received on or before November 21, 1978. Reply comments must be received on or before December 12, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), table of Assignments, FM Broadcast Stations (Thomson, Ga.).

Adopted: September 22, 1978.

Released: October 3, 1978.

By the Chief, Broadcast Bureau:

1. *Petitioner, proposal and comments:* (a) Notice of proposed rulemaking is given concerning amendment of the FM Table of Assignments (section 73.202(b) of the Commission's rules) as it relates to Thomson, Ga.

(b) Petition for rulemaking [1] was filed by Hickory Hill Broadcasting Co. ("petitioner"), license of full-time AM Station WTWA, Thomson, Ga., seeking the assignment of channel 232A to Thomson, Ga., as its second FM assignment. No response to the proposal have been received.

(c) Channel 232A can be assigned to Thomson in conformity with the minimum distance separation requirements, provided the transmitter is located approximately 5.6 kilometers (3.5 miles) south of the community. Petitioner states that if the proposed assignment is made, it will apply for authority to construct and operate the FM broadcast station.

2. *Community data:* (a) *Location:* Thomson, seat of McDuffie County, in northeastern Ga. is located approximately 170 kilometers (108 miles) southeast of Atlanta and 200 kilometers (125 miles) northwest of Savannah.

(b) *Population: Thomson—6,603; McDuffie County—15,276.* [2]

(c) *Local broadcast service:* Thomson is served by full-time AM Station WTHO, Station WTHO-FM (channel 269A), and full-time AM Station WTWA, licensed to petitioner.

3. *Ecomonic data:* Petitioner asserts that the population of McDuffie County has increased 14.6 percent between 1970 and 1976. It states that Thomson has long served McDuffie County as a governmental and commercial center. We are told that the county's local employment base is dominated by manufacturing. Petitioner details economic information to demonstrate the need for a second FM assignment to Thomson.

4. *Preclusion study:* No communites would sustain preclusion as a result of the propsed assignment of channel 232A to Thomson.

5. Petitioner claims that in addition to providing nighttime aural service to all regular daytime AM listeners, the proposed FM station would more fully cover the Thomson trade area in general and the eastern section of Columbia County in particular. Since under our population criteria, one or two channels could be assigned to Thomson, we believe consideration of the above proposal in a rulemaking proceeding is warranted.

6. In view of the foregoing, we propose the following revision in the FM Table of Assignments (section 73.202(b) of the rules) with respect to the city listed below:

City	Channel No.	
	Present	Proposed
Thomson, Ga.		269A 232A, 296A

7. The Commission's authority to institute rulemaking proceedings, showings required, cutoff procedures used, and filing requirements are contained in the attached appendix and are incorporated by reference herein.

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

8. Interested parties may file comments on or before November 21, 1978, and reply comments on or before December 12, 1978.

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

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and section 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, section 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

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

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

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

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

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

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

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

[FR Doc. 78-28675 Filed 10-10-78; 8:45 am]

[1] Public Notice of the petition was given on May 8, 1978, Report No. 1118.

[2] Population figures are taken from the 1970 U.S. Census.

[6712-01-M]

[47 CFR Part 73]

[BC Docket No. 78-329; RM-3105]

FM BROADCAST STATION IN HAYWARD, WIS.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a second Class A FM channel to Hayward, Wis. The

proposed assignment could provide for a station which would render a second full-time aural broadcast service to the community.

DATES: Comments must be received on or before November 27, 1978, and reply comments must be received on or before December 18, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Hayward, Wis.).

Adopted: September 29, 1978.

Released: October 5, 1978.

By the Chief, Broadcast Bureau:

1. *Petitioner, proposal, comments:* (a) A petition for rule making[1], was filed April 7, 1978, by Inland Communications Corp. ("petitioner"), proposing the assignment of FM Channel 269A to Hayward, Wis., as a second FM assignment to that community. No responses to the proposals were received.

(b) The channel can be assigned to Hayward, Wis., in conformity with the minimum distance separation requirements.

(c) Petitioner states it will file an application for authority to construct a station if the channel is assigned.

2. *Community data:* (a) Location: Hayward, seat of Sawyer County, is located 128 kilometers (80 miles) north of Eau Claire, Wis. and 96 kilometers (60 miles) south, southeast of Duluth, Minn.-Superior, Wis.

(b) *Population:* Hayward—1,457; Sawyer County—9,670.[2]

(c) *Local aural broadcast service:* Hayward is presently served by daytime-only AM Station WHSM, licensed to petitioner, and Station WRLS-FM (channel 221A).

3. *Economic data:* Petitioner claims that current estimates project a substantial increase in Hayward's population. It states that the principal manufacturing employer in the community is Hayward Dimension, Inc., with several smaller companies engaged in manufacturing wood products. Petitioner asserts that the retail sales in Sawyer County are on the rise, and according to sales management, the county had total retail sales in 1976 of $46,283,000 or $10,789 per household. Petitioner notes that the area is experiencing sustained population and business growth as a result principally of the boom in the recreation-tourist business. It informs us that with this growth projected to continue at a substantial rate, the area's permanent population and its transient vacationers need a second full-time broadcast station. Petitioner recites information with respect to medical and recreational facilities, education, churches, transportation and civic organizations in an effort to demonstrate the need for an additional FM assignment in Hayward.

4. *Preclusion study:* Preclusion would occur on channels 268 and 269A as a result of the proposed assignment to Hayward. Seven communities with populations over 1,000 which do not have local aural service or unused FM assignments would be precluded.[3] Petitioner is requested to indicate in comments whether alternate channels are available for assignment to these communities.

5. Since Hayward is located within 402 kilometers (250 miles) of the United States-Canada border, Canadian concurrence to the proposal must be obtained.

6. Comments are invited on the proposal to amend the FM Table of Assignments (73.202(b) of the Commission's rules) with regard to the Community of Hayward, Wis., as follows:

City	Channel No.	
	Present	Proposed
Hayward, Wis		221A221A, 269A

7. The Commission's authority to institute rule making proceedings, showings required, cutoff procedures, and filing requirements are contained in the attached appendix and are incorporated by reference herein.

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

8. Interested parties may file comments on or before Novemer 27, 1978, and reply coments on or before December 18, 1978.

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

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and section 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, section 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

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

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

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

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

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

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

[1] Public notice of the petition was given on May 8, 1978, Report No. 1118.

[2] Population figures are taken from the 1970 U.S. Census.

[3] Channel 268: Minnesota: Hoyt Lakes (pop. 3,634), Silver Bay (3,504) Two Harbors (4,437). Channel 269: Minnesota: Proctor (3,123); Wisconsin: Mellen (1,168); Spooner (2,444) and Washburn (1,957). A counterproposal is pending in docket 78-92 which seeks the assignment of a class C (290) FM channel to Washburn, Wis.

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

[FR Doc. 78-28678 Filed 10-10-78; 8:45 am]

[6712-01-M]

[47 CFR Part 73]

[BC Docket No. 78-325; RM-3100]

TELEVISION CHANNEL ASSIGNMENT TO TOMAH, WIS.

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein purposes the assignment of television Channel 43 to Tomah, Wis. A station operating on this channel could bring a first local television service to the community.

DATES: Comments must be filed on or before November 27, 1978. Reply comments must be filed on or before December 18, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION: In the matter of Amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Tomah, Wis.)

Adopted: September 28, 1978.

Released: October 5, 1978.

By the Chief, Broadcast Bureau:

1. The Commission has before it for consideration a petition for rulemaking,[1] filed by Tomah-Mauston Broadcasting Co., Inc. ("petitioner"), licensee of Stations WTMB(AM) and WTMB-FM (channel 255), Tomah, Wis., requesting the deletion of television channel 25 from LaCrosse, Wis., to permit its assignment to Tomah, Wis. Letters in support of the proposal were filed by citizens in the area.

2. Tomah (pop. 5,647), in Monroe County (pop. 31,610),[2] is located in west central Wisconsin, approximately 60 kilometers (37 miles) east of LaCrosse, Wis. Tomah presently has no local television broadcast service. Channel 25 can be assigned to Tomah in conformity with the distance separation requirements and other technical criteria of the Commission's rules.

3. LaCrosse (pop. 51,153), seat of LaCrosse County (pop. 80,468), is located in west central Wisconsin, at the Minnesota border. Four channels are presently assigned to LaCrosse and stations are operating on three of these: Channel 8 (WKBT), channel 19 (WXOW-TV) and educational channel *31 (WHLA-TV). Channel 25 is unoccupied and unapplied for.

4. Petitioner stated that since there is no local television broadcast facility in Tomah or Monroe County, a local television station would greatly assist area residents to become aware of local needs and problems and would provide a means for local visual self-expression. It notes that the proposed station would also provide the only daily visual communications for a large number of rural residents, and a portion of this area would receive its second and in some cases its first city-grade television signal. Petitioner has submitted information with respect to form of government, school system, transportation, medical and recreational facilities, and civic organizations in order to demonstrate its need for the assignment of a television channel in Tomah.

4. Petitioner asserts that because channel 25 in LaCrosse has remained unoccupied and unapplied for since its assignment in 1966, it should be assigned to Tomah where a need exists and an interest has been shown for its use. It states that it will immediately apply for the proposed channel, if assigned.

5. Petitioner is the licensee of existing AM and FM stations in Tomah. Under section 73.636(a)(1) of the Commission's rules, no new VHF television-FM or VHS television-AM combination may be created. However, UHF television-FM or UHF television-AM common ownership combinations, as would result in this instance, are treated on a case-by-case basis. See note 8 of section 73.636. Consequently, in connection with any application for a new station at Tomah, Wis., petitioner may be required to provide a showing that its being the licensee of both an AM-FM combination and a television broadcast station in the same community would not be contrary to the public interest.

6. Although channel 25 was initially assigned in 1966, it has remained unoccupied since then. Nevertheless, we are not persuaded it should be reassigned to Tomah. Rather, the Commission's technical analysis indicates that future channel assignment flexibility in this area can be maintained if channel 43 is assigned to Tomah. This would not occur if channel 25 were deleted from LaCrosse and assigned to Tomah. Channel 43 meets all applicable technical requirements for assignment to Tomah and we are proposing to amend section 73.606(b) of the Commission's rules, the Television Table of Assignments, as follows:

City	Channel No.	
	Present	Proposed
Tomah, Wis.		43+

7. The Commission's authority to institute rulemaking proceedings, showing required, cutoff procedures, and filing requirements are contained in the attached appendix and are incorporated by reference herein.

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

8. Interested parties may file comments on or before November 27, 1978, and reply comments on or before December 18, 1978.

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

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and section 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, section 73.606(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

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

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

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

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be

[1] Public notice of the petition was given on May 1, 1978, Report No. 1116.

[2] Population figures are taken from the 1970 U.S. Census.

considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

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

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

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

[FR Doc. 78-28677 Filed 10-10-78; 8:45 am]

[6712-01-M]

[47 CFR Part 73]

[BC Docket No. 78-322; RM-3087]

FM BROADCAST STATION IN STERLING, COLO.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes to substitute FM Channel 284 for Channel 244A at Sterling, Colo., modify the license of the station currently operating on channel 244A to specify channel 284, and delete unused channel 288A st Sterling to avoid intermixture. A first and second FM and second nighttime aural service would be provided.

DATES: Comments must be filed on or before November 27, 1978, and reply comments must be filed on or before December 18, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Sterling, Colo.).

Adopted: September 28, 1978.

Released: October 4, 1978.

By the Chief, Broadcast Bureau:

1. *Petitioner, proposal and comments:* (a) A petition for rulemaking[1] was filed by KSTC, Inc. ("petitioner"), licensee of AM Station KSTC and KSTC-FM (channel 244A), Sterling, Colo., proposing the assignment of class C FM channel 284 to Sterling, Colo., the deletion of channel 244A from Sterling, and modification of its license to specify channel 284.

(b) The channel may be assigned to Sterling without affecting any existing FM assignments in the Table and in conformity with the minimum mileage separation requirements. There were no oppositions to the proposal.

2. *Demographic data:* (a) *Location:* Sterling, seat of Logan County, is located in northeastern Colorado, approximately 175 kilometers (110 miles) northeast of Denver.

(b) *Population:* Sterling—10,636; Logan County—18,852.[2]

(c) *Present local aural service:* Sterling is presently served by full-time AM Station KSTC and Station KSTC-FM (channel 244A), both licensed to petitioner. FM channel 288A is assigned to Sterling but is unoccupied and unapplied for.

3. *Economic data:* Petitioner states that Sterling is the economic center of the county as well as the economic and social center of northeastern Colorado. We are told that while farming is the primary economic activity in Logan County, the economy also includes work on developed oil wells, large cattle feeding, ranching and processing operations, and tourism. Petitioner asserts that the diverse economy accounts for Logan County's annual retail sales in excess of $100 million.

4. *Preclusion study:* Additional preclusion would occur on channels 283, 284, and 285A, affecting nine communities with populations greater than 1,500.[3] Of the nine communities, only Cozad (pop. 4,219), has an AM station. All nine communities are without FM assignments. Petitioner should indicate in comments whether alternate FM channels are available for assignment to these communities.

5. Petitioner's *Roanoke Rapids/Anamosa* showings indicate that the facilities proposed for channel 284 would provide first FM service to 11,086 persons in a 7,400 square kilometer (2,860 square miles) area, a second FM service to 855 persons in a 880 square kilometer (339 square miles) area, and a second nighttime aural service to 11,086 persons in a 7,400 square kilometer (2,860 square miles) area.

6. Petitioner claims there is a need for service to rural and sparsely populated areas in Logan County which warrants the assignment of a class C station to Sterling. It states that if channel 284 is assigned to Sterling it wishes to have its license modified to specify operation on it. Petitioner's station, KSTC-FM, operates on one of the two class A channels (channel 244A) assigned to Sterling while the other (channel 288A) is unoccupied and unapplied for. Petitioner asserts that a second class C channel (245) could be assigned to Sterling in place of unused channel 288A to avoid intermixture of classes of channels.

7. In view of the showings of a large first and second FM and second nighttime aural service, we shall propose the assignment of channel 284 to Sterling in lieu of channel 244A. As petitioner notes, an intermixture of classes of channels at Sterling would result if channel 288A is retained. Since there has been no demand for this channel we shall propose its deletion.[4]

8. In the event an additional interest were expressed in the class C channel here proposed and the assignment of a second class C channel could not be justified, petitioner's license could not be modified to specify operation on channel 284. According to Commission

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[1] Public notice of the petition was given on April 4, 1978 (report No. 1112).

[2] Population figures are taken from the 1970 U.S. Census.

[3] Nebraska: Imperial (pop. 1,589), Cozad (4,219), Gatlenburg (3,154); Colorado: Holyoke 1,640), Wray (1,953), Julesburg (1,653); Kansas: Attwood (1,653), Leoti (1.916), and St. Francis (1,726).

[4] Should an interest be expressed in operating the class A channel, we would consider retaining it. On the other hand, if an interest is expressed in operating a second class C channel at Sterling by another party, channel 245 could be assigned for that purpose. If such an interest is shown in channel 245, the proponent should demonstrate the public interest and need for the second class C channel assignment. Such a showing should include a preclusion study demonstrating the availability of alternate channels to affected communities. Proponent should also indicate the proposed facilities to be used for channel 245, the proposed transmitter site, and the area and population to be served.

policy, as expressed in Cheyenne, Wyo., 62 FCC 2d 63 (1976), other parties should be afforded an opportunity to state their interest in applying for a newly assigned class C channel. Only in the absence of such interest could petitioner's license be modified. Since no person has yet expressed an interest in the proposed assignment of channel 284 to Sterling, we are proposing to modify the license of Station KSTC-FM.

9. An order to show cause to the petitioner is not necessary since consent to a modification of its license is indicated by its request for a class C channel.

10. In light of the above, the Commission proposes to amend the FM Table of Assignments (section 73.202(b) of the Commission's rules), as to the named community, as follows:

City	Channel No.	
	Present	Proposed
Sterling, Colo.	244A, 288A	284

11. The Commission's authority to institute rulemaking proceedings, showings required, cutoff procedures, and filing requirements are contained in the attached appendix and are incorporated by reference herein.

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

12. Interested parties may file comments on or before November 27, 1978, and reply comments on or before December 18, 1978.

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

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

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

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

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

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

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

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

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

[FR Doc. 78-28676 Filed 10-10-78; 8:45 am]

[9035-01-M]

INTERSTATE COMMERCE COMMISSION

[49 CFR Ch. X]

[Ex Parte No. 355]

COST STANDARDS FOR RAILROAD RATES

Interpretation of Statutory Provisions

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This is the initial notice in a proceeding to adopt formulas for determining the variable costs and the incremental costs of providing rail service. A number of terms, which will be used in the formulas, are discussed, and working definitions of the terms are proposed. The public is requested to comment on the proposed definitions and to answer specific questions posed in the discussion.

DATES: Comments should be filed by December 26, 1978.

ADDRESSES: An original and 15 copies of any comments should be sent to: Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, 202-275-7693 or Harvey Gobetz.

SUPPLEMENTAL INFORMATION: Section 202(b) of the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210, 90 Stat. 35, added a new section 1(5)(b) to the Interstate Commerce Act (49 U.S.C. § 1(5)(b)) which requires the Commission to develop formulas for determining the variable costs and the incremental costs of providing rail service. The new section employs the concepts of "contribution to going concern value," "variable costs", and "incremental costs" for the first time as statutory standards for determining the reasonableness of railroad rates. Before publishing proposed formulas, the Commission would like to develop working definitions of these and other related terms.

The definitions proposed in the following discussion are based on the Commission's previous considerations of these terms [the Commission gave special attention to the subject of cost-finding procedures and cost concepts in No. 34013, *rules to govern assembling and presenting cost evidence*, 337 ICC 298 (1970)] and on the reports of two contractors who are assisting the Commission in a related matter. The contractors, the accounting firms of Deloitte, Haskins, & Sells and Peat, Marwick, Mitchell, and Co., are assist-

ing the Commission's Section of Cost and Valuation in devising an improved railroad cost-finding methodology which will be based on the recently issued uniform system of acccounts [see No. 36367, revision to the uniform system of accounts for railroads, —— ICC —— (served June 24, 1977)]. The contractors' report, which was submitted December 5, 1977, deals with both the proposed costing methodology and the meaning of cost concepts.

Contribution To Going Concern Value

Section 1(5)(b) begins by stating the basic requirement that a rate must be just and reasonable. It then provides that the Commission may not find a rate to be unreasonably low if the rate contributes to the carrier's "going concern value." This expression is one that the Commission has not previously used.

The report of the contractors defines going concern value as "the owners' expected dividends and equity appreciation discounted by the current cost of equity." What these elements establish is the value of the shareholders' equity. They establish that value essentially on the basis of prospective earnings, which are the source of both dividends and equity appreciation. Therefore, rephrasing somewhat, we propose to interpret "going concern value" as "the value of the carrier's equity capital based on its earnings prospects." If follows that a rate for a railroad service contributes to the carrier's going concern value if it enhances the carrier's earnings prospects.

The contractors indicate that a rate contributes to going concern value if it covers all costs (including capital costs) incurred to provide the service. By "all costs," they refer to costs that result from provision of the service in question; not included in this category is any allocation of costs that exist independently of the service. We propose to adopt this interpretation of contribution to going concern value, because we agree that a service will enhance a carrier's earnings if, and only if, the rate for the service covers all costs incurred to provide the service.

As noted, the costs incurred may include capital costs. The proper measure of capital costs requires special consideration, and will be discussed in a later section of this notice.

Variable Costs

Section 1(5)(b) creates a presumption that a rate at least equal to "variable costs" contributes to a carrier's going concern value. In other words, the costs incurred in providing the service are shown or at least approximated, by what is known as "variable costs." The variable costs concept has long been used by the Commission in just this way.

Because of the complex nature of railroad expense, it is seldom possible to estimate directly the costs incurred in providing a service. Therefore, a technique has evolved for analyzing the service in terms of the outputs required (car miles, gross ton miles, etc.) and ascribing to the service an average cost of its outputs. In this process, it is recognized that some railroad expenses do not vary with the level of output (within a given range of output), and such expenses are disregarded. Only the remaining, or "variable," expenses are considered in the cost computations. For that reason, the result is called "variable costs."

The first stage of the process is the identification of variable expenses, which we propose to define as "expenses that vary with the level of output." Some expenses may be entirely variable with output. Only a portion of other expenses may vary with output, in which case only that portion would be a variable expense. Some expenses may have portions varying with different outputs; each such portion would be a variable expense.

Next, each variable expense is divided by the number of units of the output that causes it to vary. Then, all of these unit variable expenses associated with each type of output are added together. The result may be called the "variable costs per unit of output," which we propose to define as "variable expenses divided by units of output."

Finally, the costs of a particular service are estimated by ascribing to it the computed costs of its units of output. We propose to call this the "variable costs of a service," and to define it as "the product of the number of units of output in the service and the variable costs per unit of output." When we use the general term "variable costs" without qualification, we will be referring to the variable costs of a service unless the context indicates reference to an earlier stage of the variable costing process.

In using the term variable costs in No. 34013, supra, to describe "all the unit expense properly associated with particular changes in output," the Commission was referring to the variable costs of a service. On the other hand, the contractors' definition, "costs which change as the volume of service increases or decreases," refers to variable expenses in general. We believe that clarity can best be achieved by using the proposed three separate concepts corresponding to the three stages of the variable costing process. Public comment on this approach is requested.

Variable costs formulas. The formulas which the Commission will adopt in this proceeding will be devised so as to permit observance of the statutory requirements that: (1) At the request of the carrier, and where specific data and cost information is available, the Commission shall determine only those costs of the carrier proposing the rate and only those costs of the specific service in question and (2) the Commission shall not include expenses which do not vary directly with the level of service provided under the rate in question.

Upon adoption of the formulas, a rate which covers the cost level as determined by them will be presumed to contribute to the carrier's going concern value. As provided by section 1(5)(b), however, this will be a rebuttable presumption. We believe that this fact is a recognition that variable costs are only a practical approximation, based on averages, of the costs incurred to provide the service. As the Commission stated in No. 34013, specific cost data for a particular service is preferable to average costs, including the average costs of a single carrier. In some instances, it may be possible to estimate directly how a few of the items of railroad expenses would change because of the provision of the service.

In addition, as discussed below, there are special circumstances in which shortrun or longrun incremental costs may be a better measure of the costs incurred than would variable costs. In such cases, the variable costs presumption could be rebutted by a showing of shortrun or longrun incremental costs.

Costs of capital in variable costs. One of the costs of railroad operations is the return that must be earned on investment and facilities. Since a portion of the investment varies with the level of output, the return needed on that portion is a variable expense.

The Commission has previously recognized this costs-of-capital component in variable costs. In No. 34013, it stated that the rate of return to be allowed for this purpose should be equal to the level of interest rates on the carrier's existing debt obligations. It stated that any return in excess of embedded interest rates would be "profit" rather than cost.

In view of the "contribution to going concern value" standard, however, the contractors recommend a change in this approach. They urge that the rate of return for costing purposes be based on the current costs of capital—a composite of current interest rates on debt and the current costs of equity capital. In essence, their view is that the capital invested in a service must earn no less than the returns available elsewhere in order to enhance the carrier's earnings.

We recognize that this question is of great concern to both carriers and shippers. Rather than proposing to adopt one approach or the other for future use, we are requesting comments on this issue. The approach that we adopt will be based upon careful consideration of the comments we receive. In particular, participants are requested to comment upon the following questions: Are capital costs to be considered a cost element for computing variable costs? If so, should capital costs be determined in accordance with embedded interest rates, current costs of capital, or on some other basis? Is there a contribution to the going concern value of a carrier when a rate equals or exceeds the variable costs level described in No. 34013 (where capital costs are computed on the basis of embedded interest rates)?

In the event that the current-costs-of-capital approach is adopted, there will also need to be conclusions as to the means of implementing it. The contractors recommend that the cost of debt capital be based on current interest rates. They would determine the cost of equity capital upon consideration of both market value and comparable earnings studies, and would adjust it to a pre-tax figure using the statutory tax rate. We note that we shall be making costs of capital findings in yearly revenue adequacy proceedings, pursuant to the regulation adopted in Ex parte No. 338, Standards and Procedures for the Establishment of Adequate Railroad Revenue Levels, —— ICC —— (served February 3, 1978), modified in —— ICC —— (served June 7, 1978). These findings will include the current costs of debt as well as equity capital based upon consideration of both market value and comparable earnings studies. If we decide to determine variable costs using current capital costs, we propose to draw upon the capital costs findings in our revenue adequacy proceeding. We would refer to the findings concerning current interest rates, cost of equity capital, and debt/equity structure for a representative group of healthy carriers.

For costing purposes, however, we do not propose to use the statutory tax rate in making the conversion to a pretax figure. The use of a fictional rate above the actual tax liability would overstate the tax costs incurred and, therefore, would appear not to be a proper measure of contribution to going concern value. Rather we would use a tax rate based on the taxes actually paid plus the provision for deferred taxes. We would employ an average of the figures shown for the most recent three calendar years in the carriers' annual reports to the Commission.

As discussed in Ex parte No. 338, Congress provided that the investment tax credit should not be excluded from the costs of service and intended the retention of tax benefits to be a stimulus to investment. Accordingly, we found in Ex parte No. 338 that the tax allowance would include the investment tax credit for the purpose of calculating the carriers' overall expenses. What we contemplate here is not to exclude the investment tax credit from the carriers' overall costs of service but only from those costs attributable to particular movements. We believe that this approach would be consistent with the spirit, as well as the letter, of the tax provisions. The costing of an individual service provides only a rate floor and not a rate ceiling. Indeed, carriers are expected to set their rates at a higher level, where possible, in order to obtain a contribution to coverage of overall expenses.

Incremental Costs

The remaining provisions of section 1(5)(b) deal with the determination of whether a rate is unreasonably high. The Commission's authority to make such a determination is limited to situations where a carrier has a position of market dominance. (The "market dominance" provision of section 1(5)(b) was interpreted in special proc. for findings of market dominance, 353 ICC 875, modified in 355 ICC 12 (1976).) With respect to maximum reasonableness, it is stated in section 1(5)(b) that:

> Nothing in this paragraph shall prohibit a rate increase from a level which reduces the going concern value of the proponent carrier to a level which contributes to such going concern value and is otherwise just and reasonable.

We may label a rate that contributes to going concern value as a compensatory rate. The quoted sentence, then, merely affirms that a rate may be raised from a noncompensatory level to a level that is compensatory but still reasonable.

Finally, section 1(5)(b) provides that a rate increase to a level not above incremental costs shall be presumed reasonable. The contractors define incremental costs as "all costs which are incurred for the purpose of either maintaining an existing service or providing a new service." We propose to adopt this definition for the general meaning of the term.

In No. 34013, the term shortrun incremental costs was used as the label for a cost determination in certain special circumstances. As a practical matter, it was a modification of the variable cost level to exclude inapplicable capital costs, where the service would be provided only for a short time or with surplus capacity. The contractors also use the term in this sense. Consistent with this usage, we propose to describe shortrun incremental costs as "the costs incurred to provide a service under special circumstances, where it is appropriate to attribute a relatively low level of capital costs to the service."

In addition, the contractors employ the term "longrun incremental costs" for situations where a service has responsibility for greater-than-usual capital costs, or causes an identifiable change in fixed costs. For these situations, the contractors would modify the usual variable costs determination to include the additional capital costs and the change in fixed costs. We basically propose to follow this longrun incremental costs approach, although we would describe it somewhat differently. What the contractors refer to as "additional capital costs and changes in fixed costs" are capital costs and other costs (e.g., maintenance) attributable to those changes in plant capacity that are necessitated by the service. We propose to describe longrun incremental costs as "all costs incurred to provide a new or continuing service that, over the planning horizon, requires additions to plant and equipment or inhibits reductions in plant and equipment." These costs would include capital and other costs associated with the adjustment in plant capacity.

The incremental costs presumption of section 1(5)(b) relies on incremental costs "formulas" to be prescribed by the Commission. The Commission has not previously had anything designated as "incremental costs formulas." Nevertheless, consistent with the proposed use of the longrun incremental costs concept, we propose that the formulas for incremental costs would be simply the formulas for variable costs with an adjustment for any additional capital or other costs shown to result from the service.

It may be, however, that refinement of the incremental costs formulas should be considered. For example, in lieu of depreciation, there could be use of amortization obtained by discounted cash flow procedures applied to all capital expenditures over the planning horizon, employing an appropriate cost of capital rate. In shortrun situations, all depreciation and amortization might be excluded. Comments on the feasibility and desirability of such refinements are requested.

As seen, the incremental costs formulas, would permit estimates of all costs incurred to provide the service. Certainly, a rate no higher than this cost level should be presumed not to be unreasonably high. Thus, the proposed incremental costs formulas would give a reasonable effect to the incremental costs presumption of the statute.

For clarification, we note that a formula determination of incremental costs would not be given preference over more precise evidence of the costs incurred, such as properly documented engineering cost evidence portraying actual operating conditions. We also note that the incremental costs presumption does not establish a rate ceiling. A rate may exceed the incremental costs level and still be shown reasonable, even if it is not presumed reasonable. Indeed, where possible, rates must be set somewhat above the incremental costs level so that the carrier's revenue will cover those costs which are not traceable to individual services.

The public is requested to comment on the definitions proposed in the preceding discussion and to respond to the specific questions raised. It would be helpful if comments which are critical of a particular definition would include suggestions as to how that definition could be improved.

All common carriers by railroad subject to part I of the Interstate Commerce Act shall be respondents in this proceeding. Copies of this notice will be available to the public at the Office of the Secretary of the Commission, and the notice will be published in the FEDERAL REGISTER. No oral hearing is planned at this time.

This proposal will not significantly affect the quality of the human environment.

Issued at Washington, D.C. on October 3, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp.

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

[FR Doc. 78-28608 Filed 10-10-78; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 652]

ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

Proposed Extension of Surf Clam Vessel Moratorium

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rule would amend the regulations (50 CFR 652.9(b)) implementing the Atlantic surf clam and ocean quahog fishery management plan (FMP) by extending the present moratorium on the entry of additional vessels into the surf clam fishery for a period of 1 year, from November 16, 1978, to November 16, 1979. This proposal is based upon a determination of the Assistant Administrator for Fisheries, after consultation with the Mid-Atlantic, New England, and South Atlantic Fishery Management Councils, that the current surf clam fleet has the capacity to overharvest the surf clam stocks and that extension of the moratorium is consistent with the FMP.

DATE: Comments must be received on or before October 31, 1978.

ADDRESS: Comments should be addressed to Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: Section 652.9 of the regulations governing the surf clam and ocean quahog fisheries in the fisheries conservation zone (FCZ) which was published on February 17, 1978 (43 FR 6952), provides that a moratorium beginning on November 17, 1977, prohibiting the entry of additional vessels into the surf clam fishery, remains effective until November 16, 1978.

The FMP, published on November 25, 1977 (42 FR 60439), provides that at the end of 1 year the moratorium could be extended, lifted, or replaced with another plan of limiting entry, as warranted.

Based upon the catch and effort data collected during the moratorium, the Mid-Atlantic Fishery Management Council recommended to the Secretary that the moratorium be extended for another year. The data supporting the council's recommendation indicate that the surf clam fleet still has the capacity to overharvest the stocks. Fishing capacity has even increased as a result of the installation of new gear (e.g. larger clam dredges). The entrance of new vessels into the fishery could have a serious impact on both the surf clam stocks and the present participants. In response to this recommendation of the council, public hearings were held by the National Marine Fisheries Service on the proposed moratorium at Cape May, N.J., and Westport, Mass., on September 14 and 18, 1978, respectively, to solicit comments on whether or not the surf clam moratorium should be extended in accordance with the FMP.

Signed in Washington, D.C., this 4th day of October 1978.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

Amend 50 CFR § 652.9(b) as follows:

§ 652.9 Vessel moratorium.

(a) * * *

(b) The moratorium shall remain in effect until November 16, 1979, unless the Secretary determines, after public hearings and consultation with the Mid-Atlantic, New England, and South Atlantic Fishery Management Councils, to terminate the moratorium at an earlier date.

[FR Doc. 78-28596 Filed 10-10-78; 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.

[3410-30-M]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

SPECIAL SUPPLEMENTAL FOOD PROGRAMS FOR WOMEN, INFANTS, AND CHILDREN (WIC)

Program and Administrative Funding Formulas

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: The Food and Nutrition Service is publishing for public comment the formula for distributing funds to State agencies participating in the special supplemental food program for women, infants, and children.

DATED: October 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Jennifer R. Nelson, Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8206.

NOTICE: The Secretary of Agriculture has authority to allocate program funds to each State agency on the basis of a formula determined by the Secretary. Notice is hereby given detailing the proposed funding formula selected by the Department. The discussion which follows addresses the background and considerations which led to the selection of the new formula.

Legislative Background

In June 1977, public hearings were held by the Food and Nutrition Service to consider comments regarding possible legislative changes in the WIC program. Among the concerns raised by those presenting testimony were: The funding formulas employed to distribute available moneys to State agencies; the method by which administrative funds are provided; and the funding available for nutrition education. The level of interest demonstrated at the hearings reinforced the Agency's commitment to explore alternate methods of addressing these areas through the legislative process and administrative actions. As a result, pending legislation carries the provision that the Secretary must design separate funding formulas for the allocation of both program and administrative moneys. When that legislation is passed an administrative funding formula will be proposed.

Funding History

Since the authorization of the WIC program in 1972, the enabling legislation has not provided a mechanism or formula for orderly distribution of the available funds among the States implementing the program. Therefore, the distribution of WIC program funds has had a varied and often controversial history. The Department's initial reluctance to accept the WIC program and release funds to States resulted in a court suit to mandate WIC spending. The Federal district court order of August 1973 (*Dotson* v. *Butz*), required expenditure of the $40 million authorized by Congress for fiscal years 1973 and 1974 at $20 million each year and resulted in a rapid period of expenditure. To accomplish this expansion, grants were made directly through State agencies to local agencies approved by FNS on a first-come, first-served basis. (It was later that funds for the program were channeled directly to State agencies for subsequent distribution to local agencies as the State deemed appropriate.) The time constraints felt by the Department as a result of the Dotson Order were such that elaborate approval procedures were not developed to ensure funding of the most needy areas. In this connection, it was not until the affirmative action stipulation of January 1976 regulations (pursuant to Pub. L. 94-105) that a concerted effort was made to fund areas of greatest need.

Congress moved in November 1973 to expand the WIC program for fiscal year 1975 by authorizing $40 million. In June 1974 the authorization for fiscal year 1975 was increased to $100 million. In the absence of specific appropriating legislation, the enabling act called for the Secretary of Agriculture to use funds made available through section 32 of the Act of August 24, 1935. Section 32 funding was authorized through fiscal year 1977, but a direct appropriation of $250 million for the program was made for fiscal year 1977.

On June 22, 1976, the U.S. District Court of the District of Columbia issued an order in the case of *Durham, et al.*, v. *Butz, et al.*, which ordered the expenditure of the estimated $562.5 million available for the WIC program for the transition quarter and fiscal years 1977 and 1978, plus all funds unspent from fiscal years 1974, 1975, and 1976, during a 27-month period beginning July 1, 1976, through September 30, 1978.

On August 4, 1976, the estimated 27-month funding was initially allocated to each State agency by fiscal period (transition quarter, fiscal year 1977, and fiscal year 1978). To accomplish this the Department used the title V formula, which was currently in use by DHEW's maternal and child health program, as well as the plans for expansion submitted by each State. However, in order to insure compliance with the court order, a plan was also initiated to recover unobligated funds from each State agency and to reallocate the recovered amounts to those State agencies which demonstrated expenditure rates at or near their maximum obligation level.

The reallocation plan identified the maximum obligation level for each State agency and the procedures for reallocating unused funds to State agencies demonstrating the need for additional funds through actual performance. Recoveries of unused funds and reallocation occurred on a quarterly basis.

The criterion for State agency participation in each reallocation was based on their achievement of a prescribed spending performance level, the first being of a level of 65 percent of their monthly obligation level. Subsequent participation in quarterly reallocations required an incremental increase of 5 percent, each quarter, up to an 80 percent spending performance level. Having reached this level, three additional reallocations were done in January, April, and July 1978 with spending performance levels of 90, 95, and 95 percent respectively, as a prerequisite to participation.

This reallocation system resulted in a marked expansion of the WIC program, from 600,000 participants in July 1976 to 1.3 million in July 1978. However, the process and the use of the title V formula have been the subject of considerable criticism. As a result, the administration undertook a review of possible funding formula alternatives for use in future year.

PUBLIC PARTICIPATION PROCESS

In view of the historical funding problems of the WIC program, the Department and Congress clearly recognized in the development of new legislation that a fresh look at the funding formula was necessary.

In order to allow for varied input into the decision process, it was decided that a panel discussion on these funding issues would be held prior to officially proposing a funding formula to the Secretary. A panel on WIC's program and Administrative Funding Structure convened on September 6-8, 1978, to provide the Department with its recommendations concerning the best allocation method. The following people attended the panel meeting:

Mr. Philip Abadie, WIC Coordinator, Arizona.
Mr. Rims Barber, Children Defense Fund, Mississippi.
Ms. Janet Berkenfield, WIC Coordinator, Massachusetts.
Mr. C. Richard Blount, WIC Director, Missouri.
Mr. Sam Byrd, Idaho Migrant Council.
Mr. Richard Charles, local agency, New York.
Ms. Betsy Clarke, WIC Coordinator, Oregon.
Ms. Mary Egan, DHEW.
Mr. Ed. Epstein, local agency, Illinois.
Ms. Carol Fahey, FNS RO, New Jersey.
Mr. Ron Feazle, WIC Accountant, Choctaws, Oklahoma.
Ms. Stefan Harvey, Childrens' Foundation, Washington, D.C.
Ms. Elizabeth Hensler, WIC Director, Oklahoma.
Ms. Linda Katz, Advocate, Rhode Island.
Mr. Art Kotowski, FNS RO, Illinois.
Mr. Marlyn Lundgren, Finance Officer, Michigan.
Mr. Mike Montgomery, FNS RO, Texas.
Ms. Cynthia Perkins, WIC Director, Georgia.
Ms. Barbara Zang, National Child Nutrition Project, New Jersey.

A paper discussing the considerations, alternatives, and recommendations reached by the panel was then forwarded to the Secretary for the administration's official review. The selection of program and administrative funding formulas resulted from an extensive examination of the issues presented, as well as, consideration for the implication of any given formula on future WIC program operations.

FACTORS BEARING ON THE SELECTION OF A FUNDING FORMULA

In determining what formula to use and how to apply the formula, many considerations had to be taken into account. The law states that funds shall be allocated to "areas most in need of supplemental foods" and the Secretary is instructed to develop a formula to accomplish this. The formula should be designed to reflect the probability of need based on population, poverty, and health conditions by State agency. Since there is no direct means of identifying the potential eligible population universe, factors had to be selected for their realistic use as predictors without discriminating against the peculiar differences in the populations of the State agencies.

In selecting factors to use as a base for the formula for distribution of program funds, consideration was given to the adequacy and availability of the data base, and the degree of relevancy to the legislative mandate.

Athough several other health and income indices exist, the selection of indices was restricted by the fact that not all statistics are available for Indian populations. Special attention therefore was given to insure that the factors selected were also available on Indian State agencies, since in all other respects they are treated on an egual basis with all other State agencies. The review of available Indian data revealed a very limited universe of health and income indices.

Currently, statistics on Indians are gathered by Indian Health Services (IHS) based on counties and service areas. Since WIC program data needs did not alway coincide with the data available from IHS, some assumptions were made in regard to Indian populations, especially as to how they pertain to the WIC program service area as IHS service areas and WIC Indian State agencies service areas do not always agree.

This meant that some data on the Indian populations had to be calculated in order to make this data consistent with data collected for other State agencies. In order to utilize the available data, the assumption was made that all IHS service area Indians fall below 200 percent of the poverty level. Although all Indian populations do not fall in this category, this assumption does apply to the majority of Indian populations. Also, Indian populations tend to be small, thus they have a minimal effect in proportion to the rest of the U.S. population on the formula results.

After considerable review of all available health and income statistics, it was decided that possible statistics which could be used included: infant and neonatal mortality figures, infant mortality rates, live births and rural births and number of children under five years of age at or below the poverty level or 200 percent of the poverty level.

The factors were selected not only because they were available for Indian populations, but also because of the value of each factor in assessing the economic and health need of the WIC target population in each State agency.

The panel discussed the use of these factors at length and in the final analysis recommended two factors as the most appropriate for use in a WIC Program funding formula. The factors selected were infant mortality rate and number of children under five years of age at or below the poverty level or 200 percent of the poverty level.

Infant mortality includes all infant deaths up to one year of age from all causes including health related reasons as well as accidents. It has been determined that 74 percent of all infant mortalities are accounted for by deaths during the first four weeks of life. Infant mortality rate is an expression of the number of infant mortalities per 1,000 live births in the State agency. These factors are considered health related and tend to indicate the "remedial" need in a given area.

It is important to emphasize the use of infant mortality rates rather than the use of raw infant mortality figures. If the total number of infant deaths were used as a determining factor for the distribution of funds, those States with larger populations would receive more funding. A State agency administering a small population may report a low number of total infant deaths, while in actuality the infant mortality rate may be a high figure, possibly reflecting serious nutritional and health care deficiencies.

Evidence has been presented which clearly reflects an inverse relationship between socioeconomic status and infant mortality rate. In a study by MacMahon et al., mortality rates were higher for white infants in lower socioeconomic groups than in higher socioeconomic groups throughout the first year of life. The differences for deaths between lower and higher socioeconomic groups was considerably greater after the first week of life than in very early life. One of the factors accounting for this difference is that women of higher socioeconomic status are often better educated about proper nutrition, and are better able to utilize and afford prenatal and infant health care services. Since the WIC Program uses income level as well as nutritional need to determine eligibility, the relationship between low socioeconomic status and high infant mortality rates strengthens the argument for using these rates as funding distribution criteria.

The data is readily available on a regular basis and is considered to be a good index of the health status of a community. In addition, infant mortality rates are thought to be affected by (also related to) the age of the mother e.g., girls under 17 years of age, prematurity, access to prenatal care and other such factors which relate to the WIC target population.

Neonatal Mortality was also discussed, but data is more difficult to

obtain and is often limited as it only covers a small segment of the total infant population. Therefore, it was determined that infant mortality rate, as it includes neonatal mortalities, was a better health indicator for the purposes of the formula.

The Department also recognized the need for including a population indicator in the WIC distribution formula, since it is the purpose of the Program to provide supplemental foods to persons at nutritional risk because of both inadequate income and inadequate nutrition.

Factors directly relating to population include live births, rural births, population of children from 0-5 years, and birth by age of mother, however, these factors do not specifically target on low income. The factor "children under five years at or below poverty or 200 percent of poverty" has the advantage of being both a poverty factor as well as a population factor.

Additionally, children under five years of age who are members of families with incomes at or below 200 percent of poverty are potentially eligible for WIC. They may be at high nutritional risk and may be critically in need of WIC Program benefits. Further, pending legislation will probably establish an income eligibility requirement of 195 percent of the poverty level, so the use of children under 5 years at or below 200 percent of the poverty level would be consistent with the legislative intent of serving persons at or below 195 percent of poverty.

During early stages of development, children need iron, protein, vitamins and other nutrients. However, according to the "Ten State Nutrition Survey" conducted by the Department of Health, Education and Welfare (DHEW) many low-income families often cannot afford to buy sufficient food meet their children's nutritional needs. Often they must resort to giving their children inexpensive foods which are filling and satisfy the children's hunger but lacking in essential nutrients. Thus, the diets of low-income children often do not provide the nutrients necessary for adequate growth and normal blood levels. Consequently, as it is recognized that children in low-income families are generally at a greater potential risk and can benefit from the preventive health and nutrition aspects of the Program, the Department concluded that allocating funds on the basis of number of children under five years at or below 200 percent of the poverty level would focus funds on the target population which would be eligible under the 195 percent of poverty income eligibility requirement. Poverty should be a key indicator in the distribution of funds.

During the discussion on the factors to use, the Title V formula and the factors used in that formula were addressed. The Title V formula uses per capita income and live births statistics as a basis for distributing funds.

In the past, some States with a predominantly urban population did not believe Title V was an equitable formula because some of the statistical components were broken into urban and rural subsets with the rural subset being given double weight. While enabling legislation for Title V Programs recognized the special needs of rural areas for Maternal and Child Health (MCH) services, WIC Program legislation makes no specific distinction in the funding provision. However, the special needs of rural populations are addressed in other sections of the WIC legislation. Rurality also is reflected in infant mortality rate to some extent.

Besides the concern of urban areas, a number of other technical arguments have been voiced over the Title V formula. The health index does not distinguish between total live births and live births in the low-income population. As the WIC target population is composed of pregnant and breastfeeding women, infants and children under five years who are low-income, it is argued that poverty statistics considered in a formula should focus on these groups. Further, as per capita income is incorporated in the income index, urban areas might be at a disadvantage as the cost of living is generally higher in urban areas. Further, the total live birth index is not congruent to the preventive aspect of the Program in that more funds should go to States where infant mortality is higher relative to the rate of conception.

For these reasons, the per capita income factor was not favored for application into the formula. Although data is readily available, this factor had the limitation of relating to population as a whole, rather than reflecting the low income population which is the target population of the WIC Program. Consequently, the Panel believed that the factors used in Title V and the manner in which the formula applies the factors, were not the best alternative for funds distribution in the WIC Program.

Selection and Application of the Food Funding Formula

Once the Panel had reached a decision on the best factors to use in the formula, the results of several formulas and various modifications were discussed. The Panel concluded that the best option was to utilize a formula which incorported two different funds of money. One fund, amounting to 70 percent of the food fund was to be distributed to State agencies based on each State agency's percent of children under 5 years at or below 200 percent of poverty or percent of children under 5 years at or below poverty and 200 percent of poverty compared to the national total. The other fund, 30 percent of the food funds, was to be distributed based on each State agency's percent of the infant mortality rate compared to the nationwide sum of infant mortality rates.

The Panel believed that this formula brought together the factors which reflected need based on poverty, population, and health factors. Poverty and population are each considered in the factor "children under 5 under poverty or under 200 percent of poverty". Because both poverty and population are to be covered by this one factor, it was given double weight by allocating 70 percent of the funds to be distributed based on this factor. The remaining 30 percent of funds was to be distributed based on infant mortality rate which considers the health need of the population rather than the size of the population.

The Department analyzed the results of this formula to determine the impact on WIC State agencies, and found after the panel meeting had concluded that the formula tended to allocate disproportionately large sums of money into State agencies with small populations. As the Panel concluded that a population/poverty factor should get a double weight (as indicated in giving 70 percent of the food fund based on children under 5 years at or below 200 percent of poverty), the Department believed the result of this formula was at variance with the Panel's intent.

Consequently, an adjustment was made to the formula to assure that the end result was more consistent with the philosophy expressed by the Panel members. The primary problem with the formula emanated from the 30 percent fund which was distributed on the infant mortality rate. This procedure allowed sparsely populated States to get as much money as heavily populated States if their infant mortality rate was the same. If a small State has a significantly higher infant mortality rate than a large State, the small State received a significantly larger portion of the money from this fund.

In order to resolve this inequity, and still remain true to the Panel's intended use of poverty, population and health indices, the Department developed the following formula: Chidren under 5 years at or below 200 percent of poverty multiplied times the result of the infant mortality rate divided by the national infant mortality rate.

This formula considers the poverty/population factor, but tempers that that factor based on the infant mor-

tality rate of the State. If a State has an infant mortality rate higher that the national average, they receive a funding advantage over a State agency with an infant mortality rate below the national average.

In order to apply the formula, the Panel made several recommendations concerning procedures which would ensure that the most equitable allocation would be accomplished. Following is a discussion of those procedures.

Maximum grant. It was decided that no State agency should receive more funds than needed to serve their universe of potentially eligible WIC participants. Therefore, a maximum grant was computed to ensure that no State agency receives in excess of that Maximum grant amount.

The formula used to determine maximum grant was the number of children under 5 years at or below 200 percent of poverty plus the number of live births, with the sum of those two figures multiplied by the national average food package cost and multiplied by 12 months. (For Indian State agencies, rather than using the national average food package cost, the average food package for each State agency or the average food package cost among all Indian State agencies, which ever is highest, was used). The determination was made that no State agency received more than what their maximum grant allowed.

Hold harmless. It is essential that all State WIC agencies be guaranteed (or held harmless to) their fiscal year 1978 fourth quarter annualized level when the funding formula is applied. The held harmless provision is applied in recognition of the performance level States have attained during the past 27 months. Failure to hold harmless would negate past efforts and discourage future growth efforts and would impact additionally on adjunctive health services as well as local WIC Program.

The Program has experienced some recent growth in nearly all States. It would make little philosophic or programatic sense to cut back funding in some States while increasing funding in others, as funding cutbacks in States would remove current participants from the Program. If all States are held harmless, the current caseload will be assured through fiscal year 1979 in States which would not benefit significantly from the application of the formula at the fiscal year 1979 funding level. The held harmless factor would continue to be used during the life of the formula as long as any State agency loses funds through application of the formula.

An inflation and growth rate factor based on USDA's estimate of projected food package cost increases in fiscal year 1979 was also included in the formula. Fiscal year 1979 funds will be available on a basis which again will allow only a gradual growth rate; therefore, according to Department calculations, each State agency requires an additional 10 percent of its fiscal year 1978 fourth quarter annualized allocation in order to maintain its fourth quarter caseload during fiscal year 1979 and to provide for limited growth in all State agencies in order to establish and maintain a stable system of program administration.

To accomplish this, the funding formula is run for all State agencies and the outcome is compared to their fourth quarter fiscal year 1978 annualized level. All State agencies with fourth quarter annualized amounts over the formula amount are held harmless and given increases of 10 percent.

Other State agencies receive funds via the formula application.

Migrant farmworkers. The needs of the migrant farmworkers and the unique difficulties they present in a funding methodology were also taken into consideration.

According to the National Association of Farmworker Organizations, recent statistics have shown that the infant mortality rate among migrant farmworkers is 25 percent higher than the national average. Also, nine times more births among migrants occur outside of hospitals than among nonmigrants. These figures show that the migrant population is in itself a high risk group and should have special provisions to ensure WIC benefits reach those women, infants and children within the migrant population. However, because migrants travel from State to State in the process of doing their work, and because each State has limited funds, migrants often enter the Program and go through another waiting period in a new State which does not have any additional funds. In effect, migrants are penalized for their life style.

Since no realistic count of migrant women, infants and children is available nationwide, migrants could not be included in any funding formula. However, the Panel recommended and the Department concurred that migrant needs could be addressed best through regulatory requirements which mandate the following:

1. State agencies must include in their State Plans of Operation how the State agency will identify the migrant population and their specific needs and what specifically will be done to address migrant needs.

2. State agencies must coordinate with community based farmworker organizations, or other similar groups in order to develop programs to meet migrant needs.

3. FNS must develop specific performance standards and sanctions to ensure State agency compliance with approved plans.

The Department will also consider the need to serve additional migrant farmworkers in the reallocation criteria.

New State Agencies

Outlying territories such as Guam and the Trust Territories as well as Wyoming and the District of Columbia are not included in the apportionment of WIC funds because there are no programs presently operating in those jurisdictions, nor has the Department received a formal application for participation in the Program from these potential State agencies. Legislative intent dictates that all appropriated funds should be made available to all State agencies currently participating or having made application to participate in the Program. Therefore, any territory or State making application to participate in the Program will receive funds from future reallocations of unspent funds in accordance with procedures established herein.

There was some discussion throughout the course of the Panel meeting as to whether a maximum cap should be set to limit State agencies to no more than a set percentage over their fiscal year 1978 fourth quarter annualized level. Although the Panel made no formal recommendation in this regard, the Department believes that given the modest increase provided for fiscal year 1979 over the current annualized level, it is wise to set a cap to prevent some State agencies from receiving a funding allocation which is far greater than what they could realistically spend in the upcoming fiscal year.

To this end, it was decided to set a cap whereby State agencies whose fourth quarter annualized level was over $5 million would receive no more than a 50 percent increase above that annualized level. This will ensure that these State agencies are provided ample funds, but not an amount which would cause expansion poorly integrated with health service. It also ensures that large sums obligated funds do not remain unspent in a State agency's Letter of Credit because of difficulties in expending a large amount of money in a short time.

In summary, the formula selected for distribution of food monies is applied as follow:

1. The formula is applied to the $550 million appropriated as shown below:

Number of each State's children under 5 under 200 percent poverty

divided by

Sum of all State agencies children under 5, under 200 percent poverty

times

State's infant mortality rate

divided by

National infant mortality rate

2. The results of the formula are then compared to each State agency's fourth quarter annualized level. If the fourth quarter annualized level is more than the amount allocated under the formula, that State agency is held harmless (or guaranteed at least that level of funding).

3. The maxium grant is computed for each State agency and is also compared to the State agency's fourth quarter annualized level. If the fourth quarter annualized level is higher than the maximum grant, the State agency receives the maximum grant (an exception is made for the first quarter of fiscal year 1979; any State agency whose fourth quarter annualized level is higher than the maximum grant will receive their fourth quarter annualized level). As the only State agencies which have reached maximum grant are Indian State agencies, the Department believes it is prudent to do further research on statistics available on Indian populations before applying the maximum grant limitation.

4. All State agences then receive a 10 percent increase over their fourth quarter annualized level (except those State agencies which are at maximum grant and are receiving only their fourth quarter annualized level) and a total is computed.

The total from number 4 is subtracted from the funds available and the formula is run again on the difference for only those State agencies which were not held harmless or at maximum grant.

6. The amount allocated by the 10 percent increase and the amount received through the second run of the formula is added together to arrive at the grant for the State agencies that participated in the second formula run.

At this point an analysis is made to determine if any state agency which has a fourth quarter annualized level of over $5 million has an increase of over 50 percent. For these State agencies, the amount in excess is recaptured, totaled and distributed through a third run of the formula to the other State agencies that participated in the second formula run.

Through the application of the formula, a State agency will receive a grant derived by one of the following:

1. Maximum grant.

2. Fourth quarter annualized level plus a 10 percent increase (hold harmless State agencies).

3. Fourth quarter annualized level plus a 10 percent increase plus a share of the funds from the second and third runs of the formula (State agencies not held harmless).

Shown below is a chart which indicates the first quarter funding level for each State agency. Administrative costs are included and were computed by providing each State agency with 20 percent of their program grant in compliance with P.L. 94-105. Since there is no new authorizing legislation we are currently held to this 20 percent level as specified in P.L. 94-105. the Department feels sure that new legislation will be passed in the near future. As a result of this passage, administrative funds would be determined by a formula rather than the straight 20 percent for the remainder of this fiscal year. Therefore, grant levels will change accordingly with some State agencies increasing while others decrease. The figures listed below represent the first quarter funding only, not one-fourth of the annual funding level.

A number of State agencies have two funding amounts listed. The first amount is their first quarter level; the amount in parenthesis is the first quarter maximum grant level. These State agencies are the ones being held harmless for the first quarter to allow for more accurate computation of maximum grant levels as discussed above.

New England Region		
Connecticut	$2,877,375	
Maine	846,029	
Massachusetts	2,263,972	
New Hampshire	382,181	
Rhode Island	574,761	
Vermont	1,515,842	
Mid-Atlantic Region		
Delaware	$292,773	
Maryland	2,655,619	
New Jersey	2,839,8344	
New York	8,876,555	
Pennsylvania	5,567,266	
Puerto Rico	4,073,687	
Seneca Nation, New York	42,669	($39,780)
Virginia	3,294,298	
Virgin Islands	319,697	
West Virginia	1,500,004	
Southeast Region		
Alabama	$2,783,621	
Florida	14,623,516	
Georgia	4,465,363	
Kentucky	3,547,000	
Mississippi	2,893,033	
North Carolina	5,648,598	
South Carolina	3,857,615	
Tennessee	3,423,172	
Seminoles, Florida	24,417	($18,161)
Choctaws, Mississippi	81,453	(64,449)
E. Cherokee, North Carolina	74,400	(65,434)
Southwest Region		
Arkansas	$1,778,064	
Louisiana	3,665,951	
New Mexico	947,459	
Oklahoma	1,369,850	
Texas	9,030,000	
Pueblo of Acoma, New Mexico	46,835	($33,922)
Eight Northern Pueblos, New Mexico	38,483	
Isleta Pueblo, New Mexico	29,165	
Santa Domingo, New Mexico	28,059	(21,968)
Six Dandoval, New Mexico	89,112	(63,342)
WCD Enterprises, Oklahoma	194,370	
Choctaws, Oklahoma	117,942	
Cherokee, Oklahoma	320,702	
Chickasaw, Oklahoma	101,618	
Tonkawa, Oklahoma	16,500	
Midwest Region		
Illinois	$5,731,211	
Indiana	2,415,868	
Michigan	4,139,238	
Minnesota	1,626,897	
Ohio	6,625,613	
Wisconsin	1,805,206	
Mountain Plains Region		
Colorado	$1,186,290	
Iowa	1,367,410	
Kansas	849,734	
Missouri	3,163,177	
Montana	969,079	
Nebraska	623,218	
North Dakota	520,794	
South Dakota	399,186	
Utah	1,323,993	
Shoshone and Araphoe, Wyoming	58,558	($50,787)
Ute Mountain Tribe, Colorado	9,677	
Nebraska IITDC	33,000	(15,447)
Cheyenne River Sioux, South Dakota	72, 260	
Rosebud Sioux, South Dakota	81,909	
Standing Rock, North Dakota	110,000	(26,470)
Western Region		
Alaska	$136,864	
Arizona	3,481,456	
California	8,076,890	
Hawaii	396,887	
Idaho	767,599	
Nevada	596,691	
Oregon	1,732,879	
Washington	2,252,827	
ITCN, Nevada	56,850	

As the Department believes that the public should have an opportunity to comment on the contents of this notice, public comments will be accepted until November 10, 1978. The Department was unable to issue this notice and solicit comments prior to October 1, therefore, the Department feels the public interest is best served by putting this funding formula into effect immediately, based on public input received at the Panel meeting on Funding Structure, to enable State agencies to receive funds to operate the WIC Program for the first quarter of fiscal year 1979. The Department is accepting comments for only 30 days so that sufficient time is allowed for a complete analysis of comments before December 15, as Letters of Credit must be completed by that time. All comments received will be carefully considered before a final decision is reached on a formula to distribute WIC Program grants.

Comments may be sent to:

Jennifer R. Nelson, Director, Supplemental Food Programs Divison, Food and Nutrition Service, USDA, Washington, D.C. 20250.

Copies of all written submissions received will be made available for public inspection in Room 4301, 201 14th Street SW., Washington D.C., during regular business hours (8:30 a.m. to 5 p.m.).

Signed at Washington, D.C., on October 6, 1978.

LEWIS B. STRAUS,
Administrator.

[FR Doc. 78-28742 Filed 10-10-78; 8:45 am]

[3510-24-M]

DEPARTMENT OF COMMERCE

Economic Development Administration

DANNY DARE, INC. ET AL.

Petitions for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from three firms: (1) Danny Dare, Inc., 2800 Warwick Trafficway, Kansas City, Mo. 64108, a producer of shirts, pants, coats, shorts, and other apparel for children (accepted October 2, 1978); (2) Offspring Industries, Inc., 27 Bruckner Boulevard, Bronx, N.Y. 10454, a producer of sweaters and tops for women (accepted October 2, 1978); and (3) Char-Len Handbags, Inc., 732 Howard Avenue, New Haven Conn. 06519, a producer of handbags (accepted October 4, 1978). The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 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 of 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 October 21, 1978.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 78-28569 Filed 10-10-78; 8:45 am]

[3510-25-M]

Foreign-Trade Zones Board

[Order No. 135]

CLEVELAND-CUYAHOGA COUNTY PORT AUTHORITY

Resolution and Order Approving Application, for a Foreign-Trade Zone in Cleveland, Ohio

PROCEEDINGS OF THE FOREIGN-TRADE ZONES BOARD, WASHINGTON, D.C.

RESOLUTION AND ORDER

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter hereby orders:

After consideration of the application of the Cleveland-Cuyahoga County Port Authority, an Ohio public agency, filed with the Foreign-Trade Zones Board (the Board) on March 9, 1978, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Cleveland, Ohio, within the Cleveland Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal includes open land on which the possible construction of buildings by parties other than the grantee might be involved, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to § 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

GRANT

TO ESTABLISH, OPERATE, AND MAINTAIN A FOREIGN-TRADE ZONE IN CLEVELAND, OHIO

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Cleveland-Cuyahoga County Port Authority (the Grantee) has made application (filed March 9, 1978) in due and proper form to the Board requesting the establishment, operation, and maintenance of a foreign-trade zone in Cleveland, Ohio, within the Cleveland Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's Regulations (15 CFR Part 400) are satisfied;

Now, therefore, The Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone designated on the records of the Board as Zone No. 40, at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the the Foreign-Trade Zones Board has caused its name to be signed and its seal to be af-

fixed hereto by its Chairman and Executive Officer at Washington, D.C. this 29th day of September 1978, pursuant to Order of the Board.

For the Foreign-Trade Zones Board.

JUANITA M. KREPS,
Chairman and Executive Officer.

Attest:

JOHN J. DAPONTE,
Executive Secretary.

[FR Doc. 78-28581 Filed 10-10-78; 8:45 am]

[3510-25-M]

[Order No. 136]

GREATER MILWAUKEE, INC.

Resolution and Order Approving Application, for a Foreign-Trade Zone in Milwaukee, Wis.

PROCEEDINGS OF THE FOREIGN-TRADE ZONES BOARD, WASHINGTON, D.C.

Pursuant to the authority granted in the Foreign-Trade Zones Board Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter hereby orders:

After consideration of the application of the Foreign Trade Zone of Greater Milwaukee, Inc., a Milwaukee corporation, filed with the Foreign-Trade Zones Board (the Board) on March 21, 1978, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Milwaukee, Wis., within the Milwaukee Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves an industrial park type zone that envisages the possible construction of buildings by parties other than the grantee, this approval includes authority to the Grantee to permit the erection of such buildings, pursuant to § 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

GRANT

TO ESTABLISH, OPERATE, AND MAINTAIN A FOREIGN-TRADE ZONE IN MILWAUKEE, WIS.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Foreign Trade Zone of Greater Milwaukee, Inc., (the Grantee) has made application (filed March 21, 1978) in due and proper form to the Board requesting the establishment, operations, and maintenance of a foreign-trade zone in Milwaukee, Wis., within the Milwaukee Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's Regulations (15 CFR Part 400) are satisfied;

Now, therefore, The Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone designated on the records of the Board as Zone No. 41, at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C., this 29th day of September 1978, pursuant to Order of the Board.

For the Foreign-Trade Zones Board.

JUANITA M. KREPS,
Chairman and Executive Officer.

Attest:

JOHN J. DAPONTE,
Executive Secretary.

[FR Doc. 78-28582 Filed 10-10-78; 8:45 am]

[3510-25-M]

[Order No. 137]

GREATER ORLANDO AVIATION AUTHORITY

Resolution and Order Approving Application, for a Foreign-Trade Zone in Orlando, Fla.

PROCEEDINGS OF THE FOREIGN-TRADE ZONES BOARD, WASHINGTON, D.C.

RESOLUTION AND ORDER

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter hereby orders:

After consideration of the application of the Greater Orlando Aviation Authority, filed with the Foreign-Trade Zones Board (the Board) on May 1, 1978, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Orlando, Fla., within the Orlando Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal includes open land on which the grantee might desire to permit the construction of buildings by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to § 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and

Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

GRANT

TO ESTABLISH, OPERATE, AND MAINTAIN A FOREIGN-TRADE ZONE IN ORLANDO, FLA.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Greater Orlando Aviation Authority (the Grantee) has made application (filed May 1, 1978) in due and proper form to the Board requesting the establishment, operations, and maintenance of a foreign-trade zone in Orlando, Florida, within the Orlando Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's Regulations (15 CFR Part 400) are satisfied;

Now, therefore, The Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone designated on the records of the Board as Zone No. 42, at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C., this 29th day of September 1978, pursuant to Order of the Board.

For the Foreign-Trade Zones Board.

JUANITA M. KREPS,
Chairman and Executive Officer.

Attest:

JOHN J. DAPONTE,
Executive Secretary.

[FR Doc. 78-28583 Filed 10-10-78; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

SEAFOOD SPECIES

Announcement of Nomenclature Project

Notice is hereby given that the National Marine Fisheries Service is making available for comments a model retail identification plan for fishery products. The model provides a system for identifying seafood species that will result in more informative and effective labeling for fishery products. The system is based on the eating characteristics of seafood species instead of their common names.

In 1974, the National Marine Fisheries Service (NMFS), announced the initiation of a project to develop and implement a comprehensive national seafood product retail identification program. This announcement was made in conjunction with a statement of findings published in the June 6, 1974 issue of the FEDERAL REGISTER (Vol 39, pp. 20711-12), which summarized the results of 525 comments received relative to problems incurred in identifying and labeling fishery products. The major problems were as follows:

1. There is an increasing interest in using underutilized fishery resources not heretofore generally marketed, for which no common names exist that are familiar to U.S. consumers.

2. Marine food fish species carry taxonomically accurate scientific names, but many species are known by different common names in different locations. This causes consumer confusion and frequently thwarts the orderly marketing and market development of these species.

3. The marketability of many nutritious species is severely limited because of aesthetically objectionable common or local names.

4. New food processing techniques present opportunities for developing new seafood forms for which names, or precedents for naming, do not exist.

A summarization of the comments is as follows:

1. Nearly 70 percent of the responses agreed that a need exists for the clarification and refinement of policies and procedures that govern the nomenclature of fish and fishery products for purposes for the marketing and labeling of these products.

2. Most commenters indicated that NMFS is the appropriate Federal agency to undertake an initiative to improve the nomenclature of fishery products for these purposes.

3. Three facets of the current problem of fish nomenclature were identified:

(i) Many nutritious species have unaesthetic traditional names that limit utilization.

(ii) A continuing supply of fishery products dictates using these species.

(iii) Changing food habits and product forms will accomodate use of these species if they are appropriately named.

4. Consumer needs were recognized as important in the following areas:

(i) Aesthetic labeling

(ii) Truthful labeling

(iii) Appropriate product representation

The comments did not provide sufficient new information or specific ideas concerning how to develop suitable procedure for assuring the effective and appropriate identification of fish and fishery products, based upon the legitimate interests of consumers and the industry.

Since 1974, MNFS, through contract research with The Brand Group, Inc., conducted a study to determine the feasibility of developing a new naming system for seafoods. The conclusions of the study indicated that a new seafood product identification system could be designed and developed which would utilize the edibility characteristics of seafood species as a basis for identifying products. Further, such a system would allow consumers to make preference selections in purchasing seafoods, allow industry to better utilize non-traditional resources, and ease the regulatory burden of food control agencies.

Subsequent to the feasibility study, NMFS commissioned a follow-up contract with The Brand Group, Inc. to develop the model retail identification plan for seafoods, based upon principles recommended in the feasibility study. In March 1978, the Brand Group, Inc., provided NMFS with a report entitled "A Model Retail Identification Plan for Seafood Species—A Description of the Project and Recommended Principles of Identification."

The report gives the framework for identifying various edible aquatic species, based upon their eating qualities. Other recommendations are given as follows:

1. A comprensive and constant data bank of edibility profiles and related information for all commerical aquatic species should be developed.

2. Guidelines and procedures for making interim decisions on seafood product labeling and nomenclature are required.

3. An interim program for marketing seafood products on the basis of product edibility information should be established.

The National Marine Fisheries Service invites the views and comments of interested persons relative to the "model retail plan for seafood species." Among the questions that should be addressed are:

A. Is the model retail identification plan a logical approach for the constuction of a complete identification system for finfish and products therefrom?

B. Are the edibility factors (8) identified in the model plan:

(i) The most significant and useful in determining product edibility?

(ii) Too numerous or too few?

(iii) Listed in the appropriate order of priority?

C. Should objective methods be used to measure the edibility factors quantitatively?

D. Should NMFS proceed to fully develop and implement a new seafood identification system, based upon a compresensive data bank of edibility a characteristics for a seafood species?

E. Should NMFS develop guidelines and procedures for interim changes in existing nomenclature?

F. Should NMFS develop interim marketing directions?

Any specific suggestions on how NMFS should proceed would be welcomed. Copies of the detailed report containing the model retail identification plan for seafoods have been distributed to consumer, Federal, State, and industry groups as well as to foreign countries most directly affected, in order to provide an opportunity for their comments. Other persons interested in obtaining copies of the report should write to the National Marine Fisheries Service, Seafood Quality and Inspection Division, Washington, D.C. 20235.

Written comments should be sent on or before November 30, 1978, to Mr. Thomas J. Billy, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235.

For further information contact James R. Brooker, Seafood Quality and Inspection Division, Washington, D.C. 20235, 202-634-7458.

WINFRED H. MEIBOHM,
Acting Executive Director.
National Marine Fisheries Service.

[FR Doc. 78-28597 Filed 10-10-78; 8:45 am]

[3510-22-M]

PACIFIC FISHERY MANAGEMENT COUNCIL, SCIENTIFIC AND STATISTICAL COMMITTEE AND SALMON ADVISORY SUBPANEL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting with partially closed session.

SUMMARY: The Pacific Fishery Management Council and its Scientific and Statistical Committee and Salmon Advisory Subpanel will conduct a series of meetings, November 7-9, 1978.

DATES: The Council meetings will convene at 10 a.m., Wednesday, November 8, 1978, and at 8 a.m., Thursday, November 9, 1978, adjourning at 5 p.m. on both days. The Scientific and Statistical Committee meetings will convene at 9 a.m., Tuesday, November 7, 1978, and 10 a.m., Wednesday, November 8, 1978, adjourning at 5 p.m on both days. The Salmon Advisory Subpanel meeting will convene at 9 a.m., Tuesday, November 7, 1978, and adjourn at 5 p.m.

ADDRESS: The meetings will take place at the Renton Inn, 800 Rainier South, Renton, Wash.

FOR FURTHER INFORMATION CONTACT:

Mr. Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill street, Second Floor, Portland, Oreg. 97201, Telephone: 503-221-6352.

SUPPLEMENTARY INFORMATION: The Pacific Fishery Management Council was established by the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and the Council has established a Scientific and Statistical Committe and Salmon Advisory Subpanel to assist in carrying out its responsibilities. The Salmon Advisory Subpanel agenda is as follows:

NOVEMBER 7, 1978

(1) Consideration of Habitat Task Force Report.

(2) Review of "Socio-economics of the Idaho, Washington, Oregon and California Coho and Chinook Salmon Fisheries."

(3) Development of Salmon Management Plans.

The Scientific and Statistical Committee agenda is as follows:

NOVEMBER 7-8, 1978

(1) Development of fishery management plans: Comprehensive Salmon; Ocean Salmon for 1979; Squid; Groundfish; Billfish; Dungeness Crab; Jack Mackerel, and Pink Shrimp.

(2) Operational and procedural matters of the Council, including advisory panel and management plan development team activities.

(3) Public comment period beginning at 3:30 p.m. on November 7.

(4) Other committee business.

The Council agenda is as follows:

NOVEMBER 8, 1978

(1) Closed 2-hour session (8 a.m. to 10 a.m.) to discuss classified material on the status of current maritime boundary and resource negotiations between the United States and Canada.

(2) Consideration of the Comprehensive Salmon Mangement Plan and other fishery management plans under development.

(3) Consideration of reports from ad hoc committees.

(4) Review of communications from other agencies and organizations.

(5) Public comment period beginning at 4:00 p.m.

NOVEMBER 9, 1978

(1) Consideration of the Comprehensive Salmon Management Plan and other fishery management plans under development.

(2) Operational and procedural matters of the Council, including its staff, advisory panels, and committee activities.

(3) Consideration of reports from ad hoc committees.

(4) Review of communications from other agencies and organizations.

The Council, Scientific and Statistical Committee and Salmon Advisory Subpanel expect to address each of the items of the agenda above. Time restraints may require that some items be deferred to a later meeting. In addition, there is a possibility that late items of importance may be added to the agenda after the appearance of this announcement. Interested parties should contact the Executive Director as mentioned above to obtain a more detailed agenda. The Scientific and Statistical Committee and Salmon Advisory Subpanel meetings will be open to the public. The Council meeting will also be open to the public except for the first agenda item on the second day. The closed session of the Council meeting is planned for the early morning of November 8, 1978, from 8 a.m through 10 a.m. to hear and discuss Department of State secu-

rity classified material on the status of current maritime boundary and resource negotiations between the United States and Canada. Only those Council members, SSC members, and staff having security clearances will be allowed to attend this closed session.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of its General Counsel, formally determined, on August 14, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt for the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(1) as information which is properly classified pursuant to Executive Order 11652. (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce).

Dated: October 5, 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 78-28568 Filed 10-10-78; 8:45 am]

[3510-04-M]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator,
National Technical Information Service.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Services Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782

Patent 3,948,733: Simplified Protein Hydrolysis Apparatus; filed December 12, 1973, patented April 6, 1976.

Patent 3,949,515: In-Field Boll Weevil Trap; filed July 23, 1975, patented April 13, 1976.

Patent 3,954,866: Process for the Preparation of Quaternary Arylaminoalkyl Phosphonium Salts; filed December 5, 1974, patented May 4, 1976.

Patent 3,960,763: Agricultural Foams as Carriers for Activated Charcoal; filed July 17, 1974, patented June 1, 1976.

Patent 3,976,320: Chicken Coop Lifting Device; filed August 14, 1975, patented August 24, 1976.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546

Patent 3,744,739: Multiple In-Line Docking Capability for Rotating Space Stations; patented July 10, 1973.

Patent 3,982,910: Hydrogen-Rich Gas Generator; patented September 28, 1976.

Patent 3,983,714: Cryostat System for Temperatures on the Order of 2 Deg K or Less; patented October 5, 1976.

Patent 3,983,749: Annular Arc Accelerator Shock Tube; patented October 5, 1976.

Patent 3,983,753: Thermistor Hokder for Skin Temperature Measurements; patented October 5, 1976.

Patent 3,983,933: Heat Exchanger; patented October 5, 1976.

Patent 3,984,070: Wingtip Vortex Dissipator for Aircraft; patented October 5, 1976.

Patent 3,984,256: Photovoltaic Cell Array; patented October 5, 1976.

Patent 3,984,634: Anti-Multipath Digital Signal Detector; patented October 5, 1976.

Patent 3,984,671: Optical Process for Producing Classification Maps from Multispectral Data; patented October 5, 1976.

Patent 3,984,681: Ion and Electron Detector for Use in an ICR Spectrometer; patented October 5, 1976.

Patent 3,984,685: Wind Measurement System; patented October 5, 1976.

Patent 3,984,686: Focused Laser Doppler Velocimeter; patented October 5, 1976.

Patent 3,984,799: the DC-to-DC Converters Employing Staggered-Phase Power Switches With Two-Loop Control; patented October 5, 1976.

Patent 3,985,454: Window Defect Planar Mapping Technique; patented October 12, 1976.

[FR Doc. 78-28612 Filed 10-10-78; 8:45 am]

[3510-04-M]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator
National Technical Information Service.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Services Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782

Patent 3,958,452: Uniform Planar Strain Tester; filed January 23, 1975, patented May 25, 1976.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217

Patent 3,898,048: Light-Weight Rocket Deployable Gas Generator; filed March 21, 1974, patented August 5, 1975.

Patent 3,903,496: Opto-Acoustic Hydrophone; filed June 14, 1974, patented September 2, 1975.

Patent 3,903,497: Opto-Acoustic Hydrophone; filed June 14, 1974, patented September 2, 1975.

Patent 3,940,732: Buoyant Electrode and System for High Speed Towing; filed March 30, 1970, patented February 24, 1976.

Patent 3,943,482: Marine Mine Detector; filed October 3, 1976, patented March 9, 1967.

Patent 3,949,676 Load Actuated Electro-Ignition Circuit Switch; filed June 10, 1974, patented April 13, 1976.

Patent 3,953,828: High Power-Wide Frequency Band Electro-acoustic Transducer; filed November 8, 1968, patented April 27, 1976.

Patent 3,958,490 Self-Cocking Rocket Launcher Detent; filed December 19, 1974, patented May 25, 1976.

Patent 3,960,171: Helmet Exhaust Valve; filed January 27, 1975, patented June 1, 1976.

Patent 3,691,476: Metal Interlayer Adhesive Technique; filed September 11, 1975, patented June 8, 1976.

Patent 3,961,555: Safety Mechanism for Intervalometers and Distributors; filed January 13, 1975, patented June 8, 1976.

Patent 3,962,628: Adjustable Magnetic Gradiometer; filed April 14, 1975, patented June 8, 1976.

Patent 3,968,445: Digital Pulse Width Doubler; filed April 29, 1974, patented July 6, 1976.

Patent 3,968,723: Method for Reclaiming and Recycling Plastic Bonded Energetic Material; filed March 3, 1975, patented July 13, 1976.

Patent 3,968,751: Arming Device; filed September 5, 1975, patented July 13, 1976.

Patent 3,969,263: Method of Producing Light Using Catalyst Chemiluminescent System; filed March 3, 1975, patented July 13, 1976.

Patent 3,969,676: Electron Beam Ionization Signal Sampler; filed April 17, 1975, patented July 13, 1976.

Patent 3,975,985: Wide Angle Seeker; filed May 18, 1972, patented August 17, 1976.

Patent 3,974,990: Dual Ejector Stores Attitude Control System; filed July 21, 1975, patented August 17, 1976.

Patented 3,977,003: Conformed Helmet Antenna; filed October 15, 1974, patented August 24, 1976.

Patent 3,977,004: Aircraft VLF/LF/MF Window Antenna Receiving System; filed June 16, 1975, patented August 24, 1976.
Patent 3,978,430: Segmented Flow Laser Cavity; filed October 2, 1975, patented August 31, 1976.
Patent 3,978,894: Energy Absorbing Tear-Webbing; filed February 5, 1973, patented September 7, 1976.
Patent 3,982,144: Directional Low-Frequency Ring Hydrophone; filed August 23, 1974, patented September 21, 1976.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546

Patent 3,983,695: Ion Beam Thruster Shield; patented October 5, 1976.
Patent 3,983,780: Casting Propellant in Rocket Engine; patented October 5, 1976.
Patent 3,984,072: Attitude Control System; patented October 5, 1976.
Patent 3,984,730: Method and Apparatus for Neutralizing Potentials Induced on Spacecraft Surfaces. Patented October 5, 1976.

[FR Doc. 78-28613 Filed 10-10-78; 8:45 am]

[3510-04-M]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE ARMY, Office of Judge Advocate General, Patent Division, Room 2-C455, Pentagon, Washington, D.C. 20310

Patent 3,016,369: Organotin Acrylic Polymers. Filed July 16, 1958, patented January 9, 1962.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314

Patent 3,985,321: Automatic Line Release System. Filed November 25, 1975, patented October 12, 1976.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217

Patent 3,904,293: Optical Method for Surface Texture Measurement. Filed December 6, 1973, patented September 9, 1975.
Patent 3,950,617: Helium Speech Unscrambler with Pitch Synchronization. Filed September 9, 1974, patented April 13, 1976.
Patent 3,959,739: Electro-Optic Tuning of Organic Dye Laser. Filed February 3, 1975, patented May 25, 1976.
Patent 3,962,639: System for Reducing Radio Communication Frequency Bandwidth and Increasing Number of Channels Available. Filed June 11, 1973, patented June 8, 1976.
Patent 3,972,755: Dielectric Circuit Board Bonding. Filed October 29, 1974, patented August 3, 1976.
Patent 3,975,865: Fiber Optic Grinding and Polishing Tool. Filed May 27, 1975, patented August 24, 1976.
Patent 3,976,873: Tunable Electroabsorptive Detector. Filed May 8, 1975, patented August 24, 1976.
Patent 3,976,882: Invisible Radiation Imaging Device. Filed June 23, 1975, patented August 24, 1976.
Patent 3,976,976: Method and Means to Access an Extended Memory Unit. Filed April 4, 1975, patented August 24, 1976.
Patent 3,977,788: Interferometer Stabilizer. Filed September 4, 1975, patented August 31, 1976.
Patent 3,978,444: Seafloor Mapping System. Filed May 30, 1975, patented August 31, 1976.
Patent 3,980,395: Liquid Crystal Switch for Optical Waveguide. Filed December 2, 1974, patented September 14, 1976.
Patent 3,981,810: Grease Composition. Filed November 11, 1975, patented September 21, 1976.
Patent 3,988,670: Automatic Testing of Digital Logic Systems. Filed April 15, 1975, patented October 26, 1976.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546

Patent 3,988,561: Weld-Bonded Titanium Structures, patented October 26, 1976.

[FR Doc. 78-28614 Filed 10-10-78; 8:45 am]

[3710-92-M]

DEPARTMENT OF DEFENSE

Department of the Army

CHIEF OF ENGINEERS; ENVIRONMENTAL ADVISORY BOARD

Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the next meeting of the Environmental Advisory Board (EAB) of the Chief of Engineers will be held on 30 October 1978, at the Office of the Chief of Engineers, Forrestal Building, Room 4A-242, 10th and Independence Avenue SW., Washington, D.C. 20314. All sessions of the meeting are open to the public. Time and subjects of each session follow.

A.M. SESSION

0900—Open remarks.
0930—Orientation briefings for new members. Command briefing (1 hour). Civil works update (1 hour). Orientation on Army environmental program (2 hours).

P.M. SESSION

1300—Orientation briefings continued. Presentation by selected corps districts and OCE staff.
1545—Discussion.
1600—Adjourn.

Seating in the meeting room is limited to approximately 20 persons. Written statements, to be made part of the minutes, may be submitted prior to, or up to 10 days following the meeting, but oral participation by the public is limited because of the time schedule. Persons planning to attend or desiring further information should contact Lt. Col. George Boone, Assistant Director of Civil Works, Environmental Programs, Office of the Chief of Engineers, telephone 202-693-7093.

Dated: September 29, 1978.

THORWALD R. PETERSON,
Colonel, Corps of Engineers, Executive Director, Engineer Staff.

[FR Doc. 78-28554 Filed 10-10-78; 8:45 am]

[3128-01-M]

DEPARTMENT OF ENERGY

Conservation and Solar Applications

AUTOMOTIVE PROPULSION RESEARCH AND DEVELOPMENT

Contractor Coordination Meeting

AGENCY: Department of Energy.

ACTION: Notice of meeting.

SUMMARY: The Department of Energy will hold a contractor coordination meeting on automotive propulsion research and development, and members of the public are hereby invited to attend as observers. Contractors and staff of the Department of Energy and the National Aeronautics and Space Administration will present papers on the current state of resarch and development on advanced automobile propulsion systems and on alternative fuels.

DATES: October 17-20, 1978, 9 a.m., to 5 p.m.

ADDRESS: Hyatt Regency Dearborn, Dearborn, Mich.

FOR FURTHER INFORMATION CONTACT:

Carl Weigel, National Aeronautics and Space Administration, Lewis Research Center, Mail Stop: 3-15, 21000 Brookpark Road, Cleveland, Ohio 44135, 216-433-4000, ext. 6706.

SUPPLEMENTARY INFORMATION: Today's notice follows through on a statement in the recent notice of proposed regulations (43 FR 31929, 31932 (July 24, 1978)) under section 304(f) of the Department of Energy Act of 1978—Civilian Applications (Act), 15

U.S.C. 2703(f) (1970), in which the Department of Energy (DOE) announced its intention to open contractor coordination meetings to public attendance. Section 304(f) requires the DOE to issue administrative regulations prescribing procedures, standards, and criteria for review and certification of automotive propulsion research and development to be funded by new grants, cooperative agreements, or contracts, or as new DOE or agency projects under the Act. The purpose of the review and certification process is to insure that research and development newly funded under the Act will supplement rather than supplant, duplicate, displace, or lessen the same activities in the private sector.

The proposed regulations provide for notice to the public of proposed research and development and an opportunity to file written objections. To enable the public to avail itself of the opportunity to participate in the review and certification process, the DOE stated in the notice of the proposed regulations that it would give notice of meetings, such as the one announced today, since relevant information is to be presented. Although the DOE has not yet finalized the proposed regulations, the DOE deems it appropriate to begin inviting public attendance at this time, as stated above.

Below is a preliminary agenda:

Date	*Topic*	*Session*
October 17	Program overview	Morning
	Vehicle systems	Afternoon
October 18	Gas turbine systems	Morning
	Stirling technology	Afternoon
October 19	Gas turbine technology	Morning
	Stirling technology	Afternoon
October 20	Alternative fuels, Pt. 1	Morning
	Alternative fuels, Pt. 2	Afternoon

Registrants at the meeting pay a $25 registration fee for which they receive refreshments, copies of papers presented at the meeting, and subsequently a copy of the report of the proceedings. Members of the public may register and pay the fee if they wish to avail themselves of these services and materials. However, if they do not, they are free simply to attend meeting sessions and listen to the proceedings. Members of the public intending to respond to this notice are requested to so advise the information contact named above in advance so that appropriate seating arrangements can be made.

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

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-28674 Filed 10-10-78; 8:45 am]

[3128-01-M]

Economic Regulatory Administration

MANDATORY OIL IMPORT PROGRAM

Oil Import Allocations and Licensing September 1-30, 1978; Release No. 4

The fee-exempt allocations and licenses issued in accordance with Presidential Proclamation 3279, as amended, during the period September 1-30, 1978, are given in the following tables. The allocations are listed for the appropriate sections of 10 CFR Part 213 under which the allocations are made.

Also published is a tabulation of the fee-paid crude oil and product licenses and a listing of the sale and reassignment of fee-exempt crude oil licenses issued during the month of September 1978.

Previous releases covered the issuance of allocations and licenses for the period May 1, 1978, through August 31, 1978. The releases will continue to be issued on a monthly basis.

Dated: October 2, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administrator.

INDEX

Table and Title

1—Fee-exempt allocations based on petrochemical plant capacity—10 CFR 213.10.

2—Sales of fee-exempt licenses—10 CFR 213.22.

3—Fee-exempt allocations based on new, expanded, and reactivated refining capacity—10 CFR 23.29.

4—Fee-paid licenses issued—10 CFR 213.35.

[7590-01-C]

U. S. DEPARTMENT OF ENERGY
OFFICE OF OIL IMPORTS
ALLOCATION SEPTEMBER 1-30, 1978

TABLE 1

CRUDE AND UNFINISHED OILS - PETROCHEMICAL EXPORTS (SEC. 10)
DISTRICTS I-IV

COMPANY	ALLOCATION (BBLS) CRUDE	UNFINISHED
American Cyanamid	39,020	
ARCO	1,233,150	
Cabot	48,286	8,521
Chemplex	4,478	
Chevron	471,835	83,265
Cities Service	120,820	
Coastal States	175,275	30,931
Dart	62,909	11,102
Dow	3,643,040	642,890
Dupont	1,192,980	
Exxon	1,368,040	
Goodrich	296,025	52,240
Gulf	192,959	34,051
Mobil	241,106	
Monsanto	1,204,245	
Northern Natural Gas	135,541	23,919
Oxirane	93,340	
Phillips	490,417	
PPG	38,471	6,789
Rohm & Haas	213,747	
Shell	447,790	
Solvay & Cie	125,016	
Texaco	140,008	24,707
Texas - U.S. Chemical		27,750
Union Carbide		1,222,631
Union Oil of Calif.	42,840	
Ashland	75,050	
Standard - Indiana	1,191,195	
Sun	324,278	
Conoco	482,685	
Borg-Warner	73,180	
Ethyl	282,225	
Celanese	1,055,575	
DISTRICT V		
Chevron	559,825	
Dow	22,516	3,974
Goodrich	18,470	3,260
Shell	11,640	
Union Carbide	19,787	

TABLE 2

OIL IMPORT LICENSES SOLD PURSUANT TO SECTION 213.22(d)

DISTRICT I-IV

SELLER	BUYER	DATE	COMMODITY	BARRELS SOLD
Exxon	Amoco	9-5-78	Crude	26,416
Pioneer Ref. LTD.	Sun Oil	"	"	600,000
South Hampton	"	"	"	1,000,000
ARCO	Energy COOP.	9-8-78	"	583,125
"	"	"	"	2,744,435
"	"	"	"	851,685
Navajo Ref.	Sohio Natural Res.	"	"	672,000
"	"	"	"	294,520
"	"	"	"	2,608,290
Oxirane	Gulf Oil	"	"	77,015
"	"	"	"	3,396,840
"	"	"	"	77,015
Union Carbide Corp.	Getty Ref.	"	"	1,097,380
Southern Union	Texaco	9-12-78	"	1,557,645
Continental Oil Co.	Getty Ref.	"	"	600,000
"	Crown Central	"	"	1,000,000
"	Cities Service	"	"	1,000,000
Calcasieu Co.	"	"	"	24,090
"	"	"	"	24,090
Plateau Inc.	Gulf Oil	"	"	90,475
"	"	"	"	1,199,025
Louisiana land & Expl.	Ashland	"	"	3,000,000
Vickers Petro.	Texaco	9-13-78	"	30,000
"	"	"	"	970,000
Crystal Oil	Getty Ref.	"	"	480,000
"	"	"	"	224,110
"	"	"	"	872,715
"	"	"	"	494,940
"	"	"	"	209,850
Celanese Corp.	Texaco	9-14-78	"	912,335
"	"	9-15-78	"	1,011,225
"	"	"	"	148,920
Texas Eastman	Ashland	9-21-78	"	265,720
"	"	"	"	218,905
"	"	"	"	265,720
Olin Corp.	Amoco	9-22-78	"	15,878
"	"	"	"	15,877
Somerset Oil Co.	Ashland	"	"	185,000
"	"	"	"	81,815
OKC Corp.	"	"	"	600,000
Winston Ref. Co.	Gulf Oil	"	"	1,049,375

TABLE 2 (continued)

OIL IMPORT LICENSES SOLD PURSUANT TO SECTION 213.22(d)

DISTRICT V

SELLER	BUYER	DATE	COMMODITY	BARRELS SOLD
Champlin Petro.	Union of CA	9-8-78	"	1,700,000
Champlin Petro.	Union of CA	"	"	644,030
Pauley Petro.	Gulf Oil	9-21-78	"	1,136,245

TABLE 3

CRUDE AND UNFINISHED OILS - REFINERY SECTION 213.29

COMPANY	PLANT LOCATION	ON-STREAM DATE	1977 INPUTS B/CD	ALLOCATION TOTAL BBLS
Lunday-Thagard	South Gate, CA	May 1978	-----	2,643,695

TABLE 4

FEE-PAID LICENSES ISSUED PURSUANT TO SECTION 213.35

CRUDE OIL-PREPAID

COMPANY	DATE	LICENSE QUANTITY TOTAL BBLS
Gladieux Ref.	9-1-78	650,000

CRUDE OIL-BOND POSTED

COMPANY	DATE	LICENSE QUANTITY TOTAL BBLS
Koch Ind. Inc.	8-31-78	40,000
Powerine Oil Co.	9-5-78	476,000
Murphy Oil Corp.	"	2,000,000
Exxon Corp.	"	25,000,000
Tosco Corp.	9-6-78	632,509
Amoco Oil Co.	9-7-78	5,000,000
Amoco Oil Co.	"	5,000,000
Atlantic Richfield	9-8-78	2,000,000

TABLE 4 (continued)

CRUDE OIL-BOND POSTED

COMPANY	DATE	LICENSE QUANTITY TOTAL BBLS
Atlantic Richfield	9-8-78	2,000,000
Atlantic Richfield	"	1,000,000
Atlantic Richfield	"	1,000,000
Shell Oil Co.	9-11-78	10,000,000
Crown Central Petro.	9-12-78	3,000,000
Placid Ref. Co.	"	3,000,000
Champlin Petro. Co.	"	2,922,000
Koch Ind. Inc.	"	815,000
Texaco Inc.	9-13-78	16,000,000
Atlantic Richfield	9-14-78	2,000,000
Atlantic Richfield	"	2,000,000
Atlantic Richfield	"	1,000,000
Champlin Petro. Co.	9-19-78	1,605,600
Koch Industries, Inc.	"	200,000
American Petrofina, Inc.	9-22-78	6,000,000
Mobil Oil Corp.	"	10,000,000
Caribbean Gulf Ref.	9-26-78	7,000,000

FINISHED PRODUCTS-PREPAID

COMPANY	DATE	LICENSE QUANTITY TOTAL BBLS
Sunchem (Div. of Sunoco)	8-31-78	25,000
American Hoechst Corp.	9-5-78	2,500
Asiatic Petro. Corp.	"	27
James E. Asleson	9-6-78	33
Asiatic Petro. Corp.	9-8-78	800,000
Industrial Solvents Corp.	9-13-78	50,000
Finachem Canada	"	30,000
Americhem Corp.	9-15-78	20,000
Monsanto Co.	"	4,500
National Ref. Corp.	9-19-78	700
Witco Chemical	"	14,210
Keyser Int'l. Inc.	9-25-78	1,100
Airco Welding Products	9-27-78	13,500

FINISHED PRODUCTS-BOND POSTED

COMPANY	DATE	LICENSE QUANTITY TOTAL BBLS
Bjornson Oil Co.	8-31-78	15,870
Sterling Oil & Chem. Co.	9-5-78	50,000

TABLE 4 (continued)

FINISHED PRODUCTS-BOND POSTED

COMPANY	DATE	LICENSE QUANTITY TOTAL BBLS
Exxon Corp.	9-5-78	2,000,000
Amoco Oil Co.	9-7-78	5,000,000
Amoco Oil Co.	"	5,000,000
Chevron U.S.A. Inc.	"	1,000,000
Phillips Petro. Co.	9-11-78	100,000
Texaco, Inc.	9-13-78	3,000,000
Phillips Bros.	"	8,500
Texas City Ref. Co.	9-20-78	220,000
Great Western Chemical Co.	9-21-78	1,500
Sun Oil Co. of PA	9-22-78	1,000,000
Lilyblad Petro. Inc.	9-25-78	15,200
Central Solvents & Chem.	9-27-78	2,381

[FR Doc. 78-28366 Filed 10-10-78; 8:45 am]

[6740-02-M]

Federal Energy Regulatory Commission

[Docket No. RI78-10]

CARL E. SMITH, INC.

Order Granting Petition for Special Relief and Permitting Intervention

SEPTEMBER 27, 1978.

On November 8, 1977, Carl E. Smith, Inc. (CES), a small producer, field a petition for special relief in the above-referenced docket pursuant to § 2.76 of the Commission's general policy and interpretations. CES produces natural gas from three wells [1] on the Turner "A" lease, Morris Creek, Kanawha County, W.Va. A total rate of $1.79 per Mcf was requested for the sale of 100 percent of this gas to Consolidated Gas Supply Corp. (Consolidated). CES amended its petition on January 30, 1978 to request a rate of $1.74 per Mcf.

PROCEDURAL HISTORY

Notice of CES' original petition for special relief was issued December 8, 1977, and notice of amended petition was issued February 17, 1978. A petition to intervene in support of the original petition was filed on time by Consolidated. No petition to intervene was timely filed with respect to the amended petition for special relief.

PROPOSAL

Currently, CES is collecting $0.29 per Mcf for its gas sales from the Turner "A" lease [2] as authorized under docket No. CI74-758. Consolidated has stated that it will amend its contract with CES to provide for payment of a rate increase approved by the Commission.

CES proposed to install a new gathering line to serve the three wells at a cost of $34,133. It is estimated that this installation will result in the production of an additional 128,560 Mcf of reserves over the remaining productive life of 5.16 years.

COST ANALYSIS

Staff has determined that CES' remaining book investment equals $88,286. Production expense over the remaining life of 5.16 years has been estimated at $49,313. Staff calculated the operating expenses based on the following factors: ad valorem taxes, annual well operating expense, and annual gathering system expense. The latter two factors were increased by 5 percent per year to allow for inflation. Staff has concluded that the proposed investment is reasonable based on its analysis of this data.

Using the above costs and total estimated reserves of 128,560 Mcf, staff prepared a cost study employing traditional Commission methodology to determine what rate will provide both recovery of costs and a 15 percent rate of return. The results indicate that the requested rate of $1.74 per Mcf is cost supported.[3]

Following its review of staff's analysis, the Commission has concluded that the requested rate is cost-supported and that it is in the public interest to grant CES' petition for special relief.

The Commission orders: (A) The petition for special relief, as amended, of Carl E. Smith, Inc., in docket No. RI78-10, is hereby granted.

(B) Carl E. Smith, Inc. is authorized to collect a total rate of $1.74 per Mcf for sales of gas from well Nos. 84-1, 84-4, and 84-7 on the Turner "A" lease, Morris Creek, Kanawah County, W. Va., to Consolidated Gas Supply Corp., effective on the date of this order or the date of completion of the proposed work, whichever is later, subject to the conditions set forth in paragraphs (C) and (D), below.

(C) Within 30 days of the date of completion of the proposed work, Carl E. Smith, Inc. shall file a statement signed by Consolidated Gas Supply Corp. that the proposed gathering line has been installed to its satisfaction.

(D) Within 30 days of the date of this order, Carl E. Smith, Inc., shall file a notice of independent producer rate change reflecting the above authorized rate.

(E) Consolidated Gas Supply Corp. (Consolidated), is permitted to intervene in the above-entitled proceeding, subject to the rules and regulations of the Commission; *Provided, however,* That its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its petition for leave to intervene: *And provided, further,* That the admission of Consolidated in the manner provided shall not be construed as recognition by the Commission that Consolidated might be aggrieved because of any order or orders entered in this proceeding, and that Consolidated agrees to accept the record as it now stands.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

Carl E. Smith, Inc., Docket No. RI78-10, Turner "A" Lease, Morris Creek, Kanawah County, W. Va.

[Unit cost of gas]

Line No. and item (a)	Amount (b)
1. Working interest of volumes:	
2. Gas—Mcf at 14.73 psia [1]	128,560
3. Liquids—bbl	0
4. Cost of production:	
5. Return on rate base at 15 pct [2]	$38,548
6. D.D. & A. [3]	118,238
7. Production expense [4]	49,313
8. Ad valorem tax [5]	2,674
9. Regulatory expensee [6]	129
10. Total cost of production	208,902
11. Unit cost of gas (cents per mcf):	
12. Cost of production [7]	1.62494
13. Business and occupation tax [8]	.11584
14. Total unit cost	1.74078

[1] There is no royalty interest.
[2] Line 13 of sheet 3 times 0.15 times 5.16 years production life.
[3] From sheet 2, line 10.
[4] Includes annual estimated operating expense of $3,529 per well (3 wells) plus $125 for the gathering system. The above costs were escalated 5 pct for inflation for the first 5 years. Total estimated production expense for the project is $49,313.
[5] Effective rate 0.02080 × 128,560 = $2,674.
[6] Line 2 times 0.1 cent per Mcf (per opinion No. 749).
[7] Line 10 divided by line 2.
[8] See sheet 4.

[Investment]

Line No. and item (a)	Amount (b)
1. Investment:	
2. Remaining net book value	$88,286
3. Pipe line installation	34,133
4. Total investment	122,419
5. Less salvage value	4,181
6. Depreciable investment	118,238
7. Depreciation per unit of production [1]	.919711
Total gas	128,560

[1] Line 6 divided by line 8.

[1] Well Nos. 84-1, 84-4, and 84-7.
[2] CES acquired ownership of the lease from Cities Service Oil Co. by assignment and conveyance on Jan. 1, 1973.

[3] See app. A, attached hereto.

Carl E. Smith, Inc., Docket No. RI78-10, Turner "A" Lease, Morris Creek, Kanawah County, W. Va.

[Average investment and annual rate base]

Line No. and year	Annual N.W.I. production (Mcf)	Beginning of year investment	Depreciation [1]	End of year investment	Average investment [2]
(a)	(b)	(c)	(d)	(e)	(f)
1. Average investment:					
2. 1	35,066	$118,238	$32,250	$85,988	$102,113
3. 2	30,980	85,988	28,493	57,495	71,742
4. 3	27,500	57,495	25,292	32,203	44,849
5. 4	19,775	32,203	18,187	14,016	23,110
6. 5	13,063	14,016	12,014	2,002	8,009
7. 6	2,176	2,002	2,002		1,001
8. Total					250,824
9. Average annual investment [3]					48,609
10. Annual rate base:					
11. Average annual investment					48,609
12. Average annual working capital allowance [4]					1,194
13. Total annual rate base					49,803

[1] Column (b) times line 8 of sheet 2.
[2] Column (c) plus column (e) divided by 2.
[3] Column (f) of line 8 divided 5.16 years.
[4] 0.125 times line 7 of sheet 1 divided by 5.16.

CARL E. SMITH, INC., DOCKET NO. RI78-10, TURNER "A" LEASE, MORRIS CREEK, KANAWAH COUNTY, W.V.

COMPUTATION OF BUSINESS AND OCCUPATION

1. Tax—8.63 percent times taxable revenue:	
2. Gross revenue [1]	$208,902.00
3. Less 15 percent	31,335.00
4. Less $5,000 deduction	5,000.00
5. Taxable revenue	$172,567.00
6. Tax at 8.63 percent	$14,892.53
7. Average unit tax (¢/Mcf):	
8. Total production—Mcf [2]	128,560.00
9. Tax [3]	$14,892.53
10. Average unit tax [4]	0.11584

[1] 128,560 Mcf × $1.62494.
[2] From Sheet 1, line 2.
[3] From line 6.
[4] Line 9 divided by line 8.

[FR Doc. 78-28536 Filed 10-10-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 985-1; OPP-42007C]

MISSISSIPPI

Submission of State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides; Approval Status

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.) and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators to submit a plan for such purpose, subject to approval by the Environmental Protection Agency (EPA). On January 6, 1976, the Regional Administrator, EPA Region IV, approved the Mississippi Plan on a contingency basis. Notice of the approval was published in the FEDERAL REGISTER on February 11, 1976 (41 FR 6122).

The Mississippi Pesticide Application Act and the Mississippi Pesticide Law were passed by the Mississippi Legislature on March 4, 1975. Proposed regulations for the enforcement of the acts have been drafted, public hearings have been held, and final regulations have been published. Having reviewed these regulations and finding that all requisite legal authorities required by FIFRA and 40 CFR Part 171 are now enacted and promulgated, the Regional Administrator, EPA, Region IV, gives notice that the Mississippi State Plan is now a fully approved State Plan.

Dated: September 22, 1978.

JOHN C. WHITE,
Regional Administrator, Region IV.

[FR Doc. 78-28549 Filed 10-10-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 78-393]

CURRENT APPLICATION FORMS FOR LICENSES IN THE SAFETY AND SPECIAL RADIO SERVICES TO REMAIN IN USE NOTWITHSTANDING RECENT RULE CHANGE RELATIVE TO CORPORATE APPLICANTS

JULY 27, 1978.

On June 7, 1978, the Federal Communications Commission amended certain rule sections to permit applications filed by corporations for licenses in virtually all of the safety and special radio services to be signed by either a corporate officer or a duly authorized employee. Prior rules required such applications to be signed by a corporate officer.

Application forms currently in use contain instructions which require that they be signed by an officer in the case of corporate applicants. Until the supply of the current forms is exhausted, current application forms will be accepted by the Commission. In the case of corporate applicants, such applications will be accepted if signed by an officer or a duly authorized employee in accordance with the revised rules, notwithstanding any instructions on the current forms to the contrary. New forms reflecting the above-mentioned rule changes will be phased in as current stocks are exhausted.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-28681 Filed 10-10-78; 8:45 am]

[6712-01-M]

FM BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: October 3, 1978.

Released: October 4, 1978.

By the Chief, Broadcast Facilities Division.

Cutoff date: Number 15, 1978.

Notice is hereby given that the FM broadcast applications listed below will be considered as ready and available for processing pursuant to § 1.573(d) of the Commission's rules on November 16, 1978. Since the listed applications are timely filed and mutually exclusive with the earlier-filed and cutoff application of Muncie Broadcasting Corp. (File No. BPH-10,382), no other applications which involve conflict with these applications may be filed. Rather, the purpose of this Notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under section 1.522(a)(2) of the Rules and pleadings to specify issues pursuant to section 1.584.

BPH-10,655 (new, Muncie, Ind., Ben-Del Broadcasting Corp. Req: 104.9 MHz, 285; 3 kW; 300 feet.
BPH-10,661 (new), Muncie, Ind., Hoosier Favorite Station, Inc. Req: 104.9 MHz, 285; 3 kW; 300 feet.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-28679 Filed 10-10-78; 8:45 am]

[6712-01-M]

FM BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

In the matter of FM broadcast application ready and available for processing pursuant to § 1.573(d) of the Commission's rules.

Adopted: October 2, 1978.

Released: October 3, 1978.

By the Chief, Broadcast Facilities Division.

Cutoff date: November 27, 1978.

Notice is hereby given that the FM broadcast application listed below will be considered as ready and available for processing on November 28, 1978. Since the listed application is timely filed and mutually exclusive with the earlier-filed and cutoff application of Wyomedia (Filed No BPH-10,754), no other applications which involve conflict with these applications may be filed. Rather, the purpose of this Notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under § 1.522(a)(2) of the Rules and pleadings to specify issues pursuant to § 1.584.

BPH-11,006 (new), Cody, Wyo., Shoshone Communications Corp. Req: 97.9 MHz, 250; 100 kW; 1830 feet.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-28680 Filed 10-10-78; 8:45 am]

[6712-01-M]

FM BROADCAST APPLICATION READY AND AVAILABLE

In the matter of FM broadcast application ready and available for processing pursuant to § 1.573(d) of the Commission's Rules.

Adopted: October 2, 1978.

Released: October 3, 1978.

By the Chief, Broadcast Facilities Division.

Cutoff date: November 27, 1978.

Notice is hereby given that the FM broadcast application listed below will be considered as ready and available for processing on November 28, 1978. Since the listed application is timely filed and mutually exclusive with the earlier-filed and cutoff application of Energy Capitol Broadcasting Inc. (File No. BPH-10,521), no other applications which involve conflict with these applications may be filed. Rather, the purpose of this Notice is to establish a date by which parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under § 1.522(a)(2) of the Rules and pleadings to specify issues pursuant to § 1.584.

BPH-10,753 (new), Casper Wyo., Wyomedia. Req: 95.5 MHz, 238; 100 kW; 1,913 feet.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-28682 Filed 10-10-78; 8:45 am]

[6712-01-M]

[FCC 78-696 CC Docket No. 78-314, File No 20657-CD-P-(11)-76, CC Docket No. 78-315, File No. T) 3-78]

ILLINOIS BELL TELEPHONE CORP, ET AL.

Memorandum Opinion and Order

In the matter of application of Illinois Bell Telephone Co. (CC Docket No. 78-314, File No. 20657-CD-P-(11)-76) for a construction permit for 11 additional transmitter sites for Station KTS203 in the Domestic Pulbic Land Mobile Radio Service on Frequency 158.10 MHz in the Chicago, Ill. Greater Metropolitan Calling Area and in the matter of Rogers Radio Communication Service, Inc., Complainant vs. Illionis Bell Telephone Co. and American Telephne & Telegraph Co. Defendants (CC Cocket No. 78-315, File no TS 3-78) and in the matter of Illinois Bell Telephone Co. Request for issuance of order to show cause why Station License KTS203 in the Domestic Public Land Mobile Radio Service at Chicago, Ill. should not be revoked.

Adopted: September 28, 1978.

Released: October 5, 1978.

By the Commission:

1. Presently before the Commission are an "Application for Review" filed by Radio Relay Corp.-Illinois (Radio Relay) on January 16, 1978, and an "Application for Review" filed by Rogers Radio Communication Services, Inc. (Rogers) on January 16, 1978. Radio Rely and Rogers seek review of the action of the Chief, Common Carrier Bureau, released on December 16, 1977, denying Radio Relay's and Rogers' Petitions for reconsideration of the granting of a construction permit to Illinois Bell Telephone Co. (Illinois Bell) to establish 11 additional trasnmitter sites for one-way signalling Station KTS203 in the Domestic Pulbic Land Mobile Radio Service (DPLMRS) on frequency 158.10 MHz in the Chicago, Ill. Greater Metropolitan Calling Area. Responsive pleadings were filed by the parties.[1]

2. Also before the Commission is a "Formal Complaint" filed by Rogers Radio Communication Services, Inc. against Illinois Bell Telephone Co. and American Telephone & Telegraph Co. (A.T. & T.) on October 28, 1977. Responsive pleadings were filed by the parties. In addition, on January 9, 1978, A.T. & T. filed a "Motion to Dismiss" A.T. & T. as a party to the Complaint proceeding, and responsive pleadings followed.

3. Additionally, before the Commission is a "Request for Issuance of Order to Cause Why Station License KTS203 Should Not be Revoked" filed by Rogers Radio Communication Services, Inc. on November 3, 1977.

4. The following issues concerning the applications for review are raised for our consideration:

(a) Whether the Bureau erred in not finding that Illinois Bell has been in violation of the *Guardband*,[2] *Carterfone*,[3] or *Telerent*[4] decisions in its method of preventing of providing interconnect facilities to Rogers;

(b) Whether the Bureau erred in not finding practices on the part of Illinois Bell that were anticompetitive and in violation of the *Guardband* decision;

(c) Whether the Bureau erred in finding that Illinois Bell demonstrated public need for its proposed new facilities;

(d) Whether the Bureau erred in not finding that a grant of the application would result in a wasteful duplication of service and in an adverse economic impact that is detrimental to the public interest;

(e) Whether the Bureau erred in finding that petitioners failed to establish a prima facie case of anticompetitive rates; and

(f) Whether the Bureau erred in not finding that a grant of the application would create an anticompetitive problem due to anticompetitive practices of the Bell Telephone System.

5. The following issues concerning the Complaint are raised for our consideration:

(a) Whether A.T. & T. is a defendant in addition to Illinois Bell;

(b) Whether Illinois Bell and A.T. & T. have been in violation of the *Guardband* decision;

(c) Whether Illinois Bell and A.T. & T. have been in violation of the *Carterfone* or *Telerent* decisions;

[1] In an order released on April 10, 1978, the Chief, Common Carrier Bureau, stayed the grant of the construction permit pending Commission action on the Application for Review.

[2] Docket No. 16778, 12 FCC 2d 841, recon. denied, 14 FCC 2d 269 (1968), aff'd sub nom. *Radio Relay Corp.* v. *FCC*, 409 F. 2d 322 (2d Cir. 1969).

[3] Use of the Carterfone Device in Message Toll Telephone Service, 13 FCC 2d 420, recon. denied, 14 FCC 2d 571 (1968).

[4] Telerant Leasing Corp., 45 FCC 2d 204 (1974), aff'd sub nom. *North Carolina Utilities Commission* v. *FCC*, 537 F. 2d 788 (4th Cir. 1976), cert. denied, 429 U.S. 1027 (1976).

(d) whether Illinois Bell has been in violation of sections 1 and 2 of the Sherman Act; [5]

(e) whether Illinois Bell has engaged in any unfair or illegal competitive practices in its method of providing interconnect facilities to Rogers; and

(f) whether Rogers Radio is entitled to compensatory and punitive or exemplary damages.

6. The request for an order to show cause concerns whether the Commission should issue an order to show cause why Station License KTS203 should not be revoked.

THE APPLICATIONS FOR REVIEW

7. *Anticompetitive Practices in Providing Interconnect Facilities.* Rogers contends that the Illinois Bell application should have been dismissed or denied because Illinois Bell has been operating in violation of the *Guardband* decision, Docket No. 16778, 12 FCC 2d 841, *recon. denied* 14 FCC 2d 269 (1968), *aff'd sub nom. Radio Relay Corp.* v. *FCC*, 409 F.2d 322 (2d Cir. 1969), by not making available to Rogers the same interconnect facilities used by Illinois Bell in providing its paging services.[6] Rogers states that Illinois Bell's proposed facilities will provide automatic machine answered interconnect facilities, and that through the use of foreign exchange lines all customers within the proposed service area will be able to dial the paging terminal directly at a rate of one message unit. Rogers states that it has subscribed to INWATS telephone service for this purpose, but that until recently Illinois Bell has refused to allow automatic machine answering of the INWATS line. Instead, calls from within its service area, but not within the one message unit calling area, were answered by an operator before a customer could be paged. This presented some users of the system with a choice of either dialing the INWATS number and suffering the delays of operator answering or dialing a number that was answered automatically but cost more than one message unit, resulting in a competitive advantage for the paging services of Illinois Bell. In response, Illinois Bell contends that *Guardband* requires that it offer to Rogers the same dial access interconnection facilities as those utilized by the wireline common carriers in the community, and that it has fully complied with this requirement by offering foreign exchange lines with automatic answering machines to Rogers. Illinois Bell adds that Rogers chose to utilize intrastate INWATS service, rather than foreign exchange lines, and that neither Illinois Bell nor any other radio common carrier utilizes INWATS service as part of its paging system. The Bureau found that the offer of foreign exchange lines constituted compliance with *Guardband.* Rogers does not refute Illinois Bell's representation that Illinois Bell has offered foreign exchange lines with automatic answering machines to Rogers nor does Rogers argue that Illinois Bell uses facilities other than foreign exchange lines. Thus, we conclude that the Bureau's finding was correct with respect to the specific *Guardband* requirement discussed above.

8. Illinois Bell claims that Rogers is in violation of section 21.513 of the rules [7] by not providing public foreign exchange telephone circuits to its paging terminal. Rogers responds to the Illinois Bell charges by stating that it has complied with the section by providing INWATS service to its paging terminal. After carefully considering the Illinois Bell charges, we find them to be without merit. By providing INWATS service to its paging terminal, Rogers is providing a telephone number that can be called at the local calling rate from the major portion of each of the base station service areas and thus has complied with the intent of section 21.513.

9. Rogers further argues that foreign exchange lines are too expensive and that Illinois Bell offered to charge Rogers tariff rates rather than the cost of the foreign exchange lines that it assesses against itself in calculating costs of its own paging service. Rogers argues that Illinois Bell's alleged offer to charge Rogers more than it is assessing against itself for the same interconnect facilities constitutes a violation of *Guardband.* After investigating an informal complaint filed by Rogers on November 1, 1976,[8] the Bureau Staff concluded in a letter dated April 28, 1977 [9] that "[i]t appears that Bell uses the identical basis for providing the foreign exchange lines to its competitors as it uses itself, i.e., tariff rates." In its order concerning the Petitions for Reconsideration, the Bureau concluded that Rogers failed to show any change in the Illinois Bell allocation of charges since that time and that Illinois Bell was not in violation of *Guardband.* The Rogers Application for Review contains no support for a contrary conclusion. Therefore, we conclude that the Bureau's finding was correct in this regard.

10. In its Petition for Reconsideration, Rogers alleged that Illinois Bell "has made a new offer to Rogers for an INWATS equivalent service under intercarrier contract at more than double the tariff rates, which offering would include the privilege of machine answering." Petition for Reconsideration by Rogers at 8. Rogers claims that it must therefore either continue with its present INWATS service without the privilege of machine answering or pay a premium for the privilege of machine answering of its INWATS line. Rogers argues that this practice is anticompetitive. The Bureau did not find this practice to be anticompetitive. It was the Bureau's understanding that the privilege of machine answering included an outpulsing machine [10] which would be used to accomplish the automatic answering.[11] How-

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[5] 15 U.S.C. §§ 1-2 (1970).

[6] One-way paging operations by nonwireline carriers (also known as radio common carriers or RCC's) often interconnect with the wireline carrier in order that those persons desiring to page an individual may do so. This can be accomplished by means of an automatic terminal or an operator working a switchboard. (As an alternative to interconnection, an operator can receive a call and then dispatch the page.) Our rules require that within the major portion of the service area for each base station transmitter, a caller who wishes to page someone can call the paging terminal or dispatch point at the local calling rate. *See* section 21.513 quoted at note 7, *infra.* In order to comply with this rule, RCC's may utilize a number that can be called toll free (INWATS service) or a local exchange number which then interconnects via private lines to the RCC's terminal or dispatch point (foreign exchange or fx service). In the present case, Rogers alleges that until recently Illinois Bell did not permit Rogers to utilize automatic answering machines with an INWATS number. The anticompetitive allegations focus on this practice.

[7] Section 21.513 states: Within the service area encompassed by the field strength contour of each base station as defined in 21.504, there shall be at least one message center so located that the major portion of subscribers' local exchange landline telephone calls, which originate or terminate in such area in conjunction with messages transmitted or received by said station, cost no more per call than the local message single unit rate. In cases where the control point of a base station is not so located, a public foreign exchange telephone circuit shall be provided to afford service so that a radio service subscriber may communicate between such points at a cost per call not in excess of the local message single unit rate. *See* note 6, *supra,* for an explanation of this rule.

[8] The informal complaint concerned alleged anticompetitive practices on the part of Illinois Bell in providing interconnect facilities to Rogers.

[9] This letter was signed by Daniel R. Ohlbaum, Acting Deputy Chief, Common Carrier Bureau.

[10] An outpulsing machine will forward a call from the telephone central office to the paging terminal.

[11] The Bureau had relied upon Interconnection Between Wireline Telephone Carriers and Radio Common Carriers, 63 FCC 2d 87 (1977), where the "Memorandum of Understanding" between the wireline telephone companies and the National Association of Radiotelephone Systems states: "Supplementary contractual arrangements for outpulsing over interconnection facilities will be entered into where INWATS is utilized." App. A, 63 FCC 2d at 94. *See* Slip Opinion released Dec. 16, 1977, Order at 5, note 5. The pleadings concerning the Application for Review show that the Bureau should not have assumed that Illinois Bell

Footnotes continued on next page

ever, after reviewing the pleadings concerning the Applications for Review we find that the Bureau was incorrect. Both Rogers and Illinois Bell stated that the outpulsing machine was not an issue in the proceeding. Further, Illinois Bell stated in its Supplement to Opposition to Applications for Review at 4: "Illinois Bell is unable to admit or deny Rogers' contention that it would be billed 'more than double [current] tariff rates for an INWATS-equivalent service.'" In view of the above, there exists a material question of fact that has not been resolved by the pleading process. In *United Telephone Co. of Ohio*, 26 FCC 2d 417 (1970), we stated that "our concern is that there may be unfair or illegal competitive practices existing between wireline and nonwireline carriers in the use of radio facilities which are federally licensed." *Id.* at 419. We must therefore hold a hearing to determine whether Illinois Bell is offering to Rogers INWATS service with the privilege of machine answering "at more than double the tariff rates," whether Illinois Bell can justify this offer on the basis of cost or other reasons, and whether this offer would be considered an unfair or illegal competitive practice.

11. In this regard, we also will examine whether Illinois Bell has engaged in any unfair or illegal competitive practices by not allowing Rogers to machine answer its INWATS line prior to Illinois Bell's recent offer of the privilege of machine answering. Rogers alleges that it wished to use its own machine and offered to pay Illinois Bell for the necessary device that would protect the Illinois Bell circuits. Illinois Bell has not offered any explanation for its refusal. We must therefore determine in a hearing whether Illinois Bell can justify its past refusal of the privilege of machine answering its INWATS lines and whether such refusal was an unfair or illegal competitive practice.

12. Rogers further alleges that Illinois Bell has violated *Use of the Carterfone Device in Message Toll Telephone Service*, 13 FCC 2d 420, *recon. denied*, 14 FCC 2d 571 (1968), and *Telerent Leasing Corp.*, 45 FCC 2d 204 (1974), *aff'd sub nom. North Carolina Utilities Commission* v. *FCC*, 537 F.2d 788 (4th Cir. 1976), *cert. denied*, 429 U.S. 1027 (1976). We do not, however, need to reach a finding concerning whether *Carterfone* and *Telerent* are applicable. In paragraph 11, *supra*, we decided to designate the application for a hearing to determine whether Illinois Bell has engaged in any unfair or illegal competitive practices by not allowing Rogers to machine answer its INWATS lines. Any consideration of whether *Carterfone* and *Telerent* apply would be subsumed by the broader anticompetitive practices issue discussed in paragraph 11.

13. In its Petition for Reconsideration, Rogers argued that Illinois Bell violated *Guardband* for yet another reason. To avoid misstatement of the Rogers argument, we set it out as follows:

> [I]f Bell *chooses* to give every telephone in the Greater Chicago Area the ability to call the Bell paging terminal as if it were a local call, it must provide "* * * the identical service * * * *to customers* of any competing nonwireline carrier at the same reduced rate or free of charge" (emphasis added) [*Guardband*,] 12 FCC 2d 852, charging the costs of such local call service against the expense of providing its own paging service.

Petition for Reconsideration by Rogers at 11. As the Bureau found, we find that this position, as best we understand it, seems to claim that Illinois Bell must, in addition to charging the cost of its own foreign exchange lines against the cost of its paging service, provide free foreign exchange lines to Rogers and charge their cost to the Illinois Bell paging system. Obviously, absorption by Illinois Bell of these costs for other carriers would put Rogers and other competitors in an advantageous competitive situation for no apparent reason, public interest or otherwise. We find it impossible to accept this construction; it is without basis in precedent or logic. Illinois Bell is not providing free to every telephone in the Greater Chicago Area the ability to call the Illinois Bell paging terminal as if it were a local call. Rather, it is charging the paging customers for foreign exchange lines. When Illinois Bell charges Rogers for foreign exchange lines or INWATS service, Rogers also provides to every telephone in the Greater Chicago Area the ability to call the Rogers terminal as if it were a local call. We therefore find that Illinois Bell has not violated the *Guardband* decision.

14. *Anticompetitive Practices of Illinois Bell.* Radio Relay argues that Illinois Bell "has a statewide hold upon its guardband frequency, 158.10 MHz, and has the ability and intent to create a statewide or regional integrated network against which [radio common carriers] cannot successfully compete." Application for Review by Radio Relay at 3. In this regard Radio Relay contends that the agreement between Illinois Bell and Burlington, Brighton & Wheatland Telephone Co., located in southeastern Wisconsin, to time-share frequency 158.10 MHz is unfair because it allows neighboring wireline companies to encompass large service areas on the same frequency. We find that Radio Relay has failed to allege sufficient information on this point to present a prima facie case of anticompetitive conduct. We point out that there exists nothing in the rules to prevent radio common carriers from entering into intercarrier agreements to provide regionally integrated service to the public, and the Commission has promoted frequency sharing as an efficient use of a limited radio spectrum.[12] In addition, we have also granted wide area paging authority to radio common carriers.[13]

15. Radio Relay alleges that Illinois Bell engages in unfair and anticompetitive activity when it bills its customers for paging service along with wireline service and does not itemize the charges for paging. It claims that this practice hides the paging charge in the monthly telephone charge, giving Illinois Bell an unfair competitive advantage. We find that Radio Relay has failed to sufficiently explain why this practice is anticompetitive.

16. In addition, Radio Relay argues that Illinois Bell representatives promote paging service when a business customer applies for wireline service, and Illinois Bell includes information about paging in its information packets that describe business telephone services. Radio Relay claims that these practices give Illinois Bell an unfair competitive advantage. Illinois Bell claims that these practices are not anticompetitive, arguing that this same argument was raised and rejected in the *Guardband* proceeding.[14] We do not agree with Illinois Bell. In *Guardband*, we considered general allegations of A.T. & T. advertising practices. In the present proceeding, Radio Relay has alleged specific instances of competitive radiopaging services being advertised along with monopoly wireline telephone services. Illinois Bell has not addressed whether there exists any cross-subsidization between the two services. Accordingly, we will determine in the hearing whether Illinois Bell, in connection with its advertising of radiopaging services, has engaged in any unfair or illegal competitive practices.

17. *Need.* Petitioners contend that the Bureau erred in finding that Illinois Bell had demonstrated public

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would be providing the outpulsing. In fact, the pleadings show that Rogers had intended to use its own outpulsing machine.

[12] *See, e.g.*, Mobile Radio Systems of Ventura, Inc., 30 FCC 2d 660 (1971).

[13] *Cf.* Sherman M. Wolf d.b.a. Zipcall and Colgan Communications, Inc., 42 FCC 2d 1125 (1973), where the Commission allowed the two carriers to agree to serve customers of the other in order to be able to provide wide area service. *See also* Industrial Communications Systems, Inc., and Radio Relay Corp.-California, FCC Mimeo No. 85785, released June 24, 1977. The two carriers, which operate on the same frequency but do not have the same transmitter locations, will each provide one-Way signalling service to the customers of the other.

[14] *See* Radio Relay Corp. v. FCC, 409 F.2d 332, 327 (2d Cir. 1969).

need for the proposed new facilities. They argue that cross references by Illinois Bell to surveys conducted 5 or 6 years ago bear no relevance to the needs to be served in the suburban communities surrounding the Chicago inner metropolitan area. They also argue that the customer satisfaction survey conducted by Illinois Bell in 1974 demonstrates only a minimal expression of interest because 80 percent of the 206 interviewees were satisfied with their present service area. In ruling on the Petitions for Reconsideration the Bureau found as follows:

> We do not agree with the petitioners. Illinois Bell conducted a market survey wherein it informed the prospective customers of the cost, type, and area coverage of the service. Based on this survey, Illinois Bell found that there was a market potential for approximately 12,700 tone-only paging units at a monthly cost of $20 within Chicago and the Inner Metropolitan Area (the area presently being served) and a market potential for approximately 24,000 units in the entire Chicago, Inner Metropolitan and Outer Metropolitan Areas. This means that by adding the additional facilities, Illinois Bell will be doubling its potential market for paging service. Although the survey was conducted several years ago, we see no reason for doubting its present validity. Our experience shows us that there has been a substantial nationwide increase in the paging industry, and in particular there has been a substantial growth in the Chicago area. From 1973 through 1976, the combined growth of Radio Relay and Rogers has been over 100 percent, from 7,809 to 15,985 paging units. Additionally, we note that media reports in recent months have given considerable publicity to paging. We also point out that Illinois Bell has submitted data compiled by the United States Department of Commerce demonstrating the substantial and diversified commerce and growth of commerce in the Chicago metropolitan area. We therefore find that the market survey conducted by Illinois Bell is still valid as an estimate of minimum market potential. Finally, we find that the 1974 customer satisfaction survey, a survey which demonstrated that 17 percent of the Illinois Bell customers surveyed in the Chicago Metropolitan Area are interested in an expanded service area, represents a significant demand for service as evidenced by the large number of paging customers presently being served in the Chicago Area. In conclusion, we find that the survey method used and the results reported are sufficiently within the survey criteria described in *New York Telephone Company*, 47 FCC 2d 488, *recon. denied*, 49 FCC 2d 264 (1974), *aff'd sub nom. Pocketphone Broadcast Service, Inc.* v. *FCC*, 538 F. 2d 447 (D.C. Cir. 1976), to sustain a finding of public need for the proposed additional facilities.

Slip Opinion released December 16, 1977, at paragraph 12. Because we have the applications for review before us, we consider it appropriate to take a fresh look at the Bureau's determination on the need issue. In so doing we find that the original survey of the inner and outer metropolitan areas was conducted more than 4 years prior to the filing of the present application. Even though Illinois Bell updated its survey with data from the Department of Commerce and with data from its 1974 customer satisfaction survey, we recognize that the customer satisfaction survey itself was more than a year-and-a-Half old at the time the application was filed. We find that if a survey is used to demonstrate public need for a proposed service, then the application should be accompanied by a timely survey. We further find that the survey of the inner and outer metropolitan areas was not timely. Accordingly, we reverse the Bureau on its finding that Illinois Bell had demonstrated need for the proposed additional facilities and designate the application for a hearing on the issue of need.

18. *Duplication of Service and Adverse Economic Impact.* In its application for review, Radio Relay argued that the proposed new facilities would duplicate the services already provided by radio common carriers operating in the area and would cause an adverse economic impact on these radio common carriers. In its ruling on the petitions for reconsideration, the Bureau found that petitioners failed to present sufficient data to meet the *Commonwealth Telephone Co.*, 61 FCC 2d 246, (1976) test of adverse economic impact or wasteful duplication of services. We find that no new facts were presented in the applications for review and that the Bureau's determination was correct. In any event, these claims have been rendered moot because Radio Relay withdrew them on June 20, 1978.

19. *Anticompetitive Rates.* Petitioners state that Illinois Bell is increasing the number of transmitter sites from 20 to 32 at a cost in excess of $200,000, excluding additional operating costs. Petitioners argue that if Illinois Bell does not concurrently increase rates, the rates for the new facilities will be noncompensatory, and hence anticompetitive. The Bureau found the claim of petitioners to be based upon conjecture and speculation because the proposed new facilities were not yet in operation, and it was possible that the additional costs of the proposed new facilities would be offset by additional revenues resulting from new customers who would be attracted to use the proposed new facilities. We do not see any reason for reversing the Bureau in this regard. If, in the hearing, we find that Illinois Bell has failed to establish public need for the proposed additional facilities, it will be unnecessary to reach the question of rates. On the other hand, if it is determined that Illinois Bell has established public need, then the Bureau's decision will stand because the petitioners have failed to allege sufficient data, as required by *United Telephone of Ohio*, 26 FCC 2d 417 (1970), to present a prima facie case of anticompetitive rates, and it is longstanding Commission practice to leave the question of rates for intrastate service to State jurisdiction, absent specific and supported allegations of unfair competition or unreasonable discrmination. *Morrison Radio Relay Corp.*, 31 FCC 2d 612, 616 (1971). This case is different from *Bonduel Telephone Co.*, File No. 21476-CD-MP-76 released April 25, 1978, in that in *Bonduel* the petitioner presented a breakdown analysis of the expected costs and compared them to the proposed rates, and the applicant did not respond to the questions raised by the petitioner.

20. *Anticompetitive Practices of the Bell Telephone System.* Petitioners argue that Illinois Bell is an affiliate of the Bell Telephone System and that a grant of its application will create an anticompetitive potential because of the enormous resources, finances, and facilities available to Illinois Bell. In an attempt to demonstrate anticompetitive practives of Illinois Bell, the protestants bring to our attention the civil antitrust complaint filed by the Department of Justice against American Telephone & Telegraph Co. (A.T. & T.), the parent company of Illinois Bell. However, petitioners have not presented any evidence of A.T. & T. directing Illinois Bell to engage in anticompetitive activities, and the mere pendency of a civil lawsuit fails to provide sufficient basis to designate this issue for hearing. We do retain ample jurisdiction, however, to take whatever steps, if any, that might be suggested by the outcome of the civil antitrust litigation.

21. Additionally, Rogers brings to our attention three cases where it claims the rates of Bell System affiliates were found to be noncompensatory.[15] It claims that these cases demonstrate a course of conduct of anticompetitive activity on the part of A.T. & T. and its subsidiaries. We find that two instances of noncompensatory rates on the part of two A.T. & T. operating companies[16] do not warrant an issue of anticompetitive conduct on the part of Illinois Bell. The State agencies did not make any findings of anticompetitive practices, and two instances of noncompensatory rates do not, in our view, warrant the inferrence that there might exist a pattern of anticompetitive conduct. Furthermore, Rogers' characterization of

[15] Docket No. 18128, 61 FCC 2d 587 (1976), *recon. denied*, 64 FCC 2d 994 (1977), *further recon.*, FCC 78-104, released February 24, 1978; Cal. PUC Decision No. 85356, January 20, 1976; Mass. DPU No. 18090, May 13, 1977.

[16] New England Telephone & Telegraph Co. and Pacific Telephone & Telegraph Co.

Docket No. 18128, 61 FCC 2d 587 (1976), *recon. denied*, 64 FCC 2d 994 (1977), *further recon.*, FCC 78-104, released February 24, 1978, as a case where the Commission found A.T. & T. to be charging anticompetitive rates is inaccurate. In Docket No. 18128, the Commission prescribed a cost methodology for evaluating A.T. & T.'s interstate services. This action was based primarily on the need for carrier accountability in ratemaking and the prevention of subsidization of competitive services by noncompetitive services rather than on any general or specific findings of anticompetitive conduct by A.T. & T. Accordingly, we see no reason for including in the hearing a general issue of anticompetitive practices of the Bell Telephone System. However, we have included issues concerning the alleged anticompetitive interconnection and billing practices of Illinois Bell and A.T. & T.

THE COMPLAINT

22. *Whether A.T. & T. is a Defendant.* A.T. & T. filed a motion to dismiss A.T. & T. as a party to the complaint proceeding on the grounds that A.T. & T.'s participation can serve no useful purpose because the complaint does not concern A.T. & T. Although A.T. & T. owns Illinois Bell, A.T. & T. claims that the complaint does not allege that A.T. & T. ordered Illinois Bell to do any of the acts which are the bases of the complaint, nor does it allege that the case involves any issues of industry-wide policy which A.T. & T. formulated. On the other hand, Rogers argues that the Commission should pierce the corporate veil to satisfy the public interest, that A.T. & T. should be named as a defendant because A.T. & T. is responsible for the alleged violations if it failed to instruct Illinois Bell to avoid the alleged improper actions, and that Illinois Bell cannot conduct the hearing without the advice and consent of its owners, A.T. & T.

23. We find that A.T. & T. should remain a defendant to the complaint proceeding. In *Offshore Telephone Co.*, 66 FCC 2d 184, 186 (1977), South Central Bell Telephone Co. (South Central) and A.T. & T. sought to have A.T. & T. dismissed as a party to the proceeding on the grounds that Offshore did not allege any violation by A.T. & T. The Commission denied the motion to dismiss on the grounds that A.T. & T., as the parent corporation of South Central, had a direct interest in the case and would be in a position to contribute to a more complete hearing record. In the present case, A.T. & T., as the parent corporation of Illinois Bell, has a direct interest in the case and should be in a position to contribute to a more complete hearing record on the complaint.[17]

[17] *See also* Western States Telephone Co., 66 FCC 2d 370 (1977), where General Telephone and Electronics Corp. (G.T. & E.) petitioned to be dismissed as a defendant because it is solely a holding company and not a common carrier subject to the Communications Act of 1934, as amended. In denying G.T. & E.'s petition, the Commission stated:

It appears that Western alleges in its complaint that G.T. & E. dictates and controls the policies of its telephone subsidiaries, some of which are defendants herein. While G.T. & E. denies this, an issue as to the relationship between it and its subsidiary companies is presented by the complaint, and such relationship may, in view of the complaint's subject matter, have a bearing on the question of damages. If G.T. & E. were deleted as a party defendant at this stage, efforts to explore the parent company's role (if any) in the enforcement of the tariffs might well be hampered and might cause additional delays.

Id. at 371.

24. *Guardband Violations.* As in its Application for Review, Rogers alleges that Illinois Bell and A.T. & T. have failed to comply with the following three requirements of the *Guardband* decision:

1 The [wireline company] licensee shall offer to make available to the nonwireline common carriers for one-way signalling purpose the same dial access interconnection facilities as those utilized by the wireline common carriers in the community;

2 Further, that the charges for such interconnection, and all other facilities of the wireline company used by the nonwireline carriers in the one-way signalling service on frequencies 152.24 and 158.70 Mc/s, shall be identical with those costs used by a wireline company on frequencies 152.84 and 158.10 Mc/s in computing its own charges over the same distances when it offers a competitive service, or, where distances are different, the same per mile basis;

3 And, finally, if a wireline carrier offers or purports to offer any free or reduced rate service, it shall provide the identical service so offered or purported to be offered to customers of any competing nonwireline carrier at the same reduced rates or free of charge.

12 FCC 2d at 852. These three requirements also appear as conditions on Illinois Bell's license for Station KTS203. We again conclude, as we did in our discussion of the Application for Review, that Illinois Bell did not violate the above three *Guardband* requirements.

25. *Carterfone and Telerent Violations.* In our discussion of the Application for Review filed by Rogers, we determined that it was unnecessary to decide whether *Carterfone* and *Telerent* were violated. We conclude, as we did earlier, that any consideration concerning the applicability of *Carterfone* and *Telerent* would be subsumed by the broader anticompetitive practices issue.

26. *Sherman Act Violations.* In its Complaint, Rogers claims that Illinois Bell and A.T. & T. are in violation of sections 1 and 2 of the Sherman Act. 15 U.S.C. §§ 1, 2 (1970). However, the Supreme Court has held that "while the Commission does not have power to enforce the antitrust laws as such, it is permitted to take antitrust policies into account in making licensing decisions pursuant to the public interest standard." *FCC* v. *National Citizens Committee for Broadcasting*, 98 S. Ct. 2096, 2112 (1978). *See also United States* v. *Radio Corp. of America*, 358 U.S. 334, 346-51 (1959); *National Broadcasting Co.* v. *United States*, 319 U.S. 190, 223-24 (1943). Accordingly, although we will consider whether Illinois Bell and A.T. & T. have engaged in unfair or illegal competitive practices in connection with the interconnection facilities provided to Rogers by Illinois Bell, we will not attempt to enforce the Sherman Act.

27. *Unfair or Illegal Competitive Practices.* In our discussion of the Application for Review filed by Rogers, we found that sufficient factual issues were raised to question whether Illinois Bell and A.T. & T. engaged in any unfair or illegal competitive practices by not allowing Rogers to machine answer Illinois Bell's INWATS lines in the past and to question whether the rates presently offered by Illinois Bell to Rogers to give Rogers the privilege of machine answering constitute any unfair or illegal competitive practices. *Cf. United Telephone Co. of Ohio*, 26 FCC 2d 417 (1970). Because the factual arguments are the same in both proceedings, these same issues will apply to a hearing concerning the complaint.

28. *Damages.* In its complaint Rogers alleges actual damages in excess of $101,325.99 through September 1977 and damages in excess of $100 per day subsequent to September 1977. Rogers has offered to file affidavits containing full details of the damages claimed once the Commission has made its findings with respect to the basic liability issues involved in the Complaint. We agree with Rogers in this regard. The amount of damages, if any, should be determined in the hearing after the basic liability issues involved in the Complaint are resolved.

29. However, in determining the amount of damages, we question whether Rogers has chosen the course of action which would tend to mitigate damages. Of the alleged damages through September 1977, Rogers claims $82,972.00 for the expenses incurred in manually answering the INWATS lines provided by Illinois Bell. However, since August 9, 1977, Illinois Bell has offered to Rogers INWATS lines with the privilege of machine answering. Rogers claims that it has been unable to accept the

offer on the grounds that the proposed rates are unfair. Nevertheless, if Illinois Bell and A.T. & T. are found to be liable to Rogers, in the hearing, we will inquire into whether payment of the charges for the privilege of machine answering would have been less costly than manually answering the INWATS lines and whether Rogers took or could have taken appropriate steps to mitigate damages in this regard.

30. In its Complaint, Rogers requested compensatory and punitive or exemplary damages to the end that the total award will be equal to three times the actual damages, plus cost of suit, including a reasonable attorney's fee, to harmonize the Commission's actions with the policy of encouraging civil enforcement of the anititrust laws. Because we do not have authority to adjudicate violations of the Sherman Act, we obviously do not have authority under the Sherman Act to award punitive or exemplary damages. Whether or not the Communications Act authorizes us to award punitive or exemplary damage in certain situations, such as where the principles of the Sherman Act may have been violated, is a question we need not decide now. The extent and nature of any damage award is a matter for consideration in the hearing ordered below.[18]

REQUEST FOR ORDER TO SHOW CAUSE

31. In its request for issuance of order to show cause, Rogers alleges that when the Commission considers its Formal Complaint, it will conclude that station license KTS203 should be revoked for the willful and repeated violations alleged therein.[19] We find that the request by Rogers has been rendered moot because the renewal application for station KTS203 is presently pending. The Bureau is directed to take into consideration this proceeding when processing the renewal application.

[18]The Commission has, on other occasions, decided to defer consideration of whether it has the authority to award punitive or exemplary damages until the conclusion of the hearing. *See* Richard Johnson, 18 FCC 2d 679 (1969), where we declared our intent to "defer ruling on this question until after the completion of the evidentiary record in this case and submission of briefs thereon by the parties." 18 FCC 2d at 681. This case was settled without hearing. *See also* Strouth v. Western Union Telegraph Co., 66 FCC 2d 117 (1977); Sidney Gelb, 30 FCC 2d 678 (Rev. Bd. 1971); Warrensburg Cable, 27 FCC 2d 727 (1971). Neither the Commission nor the Review Board has ruled on the issue of authority to award exemplary or punitive damages in any of these cases.

[19]Section 312 of the Communications Act of 1934, as amended, sets forth circumstances under which the Commission may revoke a station license or construction permit.

EVIDENTIARY BURDENS

32. As in *United Telephone Co. of Ohio*, 26 FCC 2d 417 (1970), we find it appropriate to set out guidelines on the evidentiary burdens to be met in the hearing designated herein. *Cf.* Section 309(e) of the Communications Act of 1934, as amended. In *United* we stated:

> In *D & E Broadcasting Co.*, 5 RR 2d 475 (1965), we outlined our policy with respect to evidentiary burdens where issues involving charges of misconduct were to be tried, and held that in such cases the burden of going forward with the introduction of evidence and the burden of proof should be on the petitioning party. But we also observed that exceptions to that general policy might occasionally be appropriate. One such exception which exists in instances where the operative facts are peculiarly within the knowledge of the applicant, *Midwest Radio Television, Inc.*, 16 RR 2d 987 (1967), applies here where the essential facts are all within United's sole power to produce. Therefore, both the burden of going forward with the introduction of evidence and the burden of proof will be on United with respect to the issues specified; United of course bears the burden of proof on the ultimate public interest issue since it is an applicant. See Sec. 309(a) of the act, 47 U.S.C., Sec. 309(a).

26 FCC 2d at 421. As in *United*, the burden of going forward with the introduction of evidence and the burden of proof will be on Illinois Bell and A.T. & T. with respect to the interconnection and billing issues as the justifications for Illinois Bell's rates and practices are within the sole possession of Illinois Bell and A.T. & T. With respect to the issue of public need, Illinois Bell will bear the burden of going forward with the evidence and the burden of proof. Illinois Bell bears the burden of proof on the ultimate public interest issue since it is the applicant. However, with respect to the issue of damages to Rogers, the burden of proceeding with the introduction of evidence and burden of proof are upon Rogers.

33. Except as raised in the issues specified below, we find Illinois Bell to be legally, technically, financially and otherwise qualified to construct and operate the proposed additional facilities.

34. In view of the foregoing, *It is ordered*, That the Applications for Review filed by Radio Relay Corp.-Illinois and Rogers Radio Communication Services, Inc., are denied in part and are granted in part as set forth above.

35. *It is further ordered*, That the Order of the Chief, Common Carrier Bureau, released on August 23, 1977, granting the above-referenced application, and affirmed by Order of the Chief, Common Carrier Bureau, released on December 10, 1977, is vacated; and, pursuant to sections 201, 202, 206, 207, 208, 209, and 309 of the Communications Act of 1934, as amended, the above-captioned application of Illinois Bell Telephone Co., File No. 20657-CD-P-(11)-76, and the above-captioned Complaint of Rogers Radio Communication Services, Inc., File No. TS 3-78, are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine whether Illinois Bell Telephone Co. has demonstrated public need for the proposed additional facilities;

(b) To determine whether Illinois Bell Telephone Co. and American Telephone and Telegraph Co., in connection with the rates and practices for interconnection of the radio common carrier facilities of Rogers Radio Communication Services, Inc. with the landline facilities of Illinois Bell Telephone Co., have engaged in any practices which are:

(1) Anticompetitive,

(2) In violation of any provision of the Communications Act or contrary to the public interest standards thereof, or

(3) In violation of any rule, decision, or policy of the Federal Communications Commission;

(c) To determine whether Illinois Bell Telephone Co. and American Telephone & Telegraph Co., in connection with the advertising practices of Illinois Bell Telephone Co.'s radiopaging services, have engaged in any practices which are

(1) Anticompetitive,

(2) In violation of any provision of the Communications Act or contrary to the public interest standards thereof, or

(3) In violation of any rule, decision, or policy of the Federal Communications Commission;

(d) To determine, in light of the evidence adduced pursuant to issues (a), (b) and (c), whether a grant of the above-captioned application would serve the public interest, convenience, and necessity; and

(e) To determine what damages, if any, should be awarded to Rogers Radio Communication Services, Inc., for any violation found under issue (b).

36. *It is further ordered*, That the "Request for Issuance of Order to Show Cause Why Station License KTS203 Should Not Be Revoked" filed by Rogers Radio Communications Service, Inc. on November 3, 1977 is dismissed as moot.

37. *It is further ordered*, That, with respect to issue (a), the burden of introduction of evidence and burden of proof are placed upon Illinois Bell Telephone Co.

38. *It is further ordered*, That, with respect to issues (b) and (c), the burden of introduction of evidence and

burden of proof are placed upon Illinois Bell Telephone Co. and American Telephone and Telegraph Co.

39. *It is further ordered,* That, with respect to issue (d), the burden of proof is placed upon Illinois Bell Telephone Co.

40. *It is further ordered,* That, with respect to issue (e), the burden of introduction of evidence and the burden of proof are placed upon Rogers Radio Communication Services, Inc.

41. *It is further ordered,* That the hearing shall be held at the Commission offices in Washington, D.C., at a time and place and before an Administrative Law Judge to be specified in a subsequent order.

42. *It is further ordered,* That Radio Relay Corp.-Illinois is made a party to the proceeding.

43. *It is further ordered,* That the request by Rogers Radio Communication Services, Inc., that American Telephone & Telegraph Co. be named as a defendant to the complaint proceeding is granted.

44. *It is further ordered,* That the Chief, Common Carrier Bureau, is made a party to the proceeding.

45. *It is further ordered,* That parties may avail themselves of the opportunity to be heard by filing with the Commission pursuant to section 1.221 of the Rules within 20 days of the release date hereof, a written notice stating an intention to appear.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-28685 Filed 10-10-78; 8:45 am]

[6712-01-M]

TV BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: September 29, 1978.

Released: October 3, 1978.

By the Chief, Broadcast Bureau.

Notice is hereby given, pursuant to § 1.572(c) of the Commission's Rules, that the television broadcast applications listed below will be considered to be ready and available for processing on October 10, 1978. Since the listed applications are mutually exclusive and have been cut off, no other application which involves a conflict with these applications may be filed. Rather, the purpose of this notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under § 1.522(a)(2) of the Rules and pleadings to specify issues pursuant to § 1.584.

BPCT-4974 (new), Mt. Vernon, Ill., Evans Broadcasting Corp., Channel 13.

BPCT-4994 (new), Mount Vernon, Ill., Pyramid Broadcasting Corp., Channel 13.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-28683 Filed 10-10-78; 8:45 am]

[6712-01-M]

[BC Docket Nos. 78-327, 78-328; File Nos. BP-20, 272, BP-21,021]

VOICE OF THE ORANGE EMPIRE, INC., LTD. (KWIZ) AND TRANS-AMERICA BROADCASTING CORP.

Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order

Adopted: September 27, 1978.

Released: October 4, 1978.

In re Applications of The Voice of the Orange Empire, Inc., LTD (KWIZ) Santa Ana, Calif., BC Docket No. 78-327, File No. BP-20,272, Req: 1480 kHz, 1 kW, 5 kW-LS, DA-2, Unlimited, Trans-America Broadcasting Corporation (KTYM) Inglewood, Calif., BC Docket No. 78-328, File No. BP-21,021, Req: 1460 kHz, 5 kW, DA-D, for construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the application of The Voice of the Orange Empire, Inc., LTD, licensee of station KWIZ, Santa Ana, California, for authority to increase nighttime power and the application of Trans-America Broadcasting Corporation, licensee of station KTYM, Inglewood, Calif., for authority to add nighttime operation. Inasmuch as the proposals would result in prohibited overlap, the two are mutually exclusive.

2. The respective proposals, which are for different communities, would serve substantially different areas and populations. Consequently, it will be necessary to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would provide a fair, efficient and equitable distribution of radio service.

3. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

4. Accordingly, *It is ordered,* That pursuant to section 309(e) of the Communications act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine the areas and populations which would receive primary nighttime service from the respective proposals together with the availability of other primary nighttime (1.0 mV/m or greater in the case of FM) service in such areas.

(2) To determine, in the light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

(3) To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

5. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicant's herein, pursuant to § 1.221(c) of the Commission's rules, in person, or by attorney, shall, within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

6. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

FEDERAL COMMUNICATIONS Commission.
Wallace E. Johnson,
Chief, Broadcast Bureau.

[FR Doc. 78-28684 Filed 10-10-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the field offices lacated at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20753, on or before October 31, 1978. Comments should in-

clude facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate this has been done.

Agreement No.: 10027-7.

Filing party: Frank R. A. Levier, Executive Administrator, Inter-American Freight Conference, Av. Rio Branco, 156-27°, Andar Grupos 2707/2711, Rio de Janeiro, Brazil.

Summary: Agreement No. 10027-7 amends the basic Brazil/U.S. Atlantic Coast Ports Pool by adding Sea-Land Service, Inc., as a party to the agreement. Sea-Land's admission is subject to the following terms: Sea-Land will assign all its rights (including voting), responsibilities, and obligations under the agreement to Moore-McCormack Lines, Inc. and Sea-Land shall not commence its service nor sailings nor shall it be considered a participating carrier in the agreement until such time as it executes with Moore-McCormack Lines an agreement defining respective shares, rights, responsibilities, and obligations within the U.S. national flag share in the pool and such agreement is approved by the respective governmental authorities. Notwithstanding the foregoing, Sea-Land is entitled at all times, as a member of the agreement, to participate in any and all discussions or meetings that the member lines may hold collectively.

Agreement No.: 10261-4.

Filing party: David C. Jordan, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street N.W., Washington, D.C. 20006

Summary: Agreement No. 10261-4 would amend Article 6 of the U.S. South Atlantic/Spanish, Portugese, Moroccan and Mediterranean Rate Agreement by adding a new paragraph thereto to provide that each party shall furnish security in the amount of $25,000 with the Secretary of the Agreement as a guarantee of the payments that such party is required to make pursuant to Article 6, entitled "Expenses of maintaining and administering rate agreement."

Agreement No.: T-2969-1.

Filing party: Richard L. Landes, Deputy, The City Attorney of Long Beach, Harbor Administation Building, P.O. Box 570, Long Beach, Calif. 90801

Summary: Agreement No. T-2969-1, between the City of Long Beach (City) and Exxon Corp. (Exxon) modifies the basic agreement between the parties which provides for the 36-year exclusive lease to Exxon of certain land and water areas; an exclusive license for construction and operation of certain pipelines; and a tertiary berth assignment for the use of wharf and wharf premises located at Long Beach, Calif. (premises). The premises will continue to be used for the receipt, handling, loading, unloading, transporting, and storage of Exxon's petroleum products in connection with its fuel bunkering services. This modification represents an adjustment of the preferentially assigned berth spaces and reimbusement to Exxon for relocation of certain pipes, valve boxes and appurtenant facilities due to expansion of the bulk grain terminal located on the adjacent parcel. As compensation under this modification, the City is to receive rental for the leased areas and the preferentially assigned areas in an amount aggregating $144,070.08 per annum. This rental shall be in lieu of tariff charges as published by the Port of Long Beach up to an amount of $144,000.00 per 12-month period. In the event wharfage and dockage charges accruing during any said 12-month period exceeds $144,000.00, Exxon shall pay to City 50 percent of all such tariff charges in excess of $144,000.00. As rental for use of the licensed area, Exxon will pay City a sum computed from the pipeline rental fees prescribed in Section 7560.9 of the Municipal Code of the city of Long Beach. In addition, City shall receive tariff charges occurring in connection with Exxon's operations upon the licensed area.

Agreement No.: T-3718.

Filing party: Joseph D. Patello, Port Attorney, Port of San Diego, P.O. Box 488, San Diego, Calif. 92112.

Summary: Agreement No. T-3718, between San Diego Unified Port District (Port) and Crescent Wharf and Warehouse Co. (Crescent), is a terminal operator agreement whereby Crescent will provide for the handling, storing and delivering of merchandise and cargo, and perform additional accessorial services. Crescent will set forth in a tariff, rates, rules and regulations relating to its services. In consideration for the collection of wharf storage and wharf demurrage in accordance with the Port's tariff, Crescent is allowed to retain a percentage of revenues as set forth in the agreement.

By order of the Federal Maritime Commission.

Dated October 4, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-28586 Filed 10-10-78; 8:45 am]

[6730-01-M]

[Independent Ocean Freight Forwarder License No. 1927]

AMERICAN DISC LTD., PAUL CAVALOS D.B.A.

Order of Revocation

On September 27, 1978, American Disc. Ltd., Paul Cavalos d.b.a., 9019 Neenah, Morton Grove, Ill. 60053, voluntarily surrendered his Independent Ocean Freight Forwarder License No. 1927 for revocation.

Therefore, 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. 1927 issued to American Disc Ltd., Paul Cavalos d.b.a., be and is hereby revoked effective September 27, 1978, without prejudice to reapplication 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 American Disc Ltd., Paul Cavalos d.b.a.

ROBERT D. DREW,
Director, Bureau of Certification and Licensing.

[FR Doc. 78-28585 Filed 10-10-78; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

TOWNSEND FINANCIAL CORP.

Formation of Bank Holding Company

Townsend Financial Corp., Parsons, Tenn., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 90 percent of the voting shares of Farmers Bank, Parsons, Tenn. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than November 3, 1978.

Board of Governors of the Federal Reserve System, October 4, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28591 Filed 10-10-78; 8:45]

[6750-01-M]

FEDERAL TRADE COMMISSION

TRANSMITTAL RULES

Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: Creusot-Loire Steel Corp. is granted early termination of 30-day waiting period provided by law and the premerger notification rules with respect to the proposed merger of Horace T. Potts, Inc., into a subsidiary of Creusot-Loire. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Creusot-Loire. Neither agency intends to take any action with respect to this action during the waiting period.

EFFECTIVE DATE: September 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Associate Director for Premerger Notification, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, 202-523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the FEDERAL REGISTER.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-28686 Filed 10-10-78; 8:45 am]

[6820-22-M]

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR D-155]

PUBLIC BUILDINGS AND SPACE

Redesignation of Federal Building

OCTOBER 2, 1978.

1. *Purpose.* This bulletin announces the redesignation of a Federal building.

2. *Expiration date.* This bulletin expires September 30, 1978. However, the building redesignation announced by this bulletin will remain in effect until canceled or superseded.

3. *Redesignation.* The name of the building being redesignated is as follows:

Former name and new name

Federal Building—Federico Degetau Federal Building.
U.S. Courthouse—U.S. Courthouse.
Carlos E. Chardon Avenue—Carlos E. Chardon Avenue.
Hato Rey, Puerto Rico 00918—Hato Rey, Puerto Rico 00918.

OCTOBER 2, 1978.

PAUL E. GOULDING,
Acting Administrator of General Services.

[FR Doc. 78-28552 Filed 10-10-78; 8:45 am]

[4110-02-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

OFFICE OF EDUCATION

PRESIDENT'S COMMISSION ON FOREIGN LANGUAGE AND INTERNATIONAL STUDIES

Meeting

AGENCY: President's Commission on Foreign Language and International Studies.

ACTION: Notice of Public Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meetings of the President's Commission on Foreign Language and International Studies. It also describes the functions of the Commission. Notice of these meetings is required under the Federal Advisory Committee Act, (5 U.S. Code, Appendix I, Section 10(a)(2)). This document is intended to notify the general public of its opportunity to amend.

DATES: October 26-27, 1978.

ADDRESS: Headquarters of the Organization of American States in the Old Council Room, 17th and Constitution Avenue NW., Washington, D.C. 20001. The Old Council Room, October 26 and 27.

FOR FURTHER INFORMATION CONTACT:

Nan Bell, Staff Director, 1832 M Street NW., Suite 837, Washington, D.C. 20036 202-653-5817.

The President's Commission on Foreign Language and International Studies is established under Executive Order 12054 (April 21, 1978) and section 9(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. Appendix I). The Commission is directed to:

(A) Conduct such public hearings, inquiries, and studies as may be necessary to make recommendations to the President and the Secretary of Health, Education, and Welfare.

(B) The objectives of the Commission shall be to: (1) Recommend means for directing public attention to the importance of foreign language and international studies for the improvement of communications and understanding with other nations in an increasingly interdependent world;

(2) Assess the need in the United States for foreign language and area specialists, ways in which foreign language and international studies contribute to meeting these needs, and the job market for individuals with these skills;

(3) Recommend that foreign language area studies programs are appropriate at all academic levels and recommend desirable levels and kinds of support for each that should be provided by the public and private sectors;

(4) Review existing legislative authorities and make recommendations for changes needed to carry out most effectively the Commission's recommendations.

Information on meetings which may be planned for any or all of these groups may be obtained by calling the Commission office as indicated. On October 26, 1978 the President's Commission on Foreign Language and International Studies will meet in regular session from 10:00 a.m. to 5:00 p.m., and on October 27, from 9:00 a.m. to 12:00 p.m., at the Headquarters of the Organization of American States in the Old Council Room, 17th and Constitution Avenue, NW. The following agenda will be included in the meetings:

(1) Introduction of Commission members;
(2) Statement on background and purposes of the Commission;
(3) Outline and plan of work; and
(4) Presentations on topics pertinent to the mandate of the Commission.

Records shall be kept of all Commission proceedings and shall be available 14 days after the meeting for public inspection at the Office of the President's Commission on Foreign Language and International Studies, located at 1832 M Street NW., Suite 837,

Washington, D.C. 20036. Signed at Washington, D.C. on October 4, 1978.

NAN P. BELL,
Staff Director.

[FR Doc. 78-28589 Filed 10-10-78; 8:45 am]

[4110-12-M]

Office of the Secretary

PRIVACY ACT OF 1974

Guaranteed Student Loan Program—Project Cross-Check, Phase III

AGENCY: Department of Health, Education, and Welfare.

ACTION: Notice of Phase III Implementation of Project Cross-Check in the Guaranteed Student Loan Program.

SUMMARY: The Department of Health, Education, and Welfare (DHEW) plans to implement Phase III of a major project called Project Cross-Check, to reduce losses currently being sustained by the guaranteed student loan program as administered by DHEW. This project Cross-Check seeks to identify Federal employees—civilian and active duty military—who appear to be in default on their guaranteed student loan (GSL), and to take action, where appropriate to accelerate recoveries on these defaulted loans. Project Cross-Check is being implemented in three phases: Phase I was a pilot project conducted in Fall 1977 using HEW's own payroll; Phase II initiated in February 1978, included the entire Federal active civilian workforce; and Phase III is to be directed at the Federal active duty military employee data base. In each phase of the project, a file of Federal employees was (or will be) compared by computer with the guaranteed student loan default file to identify possible loan defaulters on the public payroll.

DATE: Phase III implementation of Project Cross-Check will begin on October 14, 1978 and will continue until June 1979.

ADDRESS: Any written comments should be addressed to the Director, Division of Program Operations, Bureau of Student Financial Assistance, Room 4636, GSA Regional Office Building, Seventh and D Streets SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Mr. David Kerr, Director, Division of Program Operations, Room 4636, GSA Regional Office Building, 202-245-3390.

SUPPLEMENTARY INFORMATION: DHEW is already beginning to show some measures of success in Phase I and Phase II of Project Cross-Check. In Phase I, DHEW compared its own payroll with that of the default file and found 317 initial matches, of which 103 individuals no longer work for the Department. Of the remaining 214 individuals (still DHEW employees), 162 accounts have been resolved or otherwise settled; 4 accounts are under negotiation; and 48 accounts have been referred for litigation.

In Phase II of Project Cross-Check, the U.S. Civil Service Commission gave its permission on December 23, 1977 for a computer comparison of the Federal civilian work force (all active Federal civilian and postal employees) against the guaranteed student loan (Federally insured) default files of the Office of Education. The Office of Inspector General (OIG) Audit Agency conducted the computer comparison on February 7, 1978 and identified 6,783 individuals whose names appeared on both lists. This listing was immediately given to the Deputy Commissioner, Bureau of Student Financial Assistance (BSFA), Office of Education for his follow up action. Copies of these records were not retained by the Audit Agency but were returned to the source or destroyed. DHEW is now in the process of sending letters directly to the individual at their work address requesting that the individual immediately contact BSFA about their defaulted loan account. DHEW believes that many individuals may not have previously received a notice from its collection staff—although a series of letter already have been mailed to the best known address in BSFA's files. In October, for those accounts which still remain unresolved, BSFA will request that the Federal employer (Personnel Office) counsel the defaulters about their indebtedness, and advise BSFA of the outcome of the counseling session. Accounts which remain unresolved after a counseling effort, will be reviewed by BSFA and referred where appropriate for litigation.

Prior to the implementation of Phase II of Project Cross-Check, a new Routine Use permitting the release of certain information from the applicable guaranteed student loan systems of records was published in the FEDERAL REGISTER, Vol. 43, No. 12, on Wednesday, January 18, 1978, and became effective 30 days later. This new routine use permitted the Bureau of Student Financial Assistance to disclose information to Federal employers of defaulters for the purpose of counseling these borrowers in their repayment efforts, to various agencies, organizations and private parties to locate delinquent or defaulted borrowers, and to agency contractors to assist in collections activities. The routine use has facilitated the new initiative Project Cross-Check directed at Federal employee defaulters, as well as the non-Federal initiative to identify those loan defaulters and to take action where appropriate to accelerate recoveries on those loan accounts. In Phase II of Project Cross-Check, DHEW plans to identify Federal active duty military employees who appear to be in default on their guaranteed student loan, and to take action to accelerate recoveries on these loans. The implementation procedures for Phase III will be virtually identical to that used in Phase I and Phase II on the civilian side of Project Cross-Check. The Department of Defense will release to the Office of Education, DHEW, a listing of all active duty military employees, which will then be compared by computer with the list of all guaranteed student loan defaulters. As soon as the data has been collected for Phase III of Project Cross-Check all original source computer tapes will be promptly returned to the source or destroyed. The matching of the Defense Manpower Data Center Data Base and the guaranteed student loan default file will be handled with strict regard for considerations of privacy, under the direction of senior members of the OIG Audit Agency (Washington Area Audit Office) under the following security procedures:

All computer files and printed listings are safeguarded in accordance with the provisions of the National Bureau of Standards Federal Information Processing Standards 41 and 31, and the HEW Information Processing Standards, HEW ADP Systems Manual. The records collected for this process will be immediately transferred to the Deputy Commissioner, BSFA, within the Office of Education, for his follow-up action. Copies of these records will not be retained by the Audit Agency.

For Phase III of Project Cross-Check, the Department of Defense, in order to permit the release of identifying information about active duty military employees to DHEW, Office of Education, has published a new Routine Use, as part of a Notice of Amendments to a System of Records; Defense Manpower Data Center Data Base, S322.10DLA-LZ. The new routine use was published in the FEDERAL REGISTER, vol. 43, No. 178; on September 13, 1978, p. 40904, and this routine use is reproduced below to further assist the general public in its understanding of Phase III of Operation Cross-Check. The publication of this routine use by Department of Defense (DOD) is in accordance with the OMB Supplemental Guidance for Matching Programs, published in the FEDERAL REGISTER, vol. 43, No. 151 on August 4, 1978.

As with Phase II of Operation Cross-Check, the following procedures will be followed for Phase III once the records have been transmitted to BSFA: For those individuals who have not received routine notification by BSFA collection staff about their indebtedness, these individuals will immediately be sent a series of collection letters to the best known address in BSFA's file—without the involvement or knowledge of any defaulter's supervisors or associates. The letter will request that the defaulter contact the appropriate DHEW regional office to resolve the account. Only in cases where it has not been possible to locate a defaulter, or the defaulter has been located and refused to arrange repayment, will assistance be requested from the employment agency. The first contact with DOD in this regard will be to request a work location for those defaulters noted above. As with Phase II (the Federal civilian side of Project Cross-Check), letters will be sent to the defaulter at his work address and marked: Personal—Private—To Be Opened by Addressee Only. DOD will provide work location for those defaulters so identified by BSFA. For those accounts which remain unresolved after a period of time has elapsed, DHEW will request that DOD counsel those remaining individuals about their indebtedness. Those which are nonresponsive to counseling will be reviewed and referred as appropriate by BSFA for litigation.

In accordance with the OMB Supplemental Guidance on Matching Programs, the computer comparison of the DOD Defense Manpower Data Center Date Base with the guaranteed student loan default file will not occur on or before 30 days after the publication of the DOD Routine Use for the System of Records: S322.10 DLA-LZ.

(DOD Routine Use Published September 13, 1978, p. 40904 of the FEDERAL REGISTER.)

Information on the name, rank, social security accounting number, duty station, birth date, retirement date, and retirement annuity may be disclosed to the Department of Health, Education, and Welfare (DHEW) for the following purposes:

To the Office of Education, DHEW, for the purpose of identifying individuals who appear to be in default on their guaranteed student loans so as to permit the DHEW to take action, where appropriate, to accelerate recoveries of defaulted loans.

Dated: October 4, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Administration and Budget.

[FR Doc. 78-28638 Filed 10-5-78; 4:39 pm]

[4110-02-M]

Office of Education

COMMUNITY EDUCATION ADVISORY COUNCIL

Meeting

AGENCY: Office of Education, HEW, Community Education Advisory Council.

ACTION: This notice is intended to notify the general public of the cancellation of the Community Education Advisory Council meeting as published in the FEDERAL REGISTER, vol. 43, No. 188 on Wednesday, September 27, 1978. Due to a lack of a quorum of members, the meeting has been canceled and will be rescheduled at a later date.

DATE: Meeting, October 12-13, 1978.

ADDRESS: U.S. Office of Education, FOB-6, Room 4003, 400 Maryland Avenue SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Margaret Beavan, Office of Education, Department of Health, Education, and Welfare, Room 5622-ROB-3, Seventh and D Streets SW., Washington, D.C. 20202, telephone 202-245-0691.

SUPPLEMENTARY INFORMATION: The Community Education Advisory Council is authorized under Pub. L. 93-380. The Council is established to advise the Commissioner of Education on policy matters relating to the interest of community schools.

Signed at Washington, D.C., on October 10, 1978.

JULIE ENGLUND,
Director,
Community Education Program.

FR Doc. 28857 Filed 10-10-78; 10:53 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Wyoming 64971]

WYOMING

Application

OCTOBER 2, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185) the Colorado Interstate Gas Co., Colorado Springs, Colo. filed an application for a 4½ inch o.d. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 16 N., R. 94 W.,
sec. 4, lots 1, 2, 6, 7 and NE¼SE¼;
sec. 10, SE¼NE¼, N½NW¼, SE¼NW¼, W½SE¼ and SE¼SE¼;
sec. 14, SW¼NW¼, W½SW¼ and SE¼SW¼;
sec. 15, E½NE¼;
sec. 23, SW¼NE¼, E½NW¼ and NW¼SE¼.

The proposed pipeline will transport natural gas from an existing well at a location in section 23, T. 16 N., R. 94 W., Sweetwater County, Wyo. into existing natural gas pipeline facilities at a location in the NE¼ of section 4, T. 16 N., R. 94 W.

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 do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 670, 1300 Third Stret, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-28553 Filed 10-10-78; 8:45 am]

[4310-31-M]

Geological Survey

[Int DES 78-43]

CABALLO MINE, CAMPBELL COUNTY, WYO.

Availability of Draft Environmental Impact Statement

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 Caballo surface coal mining operation by the Carter Mining 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 his concurrent reclamation and revegetation of surface lands. The proposed action is on Federal coal leases W-49644 and W-3397, located about 10 miles (15 km) 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, Col. 80202; the U.S. Geological Survey Library, Stop 914, Box 25046, Denver Federal Center, Denver, Col. 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, Col. 80225; and, over the counter only, from the U.S. Geological Survey Public Inquiries Office, 169 Federal Building, 1961 Stout Street, Denver, Col. 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: October 5, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-28587 Filed 10-10-78; 8:45 am]

[4310-70-M]

National Park Service

WESTERN REGIONAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that public meetings of the Western Regional Advisory Committee will be held in San Francisco, Calif. The meetings will be held on November 17 and 18, 1978, each will begin at 9 a.m. p.s.t. in Golden Gate National Recreational Area Headquarters, Building 201, Fort Mason.

Friday afternoon, November 17, the committee will make a surface tour of Golden Gate National Recreation Area. Members of the public may participate in the tour, but they must arrange for their own transportation.

This will be the last gathering of the Western Regional Advisory Committee, since the Committee's charter will expire, without renewal, on December 31, 1978.

The purpose of the Western Regional Advisory Committee during its existance was to provide for a free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or counsel from members of the public on programs and problems affecting the Western Region of the National Park Service.

Members who have served on the Advisory Committee are:

Ben Avery, Phoenix, Ariz.
David W. Ballie, Jr., Waipahu, Hawaii.
Lewis S. Eaton, Fresno, Calif. (Chairman).
Ed Fike, Las Vegas, Nev.
Bernard Fontana, Tucson, Ariz.
Jean Ford, Las Vegas, Nev.
Sonya Thompson, Agoura, Calif.
Jack Walston, San Marino, Calif.
Todd Watkins, Bishop, Calif.

Presentations to be made to the Committee will include the status of management and development issues they reviewed, provided advice and counsel on during their terms of appointment. They are:

Grand Canyon National Park's Colorado River Management and Feral Burro Management Plans.
Mining in Death Valley National Monument.
Redwood National Park Enlargement Act.
Yosemite National Park's draft General Mangement Plan.
Golden Gate National Recreation Area draft General Management Plan.
Cultural and National Resource Mangement Plans for various areas in the Western Region.

Since this is an informal meeting of present and former Committee members, they will not consider matters discussed in the formal sense nor will they provide formal advise relating thereto. However, the meeting will be open to the public, and anyone may file, with the Committee, a written statment concerning the matters to be discussed.

A summary of the meeting will be available for public inspection four weeks after the meeting at the Western Regional Office, National Park Service, Federal Office Building, Room 14001, 450 Golden Gate Avenue, San Francisco, Calif.

Dated: September 28, 1978.

JOHN H. DAVIS,
Acting Regional Director, Western Region.

[FR Doc. 78-28574 Filed 10-10-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-358-OL]

CINCINNATI GAS & ELECTRIC CO. ET AL. (WM. H. ZIMMER NUCLEAR STATION)

Reconsitution of Board

Samuel W. Jensch, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Mr. Jensch is retiring and is unable to continue his service on this Board.

Accordingly, Charles Bechhoefer, Esq., whose address is Atomtic Safety and Licensing Board Panel, U.S. Nulcear Regulatory Commission, Washington, D.C. 20555, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's rule of practice, as amended.

Dated at Bethesda, Md., this 2d day of October 1978.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 78-28557 Filed 10-10-78; 8:45 am]

[7590-01-M]

[Docket No. 50-409-SP]

DAIRYLAND POWER COOPERATIVE (LaCROSSE BOILING WATER REACTOR)

Amendment to Provisional Operating License (Spent-Fuel Pool); Reconstitution of Board

Ivan W. Smith, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Mr. Smith is unable to continue his service on this Board because of a schedule conflict.

Accordingly, Charles Bechhoefer, Esq., whose address is Atomtic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's rules of practice, as amended.

Dated at Bethesda, Md., this 2d day of October 1978.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 78-28558 Filed 10-10-78; 8:45 am]

[7590-01-M]

[Docket No. 50-409-OL]

DAIRYLAND POWER COOPERATIVE (LA CROSSE BOILING WATER REACTOR)

Application for Full-Term Operating License; Reconstitution of Board

Ivan W. Smith, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Mr. Smith is unable to continue his service on this Board because of a schedule conflict.

Accordingly, Charles Bechhoefer, Esq., whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's rules of practice, as amended.

Dated at Bethesda, Md., this 2d day of October 1978.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 78-28559 Filed 10-10-78; 8:45 am]

[7590-01-M]

[Docket No. 50-321]

GEORGIA POWER CO., ET AL.

Issuance of Amendment to Facility Operating License.

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 60 to facility operating license No. DPR-57 issued to Georgia Power Co., Oglethorpe Electric Membership Corp., Municipal Electric Association of Georgia, and city of Dalton, Ga., which revised the license for operation of the Edwin I. Hatch nuclear plant, unit No. 1, located in Appling County, Ga. The amendment is effective as of its date of issuance.

This amendment adds a license condition related to the completion of facility modifications for fire protection.

The Commission had made appropriate findings as required by the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need to be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's submittal dated October 27, 1976, and September 6, December 13, 1977, and February 15, March 28, April 11, April 18, and May 19, 1978, (2) amendment No. 60 to license No. DPR-57, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Appling County Public Library, Parker Street, Baxley, Ga. 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 4th day of October 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-28560 Filed 10-10-78; 8:45 am]

[7590-01-M]

[Docket No. 50-298]

NEBRASKA PUBLIC POWER DISTRICT

Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 52 to facility operating license No. DPR-46, issued to the Nebraska Public Power District (the licensee), which revised the technical specifications for operation of the Cooper Nuclear Station (the facility) located in Nemaha County, Nebr. The amendment is effective as of its date of issuance.

The amendment involves changes to the technical specifications to increase the storage capacity of the spent fuel pool from 740 to 2,366 fuel assemblies.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of proposed issuance of amendment to facility operating license in connection with this action was published in the FEDERAL REGISTER on August 22, 1977 (42 FR 42265). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for the amendment and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's final environmental statement for the facility dated February 1973.

For further details with respect to this action, see (1) the application for amendment dated July 22, 1977, as supplemented by letters dated November 30, December 16, 1977, June 12, 28, July 5 and 14, 1978, (2) amendment No. 52 to license No. DPR-46, (3) the Commission's related environmental impact appraisal, and (4) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Auburn Public Library, 118 15th Street, Auburn, Nebr. 68305. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 29th day of September 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-28562 Filed 10-10-78; 8:45 am]

[7590-01-M]

[Project No. P-657]

NEW YORK STATE ELECTRIC AND GAS CORP. AND LONG ISLAND LIGHTING CO.

Establishment of Local Public Document Room for the Proposed New Haven Nuclear Power Station

Notice is hereby given that the Nuclear Regulatory Commission (NRC) has established the Oswego County Office Building, 46 East Bridge Street, Oswego, N.Y. 13126, as the NRC's official Local Public Document Room for documents relating to New York State Electric and Gas Corp.'s and Long Island Lighting Co.'s proposed New Haven Nuclear Power Station, Units 1 and 2.

Members of the public are invited to view the New Haven documents at the above location during their hours of operation: Monday through Friday, 9 a.m. to 5 p.m. Reproduction equipment is available for the copying of documents.

Any questions concerning the Local Public Document Room should be directed to the Chief, Local Public Docu-

ment Room Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated in Bethesda, Md., this 2d day of October 1978.

For the Nuclear Regulatory Commission.

JOSEPH M. FELTON,
Director, Division of Rules and Records, Office of Administration.

[Doc. 78-28564 Filed 10-10-78; 8:45 am]

[7590-01-M]

[Docket Nos. 50-496 and 50-497]

NORTHEAST NUCLEAR ENERGY CO. (MONTAGUE NUCLEAR POWER STATION, UNITS 1 AND 2)

Reconstitution of Board

Frederic J. Coufal, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Mr. Coufal has transferred to the Federal Communicaitions Commission, where he is serving as an Administrative Law Judge.

Accordingly, Charles Bechhoefer, Esq., whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Md., this 2d day of October 1978.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 78-28563 Filed 10-10-78; 8:45 am]

[7590-01-M]

[Docket Nos. 50-275 O.L. & 50-323 O.L.]

PACIFIC GAS AND ELECTRIC CO. (DIABLO CANYON NUCLEAR POWER PLANT, UNITS NO. 1 & 2)

Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this operating license proceeding to consist of the following members:

Richard S. Salzman, Chairman
Alan S. Rosenthal
Dr. W. Reed Johnson

Dated: October 3, 1978.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 78-28565 Filed 10-10-78; 8:45 am]

[7590-01-M]

[Dockets Nos. 50-277 and 50-278]

PHILADELPHIA ELECTRIC CO., ET AL. (PEACH BOTTOM UNITS NOS. 2 AND 3)

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 46 and 46 to Facility Operating License No. DPR-44 and DPR-56, issued to Philadelphia Electric Co., Public Service Electric and Gas Co., Delmarva Power and Light Co. and Atlantic City Electric Co., which revised the Technical Specifications for operation of the Peach Bottom Atomic Power Station Units Nos. 2 and 3, located in York County, Pa. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications to (1) revise the surveillance requirements associated with suppression pool temperature logging, (2) revise the Tables listing Primary Containment Isolation Valves (PCIV) to reflect the addition of a controlled bypass heatup line on the High Pressure Coolant Injection (HPCI) steam supply, and (3) revise the identification of certain valves to reflect plant unique designations between Units 2 and 3.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) applications for amendments dated May 6, 1977 and March 14, 1978, as supplemented July 11, 1978, (2) Amendments Nos. 46 and 46 to License Nos. DPR-44 and DPR-56, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pa. 17126. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 3rd day of October 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-28561 Filed 10-10-78; 8:45 am]

[7590-01-M]

[Docket No. 50-206]

SOUTHERN CALIFORNIA EDISON CO. AND SAN DIEGO GAS & ELECTRIC CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 36 to Provisional Operating License No. DPR-13, issued to Southern California Edison Co. and San Diego Gas & Electric Co. (the licensees), which revised the Technical Specifications for operation of the San Onofre Nuclear Generating Station, Unit No. 1 (the facility) located in San Diego County, Calif. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications by adding requirements for a minimum water level above spent fuel in the reactor pressure vessel and spent fuel pool and the maximum weight that could be carried over spent fuel assemblies. The amendment also revises the provisions of Technical Specification 3.8 to require the reactor to be subcritical for at least 148 hours before commencing movement of irradiated fuel in the reactor pressure vessel.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 31, 1978 (Proposed Change No. 70), (2) Amendment No. 36 to License No. DPR-13, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, Calif. 92676. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 25th day of September 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-28566 Filed 10-10-78; 8:45 am]

[7590-01-M]

[Docket No. 50-259]

TENNESSEE VALLEY AUTHORITY

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Facility Operating License No. DPR-33, issued to Tennessee Valley Authority (the licensee), which revised the Technical Specifications for operation of the the Browns Ferry Nuclear Plant, Unit No. 1 (the facility) located in Limestone County, Ala. The amendment is effective as of the date of issuance.

On September 19, 1978, we issued Amendment No. 41 to the above license to permit operation at a maximum of 50 percent of licensed power level with one recirculation loop isolated. This amendment changes the Technical Specifications to raise the restriction on allowable power level to 82 percent while the facility is operating with one recirculation loop isolated.

The application for this amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment do not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 28, 1978, (2) Amendment No. 43 to License No. DPR-33, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Ala. 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 29th day of September 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-28567 Filed 10-10-78; 8:45 am]

[7555-02-M]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

NUCLEAR WASTE MANAGEMENT TECHNICAL ADVISORY GROUP

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-462, the Office of Science and Technology Policy announces the following meeting:

Name: Nuclear Waste Management Technical Advisory Group.
Date: October 27, 1978.
Time: 9:00-4:00.
Place: Room 3104, New Executive Office Building, Washington, D.C.
Type of meeting: Open.
Contact person: Mr. William Montgomery, Executive Office of the President, Office of Science and Technology Policy, Washington, D.C. 20500, telephone 202-395-4692.
Summary minutes: May be obtained from the Office of Science and Technology Policy, Washington, D.C. 20500.
Purpose of review panel: The Office of Science and Technology Policy, in accordance with the statutory mandate to analyze and interpret significant developments and trends with respect to long-term management of nuclear wastes, will identify and delineate viable alternative technology strategies or planning approaches to the problem of disposal and isolation of all nuclear waste other than that categorized as low level.
Agenda: 9:00-4:00—A discussion of draft materials prepared as part of the policy review process for the President.

WILLIAM J. MONTGOMERY,
Executive Officer.

[FR Doc. 78-28551 Filed 10-10-78; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30, Rev. 15, Amdt. 24]

PROGRAM ACTIVITIES IN FIELD OFFICES

Delegation of Authority

Delegation of authority No. 30, revision 15, republished in the FEDERAL REGISTER on February 25, 1976 (41 FR 8340), as amended (41 FR 16234), 17829, 28049, 36702, 50883; 42 FR 56990, 59153, 61347; 43 FR 55, 1577, 6667, 10998, 13651, 22261, 36152 and 45662) is hereby further amended to centralize the 8(a) contracting authority in the region VI regional office.

Accordingly, delegation of authority No. 30, revision 15, part VI, is amended as follows.

PART VI—PROCUREMENT ASSISTANCE PROGRAM (PA)

* * * * *

SEC. B.—Section 8(a) Contracting Authority (SB Act)

1. * * *

* * * * *

f. District Directors, New York, Newark, and Chicago D/O's only, $350,000.

* * * * *

1. [Delete]

2. To arrange for the performance of such contracts as stated in paragraph 1 above by negotiating or otherwise letting subcontracts to small business concerns or others. Contracts shall not exceed the following amounts:

* * * * *

f. District Directors, New York, Newark, and Chicago D/O's only, $350,000.

* * * * *

1. [Delete]

* * * * *

3. * * *

* * * * *

f. District Directors, New York, Newark, and Chicago D/O's only, $350,000.

* * * * *

m. [Delete]

Effective date: October 1, 1978.

Dated: September 28, 1978.

HAROLD A. THEISTE,
Acting Associate Administrator for Operations.

[FR Doc. 78-28555 Filed 10-10-78; 8:45 am]

[4810-35-M]

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1978 Rev., Supp. No. 6]

INSURANCE CO. OF THE PACIFIC COAST

Surety Company, Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under sections 6 to 13 of title 6 of the United States Code. An underwriting limitations of $253,000 has been established for the company.

Name of Company, Business Address, and State in Which Incorporated

Insurance Company of the Pacific Coast, P.O. Box 2175, Newport Beach, Calif. 92663—California

Certificates of authority expire on June 30 each year, unless sooner revoked, and new certificates are issued on July 1 so long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of June 1, in Department Circular 570 with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department fo the Treasury, Washington, D.C.20226.

Dated: October 4, 1978.

D. A. PAGLIAI,
Commissioner, Bureau of Government Financial Operations.

[FR Doc. 78-28611 Filed 10-10-78; 8:45 am]

[4830-01-M]

Internal Revenue Service

[Delegation Order No. 60 (Rev. 4), Chief Counsel's Order No. 1031.1B]

APPEALS OFFICIALS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Appellate Division organizational titles are changed. Appellate consideration of employee plans and exempt organizations will be by the Appeals Offices. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll-free telephone number).

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.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: 26 CFR 601.106: Appeals Functions. Settlement of cases docketed in the U.S. Tax Court.

Issued: October 1, 1978.

With respect to cases docketed in the U.S. Tax Court, the authority vested in the Commissioner of Internal Revenue by 26 CFR 301.6020-1, 26 CFR 301.6201-1, 26 CFR 301.7701-9, and Treasury Department Order No. 150-37 is hereby delegated and pursuant to the authority vested in Chief Counsel for the Internal Revenue Service by General Counsel Legal Division Order No. 4 it is hereby delegated.

1. Chief Counsel's delegate (hereinafter Counsel) will have exclusive jurisdiction over any case docketed in the Tax Court if the notice of deficiency, liability, or other determination was issued by Appeals officials; if the notice of deficiency, liability, or other determination was issued after appeals consideration of all petitioned issues by the Employees Plans/Exempt Organizations function; if the notice of deficiency, liability, or final adverse determination letter was issued by a District Director and is based upon a national office ruling or national office technical advice in that case involving a qualification of an employee plan or tax exemption and/or foundation status of an organization (but only to the extent the case involves such issue); or, except as provided in paragraph 3, if the case was docketed under Code sections 6110 or 7477. Jurisdiction will vest with Counsel at the time such cases are docketed with the court.

2. Regional Commissioners will have exclusive jurisdiction to settle in whole or in part, for a period of 4 months (but no later than the receipt of the trial calendar in regular cases and no later than 15 days before the calendar call in S cases), cases docketed in the Tax Court, except cases described in above paragraph 1. The 4-month period will commence at the time the Appeals officials (or the Examination officials under prior authority) receive the case from Counsel, which will be after the case is at issue. Counsel may extend the 4-month period for an additional 60-day period. Any further extension (or retention during the trial calendar period) will be granted only by the Regional Counsel personally. At the conclusion of the 4-month period or the period as extended, or at such earlier time as the Regional Commissioner concludes that the case is not susceptible of settlement, Counsel will have jurisdiction over the case.

3. Assistant Commissioner (Technical) and Deputy Chief Counsel (Litigation) will have joint settlement jurisdiction over any case docketed in the Tax Court under Code section 6110 or 7477 until the first day of the calendar on which the case is called for trial or, if earlier, the day on which the court serves on Counsel an order setting brief due dates; thereafter, Counsel will have settlement jurisdiction.

4. Effective date:

A. This order is applicable to all cases docketed with the Tax Court after June 30, 1978.

B. This order is applicable to cases pending in the Tax Court on June 30, 1978, in which the notice of deficiency or liability was issued by the office of the District Director, Director of International Operations, Director of a Service Center, and in which a settlement conference has not been held after such issuance by the Regional Appellate Division or by the Employee Plans/Exempt Organizations function of the region prior to July 1, 1978.

C. For other cases pending in the Tax Court on June 30, 1978, the procedures of Rev. Proc. 60-18 continue to be applicable, except that sole authority to dispose of the case vests in Counsel at the earlier of the following:

1. The date of receipt of a trial calendar on which the case appears;

2. The date when the Appeals officials and Counsel conclude settlement negotiations without disposition of the case and the Appeals officials transfer the case to Counsel; or

July 1, 1979.

5. The authority delegated herein to Regional Commissioners may be redelegated only by specific Commissioner's delegation orders. The authority of Chief Counsel's delegate to redelegate is contained in Chief Counsel's order No. 1030.1B, issued July 2, 1978.

6. This order supersedes Commissioner's delegation orde No. 60 (Rev. 3), Chief Counsel's order No. 1031.1A issued July 2, 1978.

STUART E. SEIGEL,
Chief Counsel.
JEROME KURTZ,
Commissioner.

[FR Doc. 78-28577 Filed 10-10-78; 8:45 am]

[4830-01-M]

[Delegation Order No. 60 (Rev. 8), Chief Counsel's Order No. 1031.2B]

REGIONAL COMMISSIONER

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Appellate Division organizational titles are changed. Employee Plans and Exempt Organizations' appeals program is transferred to the Regional Director of Appeals. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll-free telephone number).

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.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authority of Regional Director of Appeals in protested and Tax Court cases.

Issued: October 1, 1978.

The authority vested in the Commissioner of Internal Revenue by 26 CFR 301.6020-1, 26 CFR 301.6201-1, 26 CFR 301.7701-9, and Treasury Department Order No. 150-37, is hereby delegated as follows:

1. (a) In each region the Regional Commissioner, Regional Director of Appeals, and Chief and Associate Chief, Appeals Office, are authorized to represent the Commissioner in determining liability, qualification, exempt status, or foundation classification for the following types of cases not docketed in the U.S. Tax Court when the taxpayer does not agree with the determination made by the District Director or by the Director of International Operations and requests consideration by the Regional Director of Appeals:

(1) Except as excluded under paragraph 5 of this order, liability for excise, employment, income, profits, estate (including extensions for paying estate tax under Internal Revenue Code Section 6161(a)(2)), and gift taxes including additions to tax, additional amounts and assessable penalties under chapter 68 of subtitle F of the Internal Revenue Code of 1954 or corresponding provisions of the Internal Revenue Code of 1939;

(2) Initial or continuing qualification under subchapter D of chapter 1 of the Internal Revenue Code of 1954 and initial or continuing exempt status and foundation classification, except when a national office ruling on the case with respect to exempt status or foundation classification, or national office technical advice, with respect to qualification, exempt status, or foundation classification, has been issued. In certain instances, such as cases arising from the Examination Division or cases in which a national office technical advice covers only a portion of the qualification issue of an employee plan, Appeals officials will have jurisdiction over the proposed action where a national office ruling on the case with respect to exempt status or foundation classification or a national office technical advice, with respect to qualification, exempt status, or foundation classification has been issued. If the Appeals proposed disposition is contrary to the national office ruling on the case with respect to exempt status, or foundation classification, or the national office technical advice with respect to qualification, exempt status, or foundation classification, the Assistant Commissioner (Employee Plans and Exempt Organizations) or the Assistant Commissioner (Technical), in Internal Revenue Code Section 521 cases, will make the final decision.

(b) The authorities delegated in this paragraph are subject to the exceptions set forth in paragraph 3 of this order and they may not be redelegated, except, the authority with respect to appeals of assessed penalties may be redelegated by the Regional Director of Appeals to Appeals officers.

2. (a) In conformity with the provisions of delegation order No. 60 (as revised), in each income, excise, profits, estate, and gift tax case docketed in the U.S. Tax Court, the Regional Director of Appeals is authorized and each Chief and Associate Chief, Appeals Office, is authorized to perform those functions delegated to the Regional Commissioner in that joint order.

(b) The authorities delegated in this paragraph are subject to the exceptions set forth in paragraph 3 of this order and may not be redelegated.

3. The authorities delegated to the Regional Commissioner do not include authority to:

(a) Eliminate the ad valorem fraud penalty in any case in which the penalty has been determined by the district office or service center office in connection with a tax year or period, or which is related to or affects such year or period, for which criminal prosecution against the taxpayer (or related taxpayer involving the same transaction) has been recommended to the Department of Justice for willful attempt to evade or defeat tax, or for willful failure to file a return, except upon the recommendation or concurrence of Counsel; or

(b) Act in any case in which a recommendation for criminal prosecution is pending, except with the concurrence of Counsel.

4. In any case not docketed in the Tax Court in which a statutory notice was issued by the office of a District Director or by the Director of International Operations, the Regional Director of Appeals may relinquish the requested jurisdiction by waiver to the office of that Director. No such waiver shall be made in any case in which criminal prosecution has been recommended and not finally disposed of; nor in any case in which the determination in the statutory notice includes the ad valorem fraud penalty. Notwithstanding any such waiver, upon filing of a petition with the Tax Court, jurisdiction shall revest in the Regional Director of Appeals.

5. The excise and employment taxes subject to the provisions of this order include any Federal excise or employment tax under the Internal Revenue Code of 1954, except any tax imposed by the following provisions or corresponding provisions of the Internal Revenue Code of 1939:

(a) Subtitle E; or

(b) Subchapter D, chapter 78 of subtitle F, insofar as it relates to taxes imposed under subtitle E.

6. The authority to make and subscribe to a return under provisions of Code section 6020 is delegated to Appeals officers.

7. The authorities contained in this order are intended to supplement the authorities contained in delegation order No. 60 (as revised).

8. This order supersedes Commissioner's delegation order No. 66 (Rev. 7) and Chief Counsel's order No. 1031.2A, dated July 2, 1978.

STUART E. SEIGEL,
Chief Counsel.

JEROME KURTZ,
Commissioner.

[FR Doc. 78-28578 Filed 10-10-78; 8:45 am]

[4830-01-M]

[Delegation Order No. 171]

REGIONAL DIRECTORS OF APPEALS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This order delegates to the Regional Directors of Appeals the authority of 26 CFR 301.6511(c)-1(d), extension of time by agreement to file claim for credit or refund, and 26 CFR 301.6532-1, period of limitation on suits by taxpayers.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mrs. Martha Seeman, 1111 Constitution Avenue NW., Room 3528, Washington, D.C. 20224, 202-566-4273 (not toll free).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

JACK G. PETRIE,
Director, Internal Management, Documents Division.

DELEGATION ORDER

Subject: Authority of Regional Directors of Appeals under 26 CFR 301.6511 and 26 CFR 301.6532.

Issued: October 1, 1978.

The authority vested in the Commissioner of Internal Revenue, District Directors, and Assistant Regional Commissioners by 26 CFR 301.6511(c)-1(d), extension of time by agreement to file claim for credit or refund, 26 CFR 301.6532-1(b), period of limitation on suits by taxpayers, and 26 CFR 301.7701-9, is delegated to the Regional Directors of Appeals.

JEROME KURTZ,
Commissioner.

[FR Doc. 78-28579 Filed 10-10-78; 8:45 am]

[4810-25-M]

DEPARTMENT OF THE TREASURY

Office of the Secretary

UNITED STATES TAX COURT NOMINATING COMMISSION

Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the United States Tax Court Nominating Commission will meet in the General Counsel's office in the Treasury Department on October 17, 1978, at 10:30 a.m. The Commission was established by Executive Order 12064 of June 5, 1978 (43 FR 24661).

The members of the Commission will examine the qualifications of persons to be recommended to the President for the appointment to the United States Tax Court. This process will necessarily involve consideration of information of a personal nature relating to candidates for appointment. Discussion of sensitive and confidential matters relating to such persons in a meeting open to the public would constitute a clearly unwarranted invasion of personal privacy of the individuals being considered for appointment to the Tax Court.

Meetings of the Commission must be conducted in a manner conducive to a frank exchange of views and searching evaluation of the qualifications of candidates for appointment to the Tax Court. Open meetings would have a chilling effect on candid comments by Commission members about the qualifications of such candidates and would inhibit the ability of the Commission to obtain comments of third parties. Open meetings would thus significantly frustrate the Commission's efforts to implement its primary function under the executive order.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting will concern matters with- in section 552b(c)(6) and 9(B) of title 5, United States Code, and that the public interest requires that this meeting be closed to public participation.

It is imperative that this first meeting of the Commission be held at the earliest possible time. The President requested the assistance of the Commission and selected its members on October 5, 1978. Under section 1.203 of the Executive order, the Commission must submit a report to the President and to the Secretary of the Treasury within 60 days of that date. Accordingly, it is not possible to give the normal notice of at least 15 days before a meeting of an advisory committee.

Dated: October 6, 1978.

ROBERT H. MUNDHEIM,
General Counsel.

[FR Doc. 78-28811 Filed 10-10-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 727]

ASSIGNMENT OF HEARINGS

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 115841 (Sub-611), Colonial Refrigerated Transportation, Inc., is assigned for hearing October 11, 1978 at Columbus, OH and will be held in room 235 Federal Building, 85 Marconi Boulevard.

MC 102616 (Sub-946F), Costal Tank Lines, Inc., is assigned for hearing October 12, 1978 at Columbus, OH in room 235 Federal Building, 85 Marconi Boulevard.

MC 65920 (Sub-5F), Bishop Motor Express, Inc., now assigned for hearing December 4, 1978 (5 Days) at Lansing, MI in a hearing room to be later designated.

MC 115730 (Sub-48F), The Mickow Corp., now assigned December 6, 1978 at Des Moines, IA (3 days), in a hearing room to be later designated.

MC 104656 (Sub-14F), Mandrell Motor Coach, Inc., now assigned for hearing on November 6, 1978, at Easton, MD is postponed indefinitely.

MC 134402 (Sub-5F), Williams Truck Line, Inc., now assigned for hearing on October 18, 1978, at Des Moines, IA is postponed indefinitely.

MC 140829 (Sub-87F), Cargo Contract Carrier Corp., now assigned for hearing on October 11, 1978, at Chicago, IL, is postponed indefinitely.

MC 114569 (Sub-221), Shaffer Trucking, Inc., now assigned for hearing on October 18, 1978, at Denver, CO is postponed indefinitely.

MC 142706 (Sub-2F), Early Bird Transfer, Inc., now assigned for hearing on October 16, 1978, at Chicago, IL is postponed indefinitely.

MC 100666 (Sub-384F), Melton Truck Lines, Inc., now assigned for hearing on November 13, 1978, (1 day), at Columbus, OH, in room 235 Federal Building, 85 Marconi Boulevard.

MC 119789 (Sub-441F), Caravan Regrigerated Cargo, Inc., now assigned for hearing on November 14, 1978, (1 day), at Columbus, OH, in room 235 Federal Building, 85 Marconi Boulevard.

MC 41406 (Sub-72F), Artim Transportation System, Inc., now assigned for hearing on November 15, 1978 (1 day), at Columbus, OH, in room 235 Federal Building, 85 Marconi Boulevard.

MC F-13575, Sewell Motor Express, Inc.—Purchase (Portion)—Automotive Merchandisers of Texas, and MC 57992 (Sub-5F), Sewell Motor Express, Inc., now assigned for hearing on November 16, 1978 (2 days), at Columbus, OH, in room 235 Federal Building, 85 Marconi Boulevard.

MC C 10041, Orschein Bros. Truck Lines, Inc., v. Beaufort Transfer Co. now assigned December 4, 1978 at Jefferson city, MO, (2 days), in a hearing room to be later designated.

MC C 10040, Joan of Arc Co., Inc. v. Schneider Transport, Inc., et al. is assigned for hearing October 11, 1978 at room 1614 Court of Claims Dirksen Building, 219 S. Dearborn Street.

MC 139495 (Sub-273), National Carriers, Inc., is assigned for hearing October 18, 1978, at Chicago, IL, and will be held at room 2568 Dirksen Building, 219 S. Dearborn Street.

MC 140665 (Sub-11), Prime, Inc., now assigned for hearing October 31, 1978 (1 day) at Chicago, IL in room 1319 Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 140820 (Sub-3F), A & R Transport, Inc., now assigned November 1, 1978 at Chicago, IL, (1 day) in room 1319 Everett McKinley Dirksen Building, 219 S. Dearborn Street.

MC 111231 (Sub-227), Jones Truck Lines, Inc., is assigned for hearing October 31, 1978 (4 days) at Little Rock, AR in the hearing room of Arkansas Transportation Commission Justice Building.

MC 95350 (Sub-8F), R. W. Jones Trucking Co., MC 105006 (Sub-7F), L. L. Smith Trucking, MC 110817 (Sub-25F), E. L. Farmer & Co., MC 113822 (Sub-6F), Dalgarno Transportation, Inc., MC 114761 (Sub-13), Getter Trucking Inc., MC 143446 (Sub-1F), Gary L. McCallister & Monte A. McCallister, d.b.a. McCallister Brothers, and MC 143993 (Sub-4F), Black Hills Trucking, Inc., now assigned October 16, 1978, at Denver, CO, is cancelled and reassigned to November 28, 1978, (3 weeks), at Denver, CO, in a hearing room to be later designated.

MC F-13144 (Sub-1), Yellow Freight System, Inc., Compensation of Six Braswell Employees, now assigned January 8, 1979, at Dallas, TX, is cancelled.

MC 95540 (Sub-1009F), Watkins Motor Lines, Inc., now assigned October 31, 1978, at Chicago, IL is cancelled, transferred to Modified Procedure.

MC 144409 (Sub-1F), F. C. Auto Sales, Inc., now assigned October 16, 1978, at Denver, CO, is cancelled and reassigned to November 13, 1978, at Chicago, IL, (2 days), in a hearing room to be later designated.

MC 37020, Increased Minimum Weights with Increased and Reduced Rates on Eastbound Transcontinental Lumber and Related Articles now assigned November 14, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 134755 (Sub-139F), Charter Express, Inc., now being assigned for hearing on December 11, 1978, (1 day), at Dallas, TX in a hearing room to be later designated.

MC 107064 (Sub-122F), Steere Tank Lines, Inc., now being assigned for hearing on December 12, 1978 (1 day), at Dallas, TX in a hearing room to be later designated.

MC 115841 (Sub-615F), Colonial Refrigerated Transportation, now being assigned for hearing on December 13, 1978 (1 day), at Dallas, TX in a hearing room to be later designated.

MC 140762 (Sub-1F), TRinity Industries Transportation, Inc., now being assigned for hearing on December 14, 1978, (2 days), at Dallas, TX in a hearing room to be later designated.

MC 106074 (Sub-57), B and P Motor Lines, Inc., now being assigned for hearing on December 18, 1978, (3 days), at Dallas, TX, in a hearing room to be later designated.

MC 97699 (Sub-48F), Barber Transportation Co., now being assigned for hearing on January 23, 1979, (9 days), at Kansas City, MO, in a hearing room to be later designated.

MC 116004 (Sub-45), Texas Oklahoma Express, Inc., now assigned for hearing on October 16, 1978, at Tulsa, OK, will be held at the Trade Winds Motel, 1120 E. Skelly Drive, instead of room 3469, Page Belcher Building, 333 West 4th Street.

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

[FR Doc. 78-28600 Filed 10-10-78; 8:45 am]

[1505-01-M]

[Decisions Volume No. 33]

DECISION-NOTICE

Correction

FR Doc. 78-27191, appearing at page 44586 in the issue of Thursday, September 28, 1978, on page 44588, the second column, the third full paragraph, the first line "MC 95876 (Sub-24F)" is corrected to read "MC 95876 (Sub-248F)".

[7035-01-M]

[Docket No. AB-43 (Sub-No. 25)]

ILLINOIS CENTRAL GULF RAILROAD CO.

Abandonment Between Elizabethtown and Hodgenville, KY; Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision entered on March 6, 1978, a finding, which is administratively final, was made by the Administratrive Law Judge, stating that, subject to the conditions for the protection of railway employes prescribed by the Commission in Oregon Short Line R. Co.-Abandonment Goshen, 354 I.C.C. 584 (1978), the present and future public convenience and necessity permit the abandonment by the Illinois Central Gulf Railroad Co. of that portion of its line of railroad extending from railroad milepost 8.18 near Elizabethtown, KY, to milepost 17.09 at Hodgenville, KY, a distance of 8.91 miles, all in Hardin and LaRue Counties, KY. A certificate of abandonment will be issued to the Illinois Central Gulf Railroad Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

It the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such a period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

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

[FR Doc. 78-28605 Filed 10-10-78; 8:45 am]

[7035-01-M]

[Order No. 37012]

KANSAS INTRASTATE FREIGHT RATES AND CHARGES—1978

By joint petition filed August 29, 1978, petitioners, 10 common carriers by railroad[1] subject to Part I of the

[1]The Atchison, Topeka and Santa Fe Railway Company; Chicago, Rock Island and Pacific Railroad Company; Union Pacific Railroad; Missouri Pacific Railroad Company; St. Louis-San Francisco Railway Com-

Footnotes continued on next page

Interstate Commerce Act (Act) and also operating in intrastate commerce in Kansas, request that this Commission institute an investigation of their Kansas intrastate freight rates and charges, under section 13 of the Act. They seek an order authorizing them to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Porte No. 349 effective June 17, 1978. Petitioners have stated grounds sufficient to warrant instituting an investigation.

It is ordered: The petition is granted. An investigation, under section 13 of the Act, is instituted to determine whether the Kansas state rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce and persons or localities in interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte No. 349. In the investigation we shall also determine if any rates or charges, or maximum or minimum charges, or both, should be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

All common carriers by railroad operating in Kansas subject to the jurisdiction of the Commission are made respondents in this proceeding.

All persons who wish to participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, DC 20423, on or before October 26, 1978. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. This Commission desires participation of only those who intend to take an active part in this proceeding.

As soon as practicable after the last day for indicating a desire to participate in the proceeding, this Commission will serve a list of names and addresses on all persons upon whom service of all pleadings must be made. Thereafter, this proceeding will be assigned for oral hearing or handling under modified procedure.

A copy of this order shall be served upon each of the petitioners and respondents herein. Kansas shall be notified of the proceeding by sending copies of this order by certified mail to the Governor of Kansas. Further notice of this proceeding shall be given to the public by depositing a copy of this order in the Office of the Secretary of the Interstate Commerce Commission at Washington, DC, and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

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

Dated at Washington, DC, this 28th day of September, 1978.

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

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

[FR Doc. 78-28607 Filed 10-10-78; 8:45 am]

[7035-01-M]

[Docket No. AB-83 (Sub-1)]

MAINE CENTRAL RAILROAD CO.

Abandonment Between Ayers Junction and Eastport in Washington County, Maine; Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision entered on August 15, 1978, a finding, which is administratively final, was made by the administrative law judge stating that the present and future public convenience and necessity permit the abandonment by the Maine Central Railroad Co. over that portion of its line of railroad which extends from railroad milepost 254.22 near Ayers Junction, Maine, in an easterly direction to railroad mile post 270.80 near Eastport, Maine, a distance of 16.58 miles, all in Washington County, Maine. A certificate of abandonment will be issued to the Maine Central Railroad Co. based on the above-described finding of abandonment, by November 13, 1978, unless by November 13, 1978, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 Fr 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

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

[FR Doc. 78-28606 Filed 10-10-78; 8:45 am]

[7035-01-M]

[Finance Docket No. 28865]

MINNEAPOLIS, NORTHFIELD & SOUTHERN RAILWAY, INC.—ACQUISITION AND OPERATION—OVER MINNEAPOLIS, NORTHFIELD & SOUTHERN RAILWAY, A SOUTH DAKOTA CORPORATION, IN HENNEPIN, SCOTT, DAKOTA, AND RICE COUNTIES, MINN.

Minneapolis, Northfield & Southern Railway, Inc., Pence Building, 911 Hennepin Avenue, Minneapolis, Minn. 55403, represented by D. J. Boyer, president, Minneapolis, Northfield & Southern Railway, Inc., Pence Building, 911 Hennepin Avenue, Minneapolis, Minn. 55403, hereby give notice that on the 27th day of September 1978, it filed with the Interstate Commerce Commission at Washington, D.C., an application under section 1(18) of the Interstate Commerce Act for a decision approving and authorizing acquisition and operation of a line of railroad presently owned and operatied by the Minneapolis, Northfield & Southern Railway, a South Dakota corporation. The railroad is located entirely in the State of Minnesota, in

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Footnotes continued from last page

pany; Missouri-Kansas-Texas Railroad Company; Burlington Northern, Inc.; The Garden City Western Railway Company; and The Kansas City Southern Railway Company.

the counties of Hennepin, Scott, Dakota, and Rice.

The acquisition of the present line of railroad by the applicant is necessary and desirable in order that the railroad properties and operations do not become subject to claims of creditors which may arise out of indebtedness incurred in the development of the present corporation's nonoperating properties.

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969

In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-4), Implementation—National Environmental Policy Act, 1969, 352 ICC 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See Implementation—National Environmental Policy Act, 1969, supra at p. 487

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

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

[FR Doc. 78-28602 Filed 10-10-78; 8:45 am]

[7035-01-M]

[Notice No. 113]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below.

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before October 20, 1978. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

MC-FC-77260. By supplemental decision entered October 3, 1978, the Motor Carrier Board granted applicants' petition seeking reopening of the proceeding, and modified the decision entered March 28, 1978, approving the transfer of certain operating authority, by including the transfer of the operating rights set forth in certificate No. MC 66236 and certificate of registration No. MC 66236 (Sub-3) obtained by transferor pursuant to MC-F-12549, consummated December 1, 1975, as follows: Agricultural commodities, from points within 30 miles of Stockton, CA, to Stockton, and farm machinery and equipment, from Stockton, CA, to points within 30 miles of Stockton, and general commodities to, from, and between specified points in CA. Insofar as the transfer of the authority in certificate No. MC 66236 and certificate of registration No. MC 66236 (Sub-3) is concerned, any interested party may file a petition for reconsideration within 20 days from the service date of the supplemental decision. Send petitions for reconsideration to: The Secretary, Interstate Commerce Commission, Washington, DC 20423.

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

[FR Doc. 78-28603 Filed 10-10-78; 8:45 am]

[7035-01-M]

[Notice No. 114]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 11, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR Part 1132:

MC-FC-77857. By application filed September 28, 1978, THE KENNEDY CO., INC., d.b.a. KENNEDY STORAGE CO., Route 296 and Hartford Road, Mount Laurel, NJ 08054, seeks temporary authority to transfer the operating rights of J. C. Services, Inc., 1621 Loretta Avenue, Feasterville, PA 19047, under section 210a(b). The transfer to the Kennedy Co., Inc., d.b.a. Kennedy Storage Co., of the operating rights of J. C. Services, Inc., is presently pending.

By the Commission.

H. G HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-28604 Filed 10-10-78; 8:45 am]

[7035-01-M]

[Notice No. 26]

SPECIAL PROPERTY BROKERS

OCTOBER 5, 1978.

The following applicants seek to participate in the property broker special licensing procedure under 49 CFR Part 1045A authorizing operations as a broker at any location, in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of property (except household goods), between all points in the United States including AK and HI. Any interested person shall file an original and (1) copy of a verified statement in opposition limited in scope to matters regarding applicant's fitness within 30 days after this notice. Statements must be mailed to: Broker Entry Staff, Room 2379, Interstate Commerce Commission, Washington, DC 20423. Opposing parties shall serve (1) copy of the statement in oppostion concurrently upon applicant's representative, or applicant if no representative is named.

If an applicant is not otherwise informed by the Commission, it may commence operation 45 days after this notice.

B-78-102, filed August 23, 1978. Applicant: SUDDATH VAN LINES, INC., 525 Stevens Street, Jacksonville, FL 32205. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036.

By the Commission.

H. G. HOMME, Jr.
Acting Secretary.

[FR Doc. 78-28601 Filed 10-10-78; 8:45 am]

[7035-01-M]

[Ex Parte No. MC-64 General Temporary Order No. 15]

TEMPORARY AUTHORITY APPLICATIONS

Flexible Processing Methods; Order Vacated

Decided October 3, 1978.

Upon consideration of the record and resumption of the Nation's rail service:

It is ordered:

General Temporary Order No. 15 decided on September 27, 1978, is vacated and set aside. (Published at 43 FR October 3, 1978, page 45686.)

This decision shall become effective October 4, 1978.

Notice of this decision shall be given to motor carriers, rail carriers, other parties of interest, and to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp.

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

[FR Doc. 78-28610 Filed 10-10-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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	Items
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[6714-01-M]

1

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10 a.m., October 12, 1978.

PLACE: Board Room, 6th floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Request by the Comptroler of the Currency for a report on the competitive factors involved in the proposed merger of Midlantic National Bank/Raritan Valley, Edison Township (P.O. Edison), New Jersey, with First Merchants National Bank, Neptune Township (P.O. Neptune), New Jersey.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Morgan, Lewis & Bockius, Philadelphia, Pa., in connection with the liquidation of assets acquired by the Corporation from Farmers Bank, State of Delaware, Dover, Del. (Memorandum dated September 15, 1978.)

Chapman and Cutler, Chicago, Ill., in connection with the liquidation of State Bank of Clearing, Chicago, Ill. (Memorandum dated September 8, 1978.)

Recommendation with respect to the amendment of Corporation rules and regulations:

Memorandum and resolution proposing the final adoption of amendments to Part 303 of the Corporation's rules and regulations to delegate the Board's authority to approve certain requests, pursuant to section 19 of the Federal Deposit Insurance Act, for the Corporation's consent to service of persons convicted of offenses involving dishonesty or a breach of trust as directors, officers, or employees of insured banks.

Memorandum and resolutions proposing that the liquidators of Banco de Ahorro de Puerto Rico, San Juan (Hato Rey), P.R., be authorized to convey real property.

Memorandum proposing the payment of a sixth dividend of 4 percent in connection with the receivership of the Cedar Vale National Bank, Cedar Vale, Kans.

Memorandum proposing the payment of a ninth dividend of 4 percent in connection with the receivership of Crown Savings Bank, Newport News, Va.

Resolution adopting for Corporation employees the adjusted General Schedule basic pay rates and maximum salary limitations established by the President, effective October 8, 1978, for Civil Service positions classified as General Schedule.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Controller on the termination of the liquidation of Farmers State Bank of Carlock, Carlock, Ill.

Reports of security transactions authorized by the Acting Chairman.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-2049-78 Filed 10-6-78; 10:57 am]

[6714-01-M]

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10:30 a.m., October 12, 1978.

PLACE: Board Room, 6th floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal deposit insurance:

Bank of Indio, a proposed new bank to be located at 81-703 Highway 111, Indio, Calif., for Federal deposit insurance.

Golden Oak Bank, a proposed new bank to be located on County Road 426, approximately one-quarter mile southeast of its intersection with State Highway 41, Oakhurst (Unincorporated), Calif., for Federal deposit insurance.

American Bank of Roff, a proposed new bank to be located on the southeast corner of Main and Ninth Streets, Roff, Okla., for Federal deposit insurance.

Application for consent to change a main office location:

The Estes Park Bank, Estes Park, Colo., for consent to relocate its main office from 101 West Elkhorn Avenue to 363 East Elkhorn Avenue, both locations within Estes Park, Colo. Application for consent to merge and to establish branches:

The Equitable Trust Co., Baltimore, Md., an insured State nonmember bank, for consent to merge under its charter and title with Truckers and Savings Bank, Salisbury, Md., also an insured State nonmember bank, and for consent to establish the four existing and one approved but unopened offices of the other bank as branches of the resultant bank. Application for consent to merge, establish branches, and redesignate the main office location:

Colonial Bank of New Haven, New Haven, Conn., an insured State nonmember bank, for consent to merge under its charter, and with the title of "Colonial Bank," with Colonial Bank of Waterbury, Waterbury, Conn.; Colonial Bank of Hartford, Hartford, Conn.; and Colonial Bank of Plainville, Plainville, Conn.; for consent to establish the 46 offices of the acquired banks as branches of the resultant bank; and for consent to redesignate the present main office of Colonial Bank of Waterbury as the main office of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,676-L (Amended)—Bank of Woodmoor, Woodmoor (P.O. Monument), Colo.

Case No. 43,670-L—State Bank of Clearing, Chicago, Ill.

Case No. 43,672-L—The Bank of Bloomfield, Bloomfield, N.J.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the Government in the "Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-2048-78 Filed 10-6-78; 10:31 am]

[6210-01-M]

3

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Friday, October 13, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed negotiation for the purchase of high speed currency equipment for the Federal Reserve System.
2. Proposed budget for furniture, equipment, and interior design fees for the Miami Branch of the Federal Reserve Bank of Atlanta.
3. Proposed purchases, under competitive bidding, of computer equipment within the Federal Reserve System.
4. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
5. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: October 6, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-2051-78 Filed 10-6-78; 2:44 pm]

[7020-02-M]

4

[USITC SE-78-51]

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, October 19, 1978.

PLACE: Room 117, 701 E street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
6. Any items left over from previous agenda.

Portions closed to the public:

5. Status report on Investigation 332-101 (MTN), if necessary (in closed session).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-2050-78 Filed 10-6-78; 2:38 pm]

federal register

WEDNESDAY, OCTOBER 11, 1978
PART II



DEPARTMENT OF ENERGY

■

COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

Intent To Prepare Environmental Impact Statement

[3128-01-M]

DEPARTMENT OF ENERGY

COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

Intent To Prepare Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Notice of intent to prepare an environmental impact statement (EIS).

SUMMARY: The Department of Energy (DOE) announces its intent to prepare an EIS in accordance with section 102(2)(C) of the National Environmental Policy Act (NEPA) for its forthcoming Second National Energy Plan (NEP-2).

All interested agencies, organizations, or persons desiring to submit comments or suggestions for consideration in connection with the preparation of this EIS are invited to do so. Upon completion of the draft EIS, its availability will be announced in the FEDERAL REGISTER, at which time comments will be solicited.

DOE desires to have the benefit of the public's views as to the scope of the EIS and the significant environmental impacts which it should address. Such comments may be expressed in writing or at a meeting which will be held for this purpose on November 6, 1978, in room 3000A, at the New Post Office Building at 12th and Pennsylvania Avenue NW., Washington, D.C. The meeting is scheduled to begin at 9 a.m., and may continue until 4 p.m. If public interest warrants, the meeting will be continued on November 7, 1978, at the same place and the same time. In order for DOE to better gage public interest in this EIS, those planning to attend the meeting should contact Mr. Kevin Mullen, Division of Environmental Liaison (EV/OPEC), Department of Energy, Room 6128, 20 Massachusetts Avenue NW., Washington, D.C. 20545, telephone 202-376-4189.

FOR GENERAL INFORMATION ON THE EIS PROCESS CONTACT:

Robert J. Stern, Acting Director, Division of NEPA Affairs, Department of Energy, 12th and Pennsylvania Avenue NW., Room 7119, Washington, D.C. 20461, 202-566-9769

SUPPLEMENTARY INFORMATION: *NEP-2.* The plan, which is required to be submitted to Congress by April 1, 1979, under the provisions of section 801 of the DOE Organization Act (Pub. L. No. 95-91), will address the broad range of the Nation's energy problems and may recommend legislative, budgetary, regulatory, or administrative initiatives designed to ameliorate those problems.

The plan is to:

- Consider and establish energy production, utilization, and conservation objectives, necessary to satisfy projected energy needs of the United States, paying particular attention to such needs as full employment, price stability, energy security, economic growth, environmental protection, nuclear nonproliferation, special regional needs, and the efficient utilization of public and private resources;
- Identify the strategies that should be followed and the resources that should be committed to achieve such objectives; and
- Recommend any appropriate Federal legislative and administrative actions.

Environmental impact statement. Environmental analyses will be an integral part of the NEP-2 planning process. An EIS will be prepared concurrently with the NEP-2. It will be a factual document which will set out and analyze reasonable proposed and alternative actions (including a "base case" which assumes no new Federal initiatives directed at affecting energy supply or consumption).

To the extent possible in an EIS that is not site-specific, the affected environment will be briefly discussed, and the probable impacts of proposed and alternative actions on the natural, physical, and socioeconomic environment will be analyzed. Particular attention will be paid to cumulative and irreversible effects, and to mitigation measures. DOE will attempt to specify gaps in information and areas of scientific uncertainty with respect to probable environmental impacts, and attempt to estimate the time and resources required to fill the gaps and understand the impacts more precisely.

Direct and identifiable secondary, or indirect, environmental consequences will be assessed. The extent to which any proposals will conform to or conflict with regulations or policies related to environmental quality and natural resources will be discussed. Detailed technical material and bibliographies will be contained in appendices.

Scoping meeting. DOE desires to know what the public considers to be the major environmental issues associated with efforts to meet the Nation's energy needs. The meeting on November 6, 1978, will be held to discuss the structure of the EIS, anticipated energy/environmental problems, and reasonable actions that might be taken to address them.

If possible, those planning to take part in the meeting should notify Mr. Mullen. Participants are encouraged to submit to Mr. Mullen, in advance, their intent to participate, suggestions concerning the subjects to be addressed at the meeting, and draft outlines for the EIS. This will enable DOE to better provide considered responses at the meeting and ask clarifying questions. However, public participation is encourage without the advance submission of written material. All comments or suggestions made at the meeting will be carefully considered, as will written material submitted until December 1, 1978. Attendees at the meeting will be asked to register.

Questions regarding the meeting should be addressed to Mr. Mullen.

Issued in Washington, D.C., October 4, 1978.

WILLIAM P. DAVIS,
Deputy Director
of Administration.

[FR Doc. 78-28498 Filed 10-10-78; 8:45 am]

federal register

WEDNESDAY, OCTOBER 11, 1978
PART III



OFFICE OF MANAGEMENT AND BUDGET

■

RESCISSIONS AND DEFERRALS

Cumulative Report

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

BUDGET RESCISSIONS AND DEFERRALS

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report 30 deferrals of fiscal year 1979 funds totalling $1,178.2 million. The deferrals are primarily routine in nature and do not, in most cases, affect program levels.

The details of each deferral are contained in the attached reports.

Jimmy Carter

The White House, *October 2, 1978.*

[FR Doc. 78-28700 Filed 10-10-78; 9:58 am]

[3110-01-C] CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

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D79-15	Drainage of anthracite mines	1,700
	Office of Territorial Affairs	
D79-16	Trust territory of the Pacific Islands	12,000
	Department of Justice:	
	Federal Prison System	
D79-17	Buildings and facilities	25,300
	Department of State	
	United States emergency refugee and	
D79-18	migration assistance fund	2,750
	Department of Transportation:	
	Federal Aviation Administration	
	Civil supersonic aircraft	
D79-19	development termination	3
	Facilities and equipment (Airport	
D79-20	and airway trust fund)	290,176
	Federal Highway Administration	
	Trust fund share of other highway	
D79-21	programs	40,000
D79-22	Overseas highway	13,100
	Department of the Treasury:	
	Office of the Secretary	
	Antirecession financial assistance	
D79-23	fund	2,205
	State and local government fiscal	
D79-24	assistance fund	78,489
	State and local government fiscal	
D79-25	assistance fund	2,404 1/
	Bureau of the Mint	
D79-26	Construction of mint facilities	5,730
	General Services Administration:	
D79-27	Rare silver dollar program	2,123
	Federal Preparedness Agency	
D79-28	State and local preparedness	80

1/ Outlays only.

Deferral #	Item	Budget Authority
	Other Independent Agencies:	
	Foreign Claims Settlement Commission	
	Payment of Vietnam prisoner of war	
D79-29	claims.....	10,945
	Interstate Commerce Commission	
D79-30	Payments for directed rail service..	13,990
	Total, deferrals.....	1,178,229

SUMMARY OF SPECIAL MESSAGES
FOR FY 1979

(amounts in thousands of dollars)

	Rescissions	Deferrals
First special message.....	---	1,178,229 (in 30 deferrals)

NOTE: All amounts listed represent budget authority except for $2,404,000 in one general revenue sharing deferral of outlays only.

Deferral No: D79-1

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency U.S. Department of Agriculture	New budget authority (P.L. _____) $ _____
Bureau Foreign Agricultural Service	Other budgetary resources 1,040,178
Appropriation title & symbol	Total budgetary resources 1,040,178
Salaries and Expenses (Special Foreign Currency Program) 1/ 12X2901	Amount to be deferred: Part of year $ 415,178
	Entire year _____
OMB identification code: 12-2901-0-1-352	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other _____
Type of account or fund: ☐ Annual	Type of budget authority: ☒ Appropriation
☐ Multiple-year _____ (expiration date)	☐ Contract authority
☒ No-year	☐ Other _____

Justification: Title 1, Sec. 104 of P.L. 480, the Agricultural Trade Development and Assistance Act of 1954 authorizes the use of foreign currencies (acquired from the sale of U.S. farm products under Title I) to carry out programs for developing new markets for U.S. agricultural commodities. The funds appropriated are used to purchase excess foreign currencies necessary to carry out the program. The funds are available until expended, and the unused balance is carried over into the next year. The amount of funds used each year is dependent upon the availability of the U.S.-owned currencies and the availability of worthwhile market development projects in the foreign countries. Current indications are that no more than $625 thousand of the reserved balances brought forward can be utilized effectively in FY 1979. This deferral action is taken under provisions of the Antideficiency Act (31 USC 665) that authorize the establishment of reserves for contingencies.

Estimated Effect: No programmatic or budgetary impact results from this deferral action. Since the funds are used to purchase currencies already owned by the U.S., any outlays shown under this account would be offset by the receipt of a like amount in another account.

Outlay Effect: There is no outlay effect of this deferral because the funds would not be used if made available.

1/ This account was the subject of a similar deferral during FY 1978.

Deferral No: D79-2

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Agriculture	New budget authority (P.L. _____) $ _____
Bureau Agricultural Stabilization and Conservation Service	Other budgetary resources 50,100,000
Appropriation title & symbol	Total budgetary resources 50,100,000
Commodity Credit Corporation Administrative Expenses, 1978 1/ 1284336	Amount to be deferred: Part of year $ 3,530,000
	Entire year _____
OMB identification code: 12-4336-0-3-351	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program ☐ Yes ☒ No	☒ Other P.L. 95-97
Type of account or fund: ☒ Annual	Type of budget authority: ☒ Appropriation
☐ Multiple-year _____ (expiration date)	☐ Contract authority
☐ No-year	☐ Other _____

JUSTIFICATION:

The Agriculture and Related Agencies Appropriation Act, 1978 (P.L. 95-97), provides that not less than 7 percent of the total authorization for administrative expenses of the Commodity Credit Corporation shall be placed in reserve and used only in such amounts and at such times as may be necessary to carry out program operations.

ESTIMATED EFFECTS:

This deferral will have no programmatic impact and its economic and budgetary impact will be negligible.

OUTLAY EFFECTS:

There is no outlay effect resulting from this deferral.

1/ This account was the subject of a similar deferral during FY 1978.

Deferral No: D79-3

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Agriculture	New budget authority (P.L. 16 USC 490): $36,902,000
Bureau: Forest Service	Other budgetary resources: 39,834,790
Appropriation title & symbol: Expenses, Brush Disposal 1/ 12X5206	Total budgetary resources: 76,736,790
	Amount to be deferred: Part of year: $; Entire year: 32,224,790
CFE identification code: 12-9922-0-2-302	Legal authority (in addition to sec. 1013): [X] Antideficiency Act; [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual; [ ] Multiple-year (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification: Purchasers of National Forest timber deposit the estimated cost to the Forest Service of the disposing of brush and other debris resulting from their cutting operations pursuant to 16 USC 490. The deposits becoming available in the current year are estimated and the related disposal operations are planned for the following year. Efficient program planning and accomplishment is facilitated by operating a stable program well within the funds available in any one year for this purpose. An apportionment of $44.5 million has been requested by the Forest Service for this program in the current fiscal year compared with $37.8 million in 1978 and $39.5 million in 1977. The current fiscal year reserve of $32.2 million was established pursuant to the Antideficiency Act (31 USC 665) as a reserve for contingencies compared with reserves of $34.5 million in 1978 and $22.3 million in 1977.

Disposal operations related to deposits made during certain periods of the year cannot be initiated until weather conditions permit. Thus, seasonal factors frequently require deferring the use of deposits until the following fiscal year.

Estimated Effect: There are no programmatic or budgetary effects that result from this deferral action. Rather, the reserve merely reflects the seasonal nature of program funding requirements.

Outlay Effect: There is no outlay effect of this deferral because the funds could not be used if made available.

1/ This account was the subject of a similar deferral in FY 1978.

Deferral No: D79-4

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Agriculture	New budget authority (P.L.): $50,000
Bureau: Forest Service	Other budgetary resources: 75,038
Appropriation title & symbol: Restoration of Forest Lands and Improvements, Forest Service 12X5215	Total budgetary resources: 125,038
	Amount to be deferred: Part of year: $; Entire year: 48,038
CFE identification code: 12-9922-0-2-302	Legal authority (in addition to sec. 1013): [X] Antideficiency Act; [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual; [ ] Multiple-year (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification:
Monies are collected for this program pursuant to the Act of June 30, 1958, (16 USC 579c) from timber purchasers or permittees who fail to complete the work required under the timber sale contract or by terms of the permit. These funds are used by the Forest Service for any improvement, protection, or rehabilitation of the land made necessary by the action which led to the cash settlement of the contract or permit.

This deferral is necessary until plans are prepared for completing the work for which the funds were collected or for transferring the collections to the general fund of the U.S. Treasury in those cases where the work has been completed.

This deferral action is taken in accordance with the Antideficiency Act (31 USC 665).

Estimated Effect:
This deferral action has no programmatic or budgetary effects. Rather, the reserve merely reflects the unpredictable nature of program funding requirements.

Outlay Effect:
There is no outlay effect of this deferral because the funds would not be used if made.

Deferral No: D79-5

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. ____) $ ____
Bureau: National Oceanic and Atmospheric Administration	Other budgetary resources 12,900,000
Appropriation title & symbol: Construction 13X1452	Total budgetary resources 12,900,000
	Amount to be deferred: Part of year $ 9,830,000
	Entire year ____
OMB identification code: 13-1452-0-1-306	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program ☐ Yes ☒ No	☒ Other Civil Action C-77-914M
Type of account or fund: ☐ Annual	Type of budget authority: ☒ Appropriation
☐ Multiple-year ____ (expiration date)	☐ Contract authority
☒ No-year	☐ Other ____

Justification: The Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1978, provided funds for continuing the construction of the National Oceanic and Atmospheric Administration's (NOAA) Western Regional Center in Seattle, Washington. A temporary injunction was issued by the U.S. District Court for the Western District of Washington halting preliminary construction activities on the project, because of deficiencies in the accompanying Environmental Impact Statement (EIS). NOAA has since issued a supplemental EIS in response to the court judgement, and expects to ask for a lifting of the injunction in January, 1979. Funds totalling $9.8 million are deferred pending resolution of these environmental and legal problems.

Estimated Effect: The Court action, and the resulting deferral of funds, will temporarily delay the start of construction on this project.

Outlay Effect: This temporary delay in construction will have the effect of shifting $800 thousand in outlays from FY 1979 to FY 1980.

Deferral No: D79-6

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. 7 U.S.C. 612c) $17,400,000
Bureau: National Oceanic and Atmospheric Administration	Other budgetary resources 6,000,000
Appropriation title & symbol: Promote and Develop Fishery Products and Research Pertaining to American Fisheries 1/ 13X5139	Total budgetary resources 23,400,000
	Amount to be deferred: Part of year $12,060,000
	Entire year ____
OMB identification code: 13-5139-0-2-376	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other ____
Type of account or fund: ☐ Annual	Type of budget authority: ☐ Appropriation
☐ Multiple-year ____ (expiration date)	☐ Contract authority
☒ No-year	☒ Other 7 U.S.C. 612c

Justification:

An amount equal to 30% of the gross receipts from custom duties on fishery products is appropriated for fishery products resources research and assessment, and American fisheries resource management and development. These funds supplement funds appropriated to National Oceanic and Atmospheric Administration for the same purposes under the Operations, research, and facilities appropriation.

The amount being deferred, $12,060,000, represents the excess amount of receipts over the cost of currently planned program activities in FY 1979. Because no overall plan/strategy has been developed for use of these funds, they are requested for deferral at this time. The deferred funds are being reserved in accordance with the Antideficiency Act (31 U.S.C. 665). Final decisions on how these funds would be used have not been reached and, thus, the funds could not be used effectively if made available for obligation.

Estimated Effects:

This deferral has no effect on the program as currently planned for FY 1979.

Outlay Effect:

There is no outlay effect of this deferral because the funds would not be used if made available.

1/ This account was the subject of a similar deferral during FY 1978.

Deferral No: D79-7

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. ____) $ ____
Bureau: National Oceanic and Atmospheric Administration	Other budgetary resources 6,028,795
Appropriation title & symbol: Fisheries Loan Fund 1/ 137/04317	Total budgetary resources 6,028,795
	Amount to be deferred: Part of year $ ____
	Entire year 5,428,795
OMB identification code: 13-4317-0-3-376	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other ____
Type of account or fund: [ ] Annual	Type of budget authority: [ ] Appropriation
[X] Multiple-year September 30, 1980 (expiration date)	[ ] Contract authority
[ ] No-year	[X] Other 16 U.S.C. 742c

Justification:

This fund was established pursuant to the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742c). Its purpose is to provide funds for loans to segments of the fishing industry unable to obtain commercial loans on reasonable terms for financing the cost of purchasing, constructing, equipping, maintaining, repairing or operating new or used fishing vessels or gear.

In 1965, the Act was amended to require the National Oceanic and Atmospheric Administration (NOAA) to pay interest to the Treasury on the difference between the available funds and the cash balance at the end of the year. The current program covers the 1979 interest liability of $580,000 and provides $20,000 for the care and preservation of collateral throughout the year. Of the total budgetary resources in the fund, only these amounts are presently planned for expenditure in 1979 to support the estimated program requirements.

On February 20, 1973, the Administrator of NOAA declared a moratorium on accepting further loan applications effective March 1, 1973, due to a level of loans outstanding and loan applications pending which exceeded the Fund's capital. Additionally, the General Accounting Office concluded in a report issued February 22, 1973, that loans made from the Fisheries Loan Fund (1) allowed the continued use of inefficient vessels rather than improving vessels and equipment for more efficient and profitable fishing, and (2) maintained or added vessels to segments of the fishing industry which were considered to have excess, but not necessarily efficient harvesting capacity. GAO

1/ This account was the subject of a similar deferral in FY 1978.

recommended that the Secretary of Commerce develop criteria for evaluating vessel efficiency and priorities for directing these program funds.

The Department has determined that legislative clarification of the Act is needed to establish criteria for directing the Fund. Draft legislation is being prepared. This reserve is in accordance with the Antideficiency Act (31 U.S.C. 665). The funds could not be used effectively until there is clarification of legislative intent.

Estimated Effects:

Under the existing laws and regulations the proposed deferral has no effect on the Fisheries Loan Fund activities as planned for FY 1979.

Outlay Effect:

No outlay effect results from this deferral action.

Deferral No: D79-8

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense-Military Bureau	New budget authority (P.L. 95-374): $2,318,698,000 Other budgetary resources: 1,549,507,099 Total budgetary resources: 3,868,205,099
Appropriation title & symbol: See Coverage section below	Amount to be deferred: Part of year: $548,450,999 Entire year:
OMB identification code: See Coverage section below Grant program ☐ Yes ☒ No	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1983 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Coverage 1/

Appropriation	Symbol	OMB Identification Code	Amount Deferred
Military construction, Army	219/32050	21-2050-0-1-051	$119,460,000
Military construction, Navy	179/31205	17-1205-0-1-051	79,077,000
Military construction, Air Force	579/33300	57-3300-0-1-051	149,940,000
Military construction, Defense Agencies	979/30500	97-0500-0-1-051	59,001,000
Military construction, Army National Guard	219/32085	21-2085-0-1-051	47,300,000
Military construction, Air National Guard	579/33830	57-3830-0-1-051	41,840,000
Military construction, Army Reserve	219/32086	21-2086-0-1-051	27,400,000
Military construction, Naval Reserve	179/31235	17-1235-0-1-051	12,633,000
Military construction, Air Force Reserve	579/33730	57-3730-0-1-051	11,799,999
			$548,450,999

1/ These accounts were the subject of a similar deferral during fiscal year 1978.

Justification

The above amounts in the listed five-year appropriations are currently deferred under provisions of the Antideficiency Act (31 U.S.C. 665) which authorizes the establishment of reserves for contingencies.

Due to the long period of time required to construct facilities, the Congress makes appropriations for this purpose available for five-years beginning with fiscal year 1979. Previously, these appropriations were available for obligation until expended. Most of the above funds are deferred due to administrative delays, such as project designs not being completed and incomplete coordination of projects with either other Federal agencies or local government agencies. Funds will be apportioned for individual projects throughout the year upon completion of project design and/or coordination.

The 1979 appropriations for military construction contain funds for certain projects at activities which are potentially affected by base realignment studies now underway. Congress has specified that they be notified in writing that the project remains valid in light of final realignment decisions prior to obligation of funds. In accordance with the express desires of Congress, these funds are being deferred until final decisions and certification to Congress have been made.

Estimated Effects

These deferrals have no programmatic or budgetary effect because the funds could not be obligated at this time, even if they were made available.

Outlay Effect

There is no outlay effect resulting from this deferral since the funds could not be used if made available.

Deferral No: D79-9

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense-Civil	New budget authority: $ 898,000
Bureau:	(16 U.S.C. 670f (a)) Other budgetary resources: 457,975
Appropriation title & symbol: See coverage section below	Total budgetary resources: 1,355,975
	Amount to be deferred: Part of year: $ ____
	Entire year: 457,975
OMB identification code: 97-9922-0-2-303	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other ____
Type of account or fund: [ ] Annual; [ ] Multiple-year ____ (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other ____

Coverage 1/

Wildlife Conservation, etc., Military Reservations, Army	21x5095	$340,000
Wildlife Conservation, etc., Military Reservations, Navy	17x5095	95,000
Wildlife Conservation, etc., Military Reservations, Air Force	57x5095	22,975
		$457,975

Justification

These are permanent appropriations. The budgetary resources consist of anticipated receipts and unobligated balances generated from hunting and fishing fees collected on military reservations, pursuant to 16 U.S.C. 670. They may be used only in accordance with the purpose of the law--to carry out a program of natural resource conservation.

Since apportionments have been made for all known program requirements, prudent financial management requires the deferral of the balance of the funds, which could not be used effectively during the current year even if made available for obligation. These funds are being deferred under the provisions of the Antideficiency Act (31 U.S.C. 665). Full apportionment is not requested by the Services because (1) installations may be accumulating funds over a period of time to fund a major project, and (2) there is a seasonal relationship between the collection of fees and their subsequent expenditure. Most of the fees are collected during the winter and spring months, while most of the program work is performed during the summer and fall months. This necessitates that funds collected in a prior year be deferred in order to be

1/ These accounts were the subject of a similar deferral during FY 1978.

available to finance the program during the summer and fall months. Additional amounts will be apportioned if program requirements are identified.

Estimated Effects

These deferrals have no programmatic or budgetary effect because the funds could not be obligated if made available.

Outlay Effect

There is no outlay effect of this deferral because the funds could not be used if made available.

Deferral No: D79-10

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense - Civil	New budget authority (P.L. _____): $ _____
Bureau: Corps of Engineers	Other budgetary resources: 5,450,000
Appropriation title & symbol: Alaska Hydroelectric Power Development Fund 1/ 96X4203	Total budgetary resources: 5,450,000
	Amount to be deferred: Part of year: $ _____
	Entire year: 5,450,000
OMB identification code: 96-4203-0-3-271	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other _____
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[X] No-year	[ ] Other _____

Justification: These funds were appropriated to remain available until expended in the Supplemental Appropriations Act, 1978, (P.L. 95-240) for use by the Alaska Hydroelectric Power Development fund. This fund was established by the Alaska Hydroelectric Power Development Act (Section 203 of P.L. 95-587) to further the expeditious development of hydroelectric power generating facilities in Alaska.

The Act permits the use of funds for the Phase I stage of engineering and design of projects that meet the environmental, production, and financial requirements set forth in Section 203(a)(2) and (e) of the Act. The Corps of Engineers is currently studying a project for the Susitna River, Alaska, to determine if it meets these requirements. The funds are deferred pending completion of this study.

This deferral action is being taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effect: This deferral will have no programmatic or budgetary effect since the funds could not be used if made available.

Outlay Effect: There is no outlay effect resulting from this deferral action since the funds could not be used if made available.

1/ This account was the subject of a similar deferral in FY 1978.

Deferral No: D79-11

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Health, Education, & Welfare	New budget authority (P.L. _____): $ -0-
Bureau: Alcohol, Drug Abuse, and Mental Health Admin.	Other budgetary resources: 61,362,790
Appropriation title & symbol: Construction and Renovation at St. Elizabeths Hospital 75X1312	Total budgetary resources: 61,362,790
	Amount to be deferred: Part of year: $ _____
	Entire year: 27,576,790
OMB identification code: 75-1312-0-1-551	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other _____
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[X] No-year	[ ] Other _____

Justification: Saint Elizabeths Hospital was denied accreditation by the Joint Commission on Accreditation of Hospitals (JLAH) in 1976. Present plans are to transfer the hospital to the District of Columbia, but as a condition of that transfer, the Federal Government is committed to upgrading the physical plant to meet the accreditation requirements addressed by the JCAH.

The Second Supplemental Appropriations Act, 1978, (P.L. 95-335) provided $52.2 million for the specific purpose of upgrading the facility to meet accreditation standards. However, this supplemental was enacted much later in the fiscal year (September 8, 1978) than had been originally anticipated, thereby delaying the proposed starting date for this activity. This deferral of $27.6 million represents the amounts not required for obligation in 1979, based on the current renovation schedule for the hospital.

Estimated Effect: This deferral will have no programmatic effect. Current plans indicate that the amount deferred will not be required this fiscal year for the construction and renovation program.

Outlay Effect: There is no outlay effect of this deferral because the funds could not be used if made available.

Deferral No: D79-12

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Health, Education, and Welfare	New budget authority (P.L. _____) $ _____
Bureau: Social Security Administration	Other budgetary resources 15,819,470
Appropriation title & symbol: Limitation on Administrative Expenses 1/ 75X8704	Total budgetary resources 15,819,470
	Amount to be deferred: Part of year $ _____ Entire year 1,725,362
OMB identification code: 20-8004-0-7-551	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

Justification: Funds provided under the Limitation on Administative Expenses of the Social Security Administration (SSA) remain available until expended in recognition of the long lead time between the provision of funds and their use in carrying out authorized construction projects. Of the balance of funds appropriated in prior years, $1,725,362 is deferred for the entire year. SSA has now developed with the General Services Administration and Office of the Secretary, Department of Health, Education and Welfare a new program for construction of district offices which will shorten the time required to construct by using pre-designed buildings. SSA is in the process of selecting sites for ten of these offices to be started in 1979. The deferred funds will be needed to begin construction of one or possibly two additional offices in FY 1980.

Estimated Effect: The funds intended to be apportioned for obligation in FY 1979 will permit SSA to carry out its authorized construction program in an orderly manner. No currently planned construction would be delayed by this deferral.

Outlay Effect: There is no outlay effect of this deferral because the funds would not be used if made available.

1/ This account was the subject of a similar deferral in FY 1978.

Deferral No: D79-13

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L 95-74; 16 USC 460L) $ 30,000,000
Bureau: Heritage Conservation and Recreation Service	Other budgetary resources 160,362,000
Appropriation title & symbol: Land and Water Conservation Fund 1/ 14X5005	Total budgetary resources 190,362,000
	Amount to be deferred: Part of year $ _____ Entire year 30,000,000
OMB identification code: 14-5005-0-2-303	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☒ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☒ Contract authority ☐ Other _____

Justification: Under the law (16 USC 460L (10a)), $30 million of contract authority becomes available each fiscal year to the Land and Water Conservation Fund in addition to the regular appropriation. The authority is made available by the Congress for use specifically as an anti-escalation measure in purchasing authorized Federal recreation land (P.L. 90-401; Senate Report 90-1071, to accompany S. 1401). This authority was last used in 1969 and 1970. Thus, the contract authority has lapsed in fiscal years 1971-1978. The funds will be utilized in the future, as in the past, on a special case basis for emergency situations consistent with our understanding of congressional intent.

In accordance with provisions of the Antideficiency Act (31 USC 665), the $30 million has been deferred. This contract authority lapses at the end of each fiscal year in which it is not used. An equal amount becomes available at the beginning of the next fiscal year.

The other funds in this account are the estimated prior-year balances of direct appropriations that have been made available for obligation.

Estimated Effect: This reserve for contingencies has no fiscal, economic or budgetary effect in the current year. The funds would be made available and obligated only in unforeseeable circumstances.

Outlay Effect: There is no outlay effect of this deferral because the funds would not be used if made available.

1/ This account was the subject of a similar deferral during FY 1978.

Deferral No: D79-14

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior

Bureau: Geological Survey

Appropriation title & symbol:

Payments from Proceeds, Sale of Water, 1/ Mineral Leasing Act of 1920, Sec. 40(d)

14X5662

OMB identification code: 14-5662-0-2-301

Grant program: ☐ Yes ☒ No

Type of account or fund:
- ☐ Annual
- ☐ Multiple-year _____ (expiration date)
- ☒ No-year

New budget authority (P.L. _____): $ _____

Other budgetary resources: 36,000

Total budgetary resources: 36,000

Amount to be deferred:
- Part of year: $ _____
- Entire year: 36,000

Legal authority (in addition to sec. 1013):
- ☒ Antideficiency Act
- ☐ Other _____

Type of budget authority:
- ☐ Appropriation
- ☐ Contract authority
- ☒ Other Permanent, indefinite, special

Justification: Section 40(d) of the Mineral Leasing Act of 1920 [30 U.S.C.229(a)] provides that when lessees or operators drilling for oil or gas on public lands strike water, water wells may be developed by the Department from the proceeds from sale of water from existing wells. Receipts have been accruing to this permanent account at the rate of about $2,000 per year. At the start of fiscal year 1965, the account had an unobligated balance of $16,000. It is estimated that by the start of fiscal year 1979 the unobligated balance will be $36,000. None of these receipts has been obligated over the past ten years and none is planned for obligation in fiscal year 1979 because the total available is too small to be put to practical use for the purpose designated by law. Deferral is planned because funds could not be used effectively during the current period even if available for obligation. This reserve action is taken pursuant to the Antideficiency Act [31 U.S.C. 665(c)].

Estimated Effect: There will be no programmatic or outlay impact in fiscal year 1979 since the receipts will continue to accrue but will remain unobligated until such time as an amount is available which can be used for effective purposes.

Outlay Effect: There is no outlay effect of this deferral because the funds could not be used if made available.

1/ This account was the subject of a similar deferral during FY 1978.

Deferral No: D79-15

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Interior

Bureau: Bureau of Mines

Appropriation title & symbol:

Drainage of Anthracite Mines

14X0956 1/

OMB identification code: 14-0956-0-1-306

Grant program: ☒ Yes ☐ No

Type of account or fund:
- ☐ Annual
- ☐ Multiple-year _____ (expiration date)
- ☒ No-year

New budget authority (P.L. _____): $ _____

Other budgetary resources: 1,899,967

Total budgetary resources: 1,899,967

Amount to be deferred:
- Part of year: $ _____
- Entire year: 1,699,967

Legal authority (in addition to sec. 1013):
- ☒ Antideficiency Act
- ☒ Other Matching grant provision of P.L. 84-219 (69 Stat 460)

Type of budget authority:
- ☒ Appropriation
- ☐ Contract authority
- ☐ Other _____

Justification - Funds totaling $200,000 have been apportioned for this account to match funds anticipated to be made available by the Commonwealth of Pennsylvania for water monitoring stations and for sealing and other public health and safety projects. The remaining unobligated balance has been deferred because the Commonwealth of Pennsylvania is not expected to provide further matched funding during the year.

Estimated Effects - No FY 1979 program impact will result from deferral. A change in the matching provision of the original legislation would be required if the Congress desired to make available the funds currently being deferred. These funds are anticipated to be deferred through September 30, 1979.

Outlay Effect - There is no outlay effect of this deferral because the funds could not be used if made available.

1/ This account was the subject of a similar deferral during FY 1978.

Deferral No: D79-16

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Interior	New budget authority (P.L. ——) $ —
Bureau Office of Territorial Affairs	Other budgetary resources 20,000,000
Appropriation title & symbol	Total budgetary resources 20,000,000
Trust Territory of the Pacific Islands 1/	Amount to be deferred:
14X0414	Part of year $ 12,000,000
	Entire year —
OMB identification code: 14-0414-0-1-806	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program ☒ Yes ☐ No	☐ Other —
Type of account or fund: ☐ Annual	Type of budget authority: ☒ Appropriation
☐ Multiple-year — (expiration date)	☐ Contract authority
☒ No-year	☐ Other —

Justification: The Department of the Interior and Related Agencies Appropriation Act, 1978 provided $12,000,000 in construction funds for an airport in the Kosrae District of the Trust Territory of the Pacific Islands. Since no transportation needs survey had been done for the Kosrae District, the Administration is not convinced that the airport that this appropriation would initiate is necessary or cost effective in meeting the needs of the District (with a population of 4,500). The Office of Management and Budget requested that the Department of the Interior evaluate the District's transportation needs and propose alternative transportation methods to meet those needs at reduced costs, if such reductions were feasible and cost effective. Until a comprehensive evaluation is completed, the $12,000,000 for this 6,000-foot airfield (completely designed) is deferred.

Estimated Effect: This deferral will delay the advertising of the airport construction contract for an additional period of three to six months.

Outlay Effect: An estimate of $3,000,000 in outlays would be shifted from FY 1979 to FY 1980 as a result of this deferral.

1/ This account was the subject of a similar deferral in FY 1978.

Deferral No: D79-17

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Justice	New budget authority (P.L. ——) $ —
Bureau Federal Prison System	Other budgetary resources 51,908,354
Appropriation title & symbol	Total budgetary resources 51,908,354
Buildings and Facilities 1/	Amount to be deferred:
15X1003	Part of year $ —
	Entire year 25,300,000
OMB identification code: 15-1003-0-1-753	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other —
Type of account or fund: ☐ Annual	Type of budget authority: ☒ Appropriation
☐ Multiple-year — (expiration date)	☐ Contract authority
☒ No-year	☐ Other —

Justification: This appropriation finances planning, acquisition of sites, and construction of new penal and correctional facilities as well as construction, remodeling, and equipping of necessary buildings and facilities at existing penal and correctional institutions. Projects are undertaken to reduce overcrowding, close old and antiquated penitentiaries, and provide a safe and humane environment for staff and inmates. These funds were appropriated in the Departments of State, Justice, and Commerce, the Judiciary and Related Agencies Appropriation Act of 1978 and previous years. Due to the time required for planning, site acquisition, design efforts, and selection of contractors, it is not possible to complete the construction, renovation, and rehabilitation associated with these projects during FY 1979. This deferral is consistent with the congressional intent to provide no-year funding for the total cost of these projects and is taken under provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effect: The amount deferred could not be economically used, if made available, in fiscal year 1979, because of the planned and phased procurement, construction and installation cycle.

Outlay Effect: In FY 1979 there is no outlay effect of this deferral.

1/ This account was the subject of a deferral during FY 1978.

Deferral No: D79-18

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of State	New budget authority (P.L. _____): $ _____
Bureau:	Other budgetary resources: 2,750,000
Appropriation title & symbol: United States Emergency Refugee and Migration Assistance Fund, Executive 1/ 11X0040	Total budgetary resources: _____
	Amount to be deferred: Part of year: $ 2,750,000
	Entire year: _____
OMB identification code: 11-0040-0-1-151	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other _____
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[X] No-year	[ ] Other _____

Justification

Section 501(a) of the Foreign Relations Authorization Act, Fiscal Year 1976, Public Law 94-141, approved November 29, 1975, amended section 2(c) of the Refugee and Migration Assistance Act of 1962 (22 U.S.C. 2601) by authorizing a fund not to exceed $25 million to enable the President to provide emergency assistance for unexpected urgent refugee and migration needs.

By Executive Order No. 11922 of June 16, 1976, the President allocated all funds appropriated to him for the Emergency Fund to the Secretary of State but reserved to himself the determination of assistance to be furnished and the designation of refugees to be assisted by the Fund.

Consonant with the President's authority set out in Executive Order No. 11922 and to achieve the most economical use of appropriations (31 U.S.C. 665(c)(1), the $2,750,000 of unobligated balances in the Fund as of October 1, 1978 have been deferred. It is anticipated that reapportionments may be made case-by-case as the President determines assistance to be furnished and designates refugees to be assisted by the Fund.

Estimated Effect: There are no programmatic or budgetary effects resulting from this deferral.

Outlay Effect

No effect on outlays results from this deferral action.

1/ This account was the subject of a similar deferral during FY 1978.

Deferral No: D79-19

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. _____): $ -0-
Bureau: Federal Aviation Administration	Other budgetary resources: 3,123
Appropriation title & symbol: Civil Supersonic Aircraft Development Termination, 69X0106	Total budgetary resources: 3,123
Civil Supersonic Aircraft Development 1/ 69X1358	Amount to be deferred: Part of year: $ -0-
	Entire year: 3,123
OMB identification code: 69-0106-0-1-402	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other _____
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[X] No-year	[ ] Other _____

Coverage	Total Budgetary Resources	Amount Deferred
Civil Supersonic Aircraft Development Termination	$1,764	$1,764
Civil Supersonic Aircraft Development	$1,359	$1,359
TOTAL	$3,123	$3,123

Justification: This account finances the termination of the supersonic transport development program. The total cost of settlement of contractor claims and closeouts, airline refunds, completion of specifically designated technology programs, and necessary governmental administrative costs incidental to these activities is included. These funds were appropriated by the Department of Transportation and Related Agencies Appropriation Acts, 1971 and 1972. Because of the difficulty in ending such a complex and massive undertaking, termination has taken a number of years. Settlement is being accomplished as quickly as possible consistent with the legitimate claims of the contractors and the protection of government interests.

Estimated Effect: This deferral action has no programmatic or budgetary effect.

Outlay Effect: There is no outlay effect of this deferral because the funds could not be used if made available.

1/ This account was the subject of a similar deferral during FY 1978.

Deferral No: D79-20

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Transportation	New budget authority (P.L. 95-335) $ 282,297,000 Other budgetary resources 314,497,286
Bureau Federal Aviation Administration	Total budgetary resources 596,794,286
Appropriation title & symbol Facilities and Equipment (Airport and Airway Trust Fund), FAA 1/ 69X8107 697/98107 698/08107 699/18107	Amount to be deferred: Part of year $ Entire year 290,176,286
OMB identification code: 69-8107-0-7-402	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other
Grant program [ ] Yes [X] No	
Type of account or fund: [ ] Annual 697/98107 Sept. 30, 1979 2/ 698/08107 Sept. 30, 1980 [X] Multiple-year 699/18107 Sept. 30, 1981 (expiration date) [ ] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification:

Funds from this account are used to procure specific Congressionally approved facilities and equipment for the expansion and modernization of the national airway system. Project financed from this account include construction of buildings and purchase of new equipment for new or improved air traffic control towers, automation of the en route airway control system and expansion and improvement in the navigational and landing aid systems. These funds were appropriated in the Department of Transportation and Related Agencies Appropriation Acts of 1979 and prior years. The estimated total cost for each project is included in the budget submission and appropriation for the year in which it is requested. Because of the lengthy procurement and construction time for interrelated new facilities and complex equipment systems, it is not possible to obligate all funds necessary to complete each project in the year funds are appropriated. Therefore, it is necessary to apportion funds so that sufficient resources will be available in future periods to complete these projects. This deferral action is consistent with the Congressional intent to provide multi-year funding for the total costs of these projects and is taken under provisions of the Antideficiency Act (31 U.S.C. 665) which authorizes the establishment of reserves for contingencies.

1/ This account was the subject of a similar deferral in FY 1978.
2/ None of these funds is deferred.

D79-20

Estimated Effects:

This deferral action is consistent with normal operation for this program. The amount deferred could not be economically used if made available in FY 1979 because of the planned multi-year procurement, construction, and installation cycle.

Outlay Effect:

There is no outlay effect of this deferral because the funds could not be used if made available.

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. _____): $ ---
Bureau: Federal Highway Administration	Other budgetary resources: 90,000,000
Appropriation title & symbol: Trust Fund Share of Other Highway Programs (Great River Road) 69X8009 2/	Total budgetary resources: 90,000,000 1/
	Amount to be deferred: Part of year: $ ---
	Entire year: 40,000,000
OMB identification code: 69-8009-0-7-401	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☐ Annual Sept. 30, 1979 26,250,000 3/ ☒ Multiple-year Sept. 30, 1980 31,250,000 ☐ No-year Sept. 30, 1981 32,500,000	Type of budget authority: ☐ Appropriation ☒ Contract authority ☐ Other

Justification

The National Scenic and Recreation Highway (Great River Road) was authorized by the Federal-Aid Highway Act of 1973. It provides for constructing a two-lane scenic highway in the ten States bordering the Mississippi River. The Great River Road spans more than 2,000 miles.

The contract authority provided for this program is liquidated through both the Highway Trust Fund and the General Fund. A total of $146,250,000 in contract authority has been made available through fiscal year 1978 for the program. Of this total, $90,000,000 was made available in the Federal-Aid Highway Act of 1973, and $56,250,000 was made available in the Federal-Aid Highway Act of 1976. The Highway Trust Share of the $146,250,000 total is $116,250,000 ($40,000,000 of this amount to be deferred), with the balance of $30,000,000 constituting the General Fund Share. The table below displays the origin of the $146,250,000 in contract authority provided through 1978.

1/ This amount is the portion of "Trust Fund Share of Other Highway Programs" available for the Great River Road. Total funds available to the "Trust Fund Share of Other Highway Programs" is $130,952,667.

2/ This account was the subject of a similar deferral during FY 1978.

3/ None of these funds are deferred.

(in thousands of dollars)

Origin of contract authority	1974	1975	1976	TQ	1977	1978	Total
1973 Highway Act:							
Trust Fund.....	10,000	25,000	25,000				60,000
General Fund.....	10,000	10,000	10,000				30,000
1976 Highway Act							
Trust Fund.....	---	---	---	6,250	25,000	25,000	56,250
Total:	20,000	35,000	35,000	6,250	25,000	25,000	146,250
Trust Fund.....	(10,000)	(25,000)	(25,000)	(6,250)	(25,000)	(25,000)	(116,250)
General Fund.....	(10,000)	(10,000)	(10,000)	---	---	---	(30,000)

In fiscal year 1976, $90,000,000, the full amount of contract authority available at that time, was apportioned for use and allocated to the States (with exception of a $10 million DOT discretionary reserve). 4/ However, as of September 30, 1978, it is estimated that the States will have obligated only $56,250,000.

A deferral of $40,000,000 of contract authority is proposed for two reasons:

- State plans for fiscal year 1979 indicate that no more than $50,000,000 will be obligated, falling short of availability by $40,000,000. This $40,000,000 is not needed at this time and should be deferred.

- The $50,000,000 obligation level is considered adequate for this program.

Estimated Effects:

This deferral will have no programmatic effect. Current plans indicate that the amount deferred would not be obligated by the States this fiscal year.

Outlay Effects:

There is no outlay effect of this deferral because the funds would not be expected to be used if made available.

4/ Some States may be unable to obligate, in a timely fashion, all funds allocated to them. Therefore, if DOT allocated the entire $90 million among the States, some of the funds might lapse. Contract authority is available for four years under this program for the States. The DOT discretionary reserve was established to provide the balance of funds to those States which have made the most progress in obligating their allocated funds (and, thereby reduce the risk of a funding lapse.)

Deferral No: D79-22

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Transportation	New budget authority (P.L. 95-335) $87,100,000
Bureau Federal Highway Administration	Other budgetary resources —
Appropriation title & symbol: Overseas Highway 69X8021	Total budgetary resources 87,100,000
	Amount to be deferred: Part of year $—
	Entire year 13,100,000
CMB identification code: 69-8021-0-7-401	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [X] Yes [ ] No	[ ] Other —
Type of account or fund: [ ] Annual [ ] Multiple-year — (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other —

Justification: The Overseas Highway was authorized by Section 118 of the Federal-Aid Highway Amendments of 1974. This program, financed from the Highway Trust Fund, authorized the undertaking of projects for the reconstruction or replacement of bridge structures of a two-lane nature on the Overseas Highway, to Key West, Florida.

State plans for fiscal year 1979 indicate that no more than $74,000,000 will be obligated, falling short of availability by $13,100,000. This $13,100,000 is not needed at this time and is therefore deferred.

The Administration has no desire to hold back this program. This proposed deferral is submitted based solely on the State's inability to obligate more than $74,000,000 during FY 1979. This deferral action is taken in accordance with the Antideficiency Act (31 USC 665).

Estimated Effect: No programmatic or budgetary impact results from this deferral action.

Outlay Effect: There is no outlay effect of this deferral because the funds could not be used if made available.

Deferral No: D79-23

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Treasury	New budget authority (P.L.) $—
Bureau Office of the Secretary	Other budgetary resources 2,205,000
Appropriation title & symbol: Antirecession Financial Assistance Fund 208/90108 1/	Total budgetary resources 2,205,000
	Amount to be deferred: Part of year $2,205,000
	Entire year —
CMB identification code: 20-0108-0-1-852	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [X] Yes [ ] No	[X] Other P.L. 94-369 & P.L. 95-30
Type of account or fund: [ ] Annual [X] Multiple-year September 30, 1979 (expiration date) [ ] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other —

Justification:

This deferral represents the projected remaining portion of the FY 1978 appropriation which the Secretary of the Treasury must hold in reserve to meet valid claims from State and local governments that prior antirecession financial assistance payments to them were too small. Because the total amount appropriated for all governments is fixed, the alternative to such a reserve is recurring recomputations of entitlements of 22,930 governments for prior entitlement periods. Accordingly, the Office of Revenue Sharing has withheld from obligation an amount equal to one-half of one percent of the amount appropriated for the first quarter.

This cumulative unobligated reserve, totaling $2.2 million, is available to the Secretary of the Treasury to satisfy legitimate claims against the fund for prior entitlement periods. The unobligated amount retained in the fund will be reduced whenever the Secretary determines that a lesser amount is adequate to meet foreseeable liabilities against the fund. This reduction will be made by paying the additional amount to recipients as part of a regular distribution of other funds provided for this program.

The authorization for this program terminates on September 30, 1978, but the funds remain available through FY 1979. The President has proposed and the Congress is considering an alternative program, the Supplementary Fiscal Assistance Fund.

1/ This account was the subject of a similar deferral during FY 1978.

Estimated Effect:

This action will postpone distribution of the amount of the reserve until necessary adjustments and corrections have been identified. It will also avoid substantial confusion and complexities in the administration of the program. The entire amount of this reserve is expected to be paid out before the end of fiscal 1979.

Outlay Effect:

There is no outlay effect of this deferral since the funds will be paid out in fiscal year 1979.

Deferral No: D79-24

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Treasury	New budget authority (P.L. ___ ___ ___) $ ___
Bureau: Office of the Secretary	Other budgetary resources 78,489,095
Appropriation title & symbol: State and Local Government Fiscal Assistance Trust Fund 20X8111 1/ 2/	Total budgetary resources 78,489,095
	Amount to be deferred: Part of year $ 2,500,000
	Entire year 75,989,095
Budget function code: 20-8111-0-7-851	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program ☒ Yes ☐ No	☒ Other P.L. 92-512, P.L. 94-488 (sec.6)
Type of account or fund: ☐ Annual ☐ Multiple-year ___ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ___

Justification: The Secretary of the Treasury must hold in reserve an amount to meet valid claims from State and local governments that past general revenue sharing payments to them were too small. Because the total amount appropriated for all governments is fixed, the alternative to such a reserve is recurring recomputations of entitlements of 39,170 governments for prior entitlement periods. Accordingly, the Office of Revenue Sharing withheld from obligation an amount equal to one-half of one percent of the amounts appropriated for each entitlement period through FY 1975. In addition, one-half of one percent of the amounts appropriated for general revenue sharing in the Economic Stimulus Appropriations Act, 1977 (P.L. 95-29), and the HUD-Independent Agencies Appropriation Act, 1978 (P.L. 95-119) was also withheld from obligation.

This cumulative unobligated reserve is available to the Secretary of the Treasury to satisfy legitimate claims against the Trust Fund for prior entitlement periods. The unobligated amount of $78.5 million retained in the Trust Fund will be reduced whenever the Secretary determines the amount is adequate to meet foreseeable liabilities against the Trust Fund. The reduction will be made by paying the additional amount to recipients as part of a regular distribution of other funds provided for the program.

Estimated Effect: This action will postpone distribution of the amount of the reserve until necessary adjustments and corrections have been identified. It will also avoid substantial confusion and complexities in the administration of the program.

1/ This account is the subject of another deferral, D79-25.
2/ This account was the subject of a similar deferral during FY 1978.

D79-24

Outlay Effect: (estimated in millions of dollars):

Comparision with President's FY 1979 Budget:

1. Budget outlay estimate for FY 1979	$6,852.3
2. Outlay savings, if any, included in the budget outlay estimate	-0-

Current outlay estimates for FY 1979:

3. Without deferral	6,923.3
4. With deferral	6,847.3
5. Current outlay savings (line 3 - line 4)	76.0
Outlay savings for FY 1980	-38.0
Outlay savings for FY 1981	-38.0

Deferral No: D79-25

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Treasury	New budget authority (P.L. _____) $ _____
Bureau: Office of the Secretary	Other budgetary resources 78,489,095
Appropriation title & symbol: State and Local Government Fiscal Assistance Trust Fund 20X8111 1/ 2/	Total budgetary resources 78,489,095
	Amount to be deferred: Part of year 3/ $ 2,404,000
	Entire year _____
OMB identification code: 20-8111-0-7-851	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [X] Yes [ ] No	[X] Other P.L. 92-512, Sections 121 & 123 P.L. 94-488
Type of account or fund: [ ] Annual [ ] Multiple-year _____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other _____

Justification: The State and Local Government Fiscal Assistance Trust Fund is the vehicle for disbursement of general revenue sharing funds. This deferral represents payments withheld from various governments involved in annexations or disincorporations and for reasons of noncompliance with the requirements of the State and Local Fiscal Assistance Act, as amended.

Estimated Effect: The release of these funds is contingent upon adherence by the various governments to the compliance regulations, and determinations as to which higher level of government is eligible to receive those funds withheld because of annexations and disincorporations.

Outlay Effect: There is no outlay effect of this deferral because the funds will be made available this fiscal year.

1/ This account is the subject of another deferral, D79-24.
2/ This account was the subject of a similar deferral during FY 1978.
3/ Outlays only. The outlays being deferred were obligated in fiscal year 1978 and, therefore, are not reflected in the total budgetary resources available for obligation in fiscal year 1979.

Deferral No: D79-26

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Treasury Bureau: Bureau of the Mint Appropriation title & symbol: Construction of Mint Facilities 1/ 20X1617	New budget authority (P.L. ____) $ --- Other budgetary resources 5,729,583 Total budgetary resources 5,729,583 Amount to be deferred: Part of year $ --- Entire year 5,729,583
OMB identification code: 20-1617-0-1-803 Grant program ☐ Yes ☒ No	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

The Department is no longer seeking fund authority to construct a new Mint in Denver. In lieu of a new Mint, the Department is considering the acquisition of surplus Federal Buildings with the intention of rehabilitating them for metal processing and coinage operations, and also the repair and improvement of existing Mint Facilities. A cost-analysis study is being conducted by the Bureau of the Mint to determine the most feasible approach. The Bureau of the Mint has instructed the General Services Administration to defer any construction expenditures until the results of this study are complete.

Estimated Effects:

This action will delay the construction program pending the decisions made as a result of the cost analysis study.

Outlay Effect: (estimated in millions of dollars)

Comparison with President's 1979 Budget:
1. Budget outlay estimate for 1979..... 0.5
2. Outlay savings (if any, included in the budget outlay estimate)... 0

Current outlay estimate for 1979:
3. Without deferral..... 0.5
4. With deferral..... 0
5. Current outlay savings (line 3 - line 4)..... 0.5 2/

Outlay savings for 1980..... 0

1/ This account was the subject of a similar deferral in FY 1978.

2/ These outlays will be made once the issues delaying construction are resolved. Therefore, there are no permanent outlay savings related to this deferral.

Deferral No: D79-27

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: General Services Administration Bureau: Appropriation title & symbol: Rare Silver Dollar Program 1/ 47X0701	New budget authority (P.L. ____) $ ____ Other budgetary resources 2,323,000 Total budgetary resources 2,323,000 Amount to be deferred: Part of year $ 2,123,000 Entire year ____
OMB identification code: 47-0701-0-1-999 Grant program ☐ Yes ☒ No	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ____
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 655), which authorizes the establishment of reserves for contingencies. Funds were appropriated in 1972 and 1973, without fiscal year limitation, for operating costs for disposal of rare silver dollars. To date, roughly $60.4 million (gross receipts) of silver dollars have been sold, with approximately $26.5 million still available for sale. However, current sales procedures severly restrict the amount of remaining coins which may be sold under the existing appropriation.

The contingency of $2,123,000 reflects revised disposal plans suspending all coin sales until legislation is passed revising current sales methods. Sales using past procedures are no longer deemed economically feasible, and consideration is being given to the effects of alternative terms and conditions on future Government sales of the coins as well as on the coin market in general.

Estimated Effect: The deferral of funds for operating expenses will have no adverse effect on the silver dollar sales program since current sales procedures have limited the amount of marketable coins. New legislation has been proposed to provide revised sales methods.

1/ This account was the subject of a similar deferral during FY 1978.

D79-27

2

Outlay Effect: (estimated in millions of dollars)
Comparison with President's 1979 Budget:

1. Budget outlay estimate for 1979	0.2
2. Outlay savings, if any, included in budget outlay estimate	-

Current outlay estimates for 1979:

3. Without deferral	2.3
4. With deferral	0.2
5. Current outlay savings (line 3 minus 4)	2.1

Outlay savings for 1980 ..... -2.1

Deferral No: D79-28

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: General Services Administration	New budget authority (P.L.) $
Bureau: Federal Preparedness Agency	Other budgetary resources 79,684
Appropriation title & symbol: State and Local Preparedness 1/ 47x0618	Total budgetary resources 79,684
	Amount to be deferred: Part of year $ 79,684
	Entire year
Grant program: Identification code: 47-0618-0-1-054	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Type I program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification
This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 665), which authorizes the establishment of reserves for contingencies.

Funds were appropriated in 1964 and 1965, without fiscal year limitation, to assist state governments in developing programs for the management of their resources in time of emergency. The requirements for these funds will be reviewed upon establishment of the Federal Emergency Management Agency.

Estimated Effects
This deferral has no significant programmatic or budgetary effect since there is no requirement for these funds at this time.

Outlay Effects
There is no outlay effect resulting from this deferral action since the funds could not be used if made available.

1/ This account was the subject of a similar deferral in FY 1978.

Deferral No: D79-29

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Foreign Claims Settlement Commission	New budget authority (P.L. ___): $ ___
Bureau:	Other budgetary resources: 11,057,000
Appropriation title & symbol: Payment of Vietnam Prisoner of War Claims 1/ 79X0104	Total budgetary resources: 11,057,000
	Amount to be deferred: Part of year: $ 10,945,000
	Entire year: ___
OMB identification code: 79-0104-0-1-153	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other ___
Type of account or fund: ☐ Annual ☐ Multiple-year ___ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ___

Justification - Public Law 91-289, approved June 24, 1970, authorizes the Foreign Claims Settlement Commission to adjudicate and certify for payment the claims of American military and civilian prisoners of war held during the Vietnam conflict, or their survivors. Before claims can be certified for payment by the Commission, the appropriate military services must determine the individual's POW status and, in the case of claims by the survivors of missing persons where evidence of captivity exists, it must also determine the date of death. Such determinations have been delayed pending the results of intense efforts to account for missing United States servicemen.

Appropriations were enacted in 1971, 1972 and 1973 for the Vietnam POW claims program to remain available until expended. Of the estimated $11,057,000 remaining available, $112,000 has been apportioned for 1979 to pay prisoner of war claims resulting from new determinations anticipated in 1979; $10,945,000 has been reserved . This deferral of 1979 budget authority is necessary to achieve the most economical use of appropriations (31 U.S.C. 665(c)(1)) and to provide for contingencies after 1978 (31 U.S.C. 665(c)(2)).

Estimated Effects No savings result from the deferral, since claims cannot be adjudicated or certified for payment by the Commission until final status determinations are made by the military services.

Outlay Effect No effect on outlays result from this deferral action.

1/ This account was the subject of a similar deferral during FY 1978.

Deferral No: D79-30

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Interstate Commerce Commission	New budget authority (P.L. ___): $ ___
Bureau:	Other budgetary resources: 14,590,000
Appropriation title & symbol: Payments for Directed Rail Service 1/ 30X0103	Total budgetary resources: 14,590,000
	Amount to be deferred: Part of year: $ ___
	Entire year: 13,990,000
OMB identification code: 30-0103-0-1-401	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other ___
Type of account or fund: ☐ Annual ☐ Multiple-year ___ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ___

Justification: The directed rail service program provides subsidy funds to maintain rail service for up to eight months over the lines of any carrier not able to provide service due to bankruptcy or other reasons. The funds to be deferred would be used for continuation of the Delaware and Hudson and Milwaukee Railroads (or other railroads). Subsidy funds are payable 90 days following completion of the service; therefore, the funds are not expected to be needed since the above railroads remain operational at this time. (Section 1(16)(b) of the Interstate Commerce Act.)

Estimated Effect: There will be no programmatic, fiscal, budgetary or economic impact since the budget authority may only be utilized at the direction of the Commission when rail carriers discontinue service. No such discontinuations are anticipated at this time, but should the need arise, there would be a lead time of 11 months prior to required outlay of these funds. This budget authority was sought on a contingency basis to allow the Commission to enter into subsidy obligations when and if necessary.

Outlay Effect: There is no outlay effect of this deferral because the funds are not expected to be needed.

1/ This account was the subject of a similar deferral during FY 1978.

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