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# federal register

TUESDAY, OCTOBER 31, 1978




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| Monday | Tuesday | Wednesday | Thursday | Friday |
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| CSA | CSC | | CSA | CSC |
| | LABOR | | | LABOR |
| | HEW/FDA | | | HEW/FDA |

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

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# rules and regulations

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

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

[6325-01-M]

**Title 5—Adminstrative Personnel**

**CHAPTER I—CIVIL SERVICE COMMISSION**

**PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM**

**Opportunities To Register To Enroll and Change Enrollment; Open Season**

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment provides for a Federal employees health benefits (FEHB) program open season from November 13 through December 8, 1978, and in all future years from Monday of the second full workweek in November through Friday of the first full workweek in December.

EFFECTIVE DATE: October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Edward G. Borchers, Office of Policy Development and Technical Services, Bureau of Retirement, Insurance, and Occupational Health, Room 4334, 1900 E Street NW., Washington, D.C. 20415, 202-632-4684.

SUPPLEMENTAL INFORMATION: On Tuesday, August 8, 1978, there was published in the FEDERAL REGISTER (43 FR 35046) proposed rulemaking explaining the proposed amendment regarding the 1978 and all future open seasons and giving all interested parties an opportunity to submit comments.

Of 15 comments received, all favored the proposed 1978 open season dates and all but one favored having future open seasons as proposed. The opposing commenter suggested that future open seasons should be held for the entire month of November, in lieu of the 4-workweek period proposed by the Commission. The commenter believes that since many Postal Service employees are required to work overtime on weekends after the Thanksgiving holiday, these employees may not have sufficient time to study the health plan brochures during the last part of open season (the first week in December). We believe, however, that our proposal allows all employees sufficient time to study materials and make a decision. As a result, we have not adopted this suggestion.

Accordingly, § 890.301(d)(1) of Part 890, Title 5, Code of Federal Regulations is revised, as set out in the following:

§ 890.301 Opportunities to register to enroll and change enrollments.

* * * * *

(d) *Open season.* (1) An open season will be held from November 13, 1978, through December 8, 1978, and in all future years from the Monday of the second full workweek in November through the Friday of the first full workweek in December, as announced by the Civil Service Commission. During this open season:

(i) An unenrolled employee may register to be enrolled;

(ii) An enrolled employee or annuitant may change to another plan, another option, from self only to self and family, or any combination of these changes.

* * * * *

(5 U.S.C. 8913)

For the U.S. Civil Service Commission.

JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc. 78-30511 Filed 10-30-78; 8:45 am]

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[3410-34-M]

**Title 7—Agriculture**

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

**PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS**

**Overtime Work at Border Ports, Seaports, and Airports**

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulation which establishes charges for overtime work at border ports, seaports, and airports. Agricultural quarantine inspectors of the U.S. Department of Agriculture are charged with performing inspection duties relating to imports and exports at border ports, seaports, and airports. Such services may be performed outside the regular tour of duty of the inspector when requested by a person, firm, or corporation and the charge for such overtime is recoverable from those requesting the services. The following document amends the regulation entitled, "Overtime Work at Border Ports, Seaports, and Airports," by increasing the hourly rates for such services performed on a Sunday or holiday, or at any other time outside the regular tour of duty. These increases are commensurate with salary increases provided Federal employees in accordance with the Federal Pay Comparability Act of 1970 (Pub. L. 91-656), and Executive Order 12087 dated October 7, 1978.

EFFECTIVE DATE: October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

E. E. Crooks, 301-436-8249.

Pursuant to the authority conferred by the Act of August 28, 1950 (64 Stat. 561; 7 U.S.C. 2260), and the Airport and Airways Development Act Amendments of July 12, 1976 (90 Stat. 882; 49 U.S.C. 1741), § 354.1 of part 354, title 7, Code of Federal Regulations, the first sentence of § 354.1(a) is amended as set forth below:

§ 354.1 Overtime work at border ports, seaports, and airports.

(a) Any person, firm, or corporation having ownership, custody, or control of plants, plant products, animals, animal products, or other commodities or articles subject to inspection, laboratory testing, certification, or quarantine under this chapter and subchapter D of chapter I, title 9 CFR, who requires the services of an employee of the plant protection and quarantine programs, on a Sunday or holiday, or at any other time outside the regular tour of duty of such employee, shall sufficiently in advance of the period of Sunday or holiday or

overtime service request the plant protection and quarantine program inspector in charge to furnish inspection, laboratory testing, certification, or quarantine service during such overtime, or Sunday or holiday period, and shall pay the Government therefor at the rate of $22.28 per man-hour per employee on a Sunday and at the rate of $14.76 per man-hour per employee for holiday or any other period; except that for any services performed on a Sunday or holiday, or at any time after 5 p.m. or before 8 a.m. on a weekday, in connection with the arrival in or departure from the United States of a private aircraft or vessel, the total amount payable shall not exceed $25 for all inspectional services performed by the Customs Service, Immigration and Naturalization Service, Public Health Service, and the Department of Agriculture; and except that owners and operators of aircraft will be provided service without reimbursement during regularly established hours of service on a Sunday or holiday; and except that the overtime rate to be charged owners and operators of aircraft at airports of entry or other places of inspection as a consequence of the operation of aircraft, for work performed outside of the regularly established hours of service on a Sunday will be $19.44 and for work performed outside of the regularly established hours of service for holiday or any other period will be $11.96 per hour, which charges exclude administrative overhead costs.

* * * * *

(64 Stat. 561 (7 U.S.C. 2260); (Sec. 15 of Pub. L. 94-353, 90 Stat. 882) (49 U.S.C. 1741).)

Determination of the hourly rate for overtime services and of the commuted traveltime allowances depends entirely upon facts within the knowledge of the Department of Agriculture. It is to the benefit of the public that this amendment be made effective at the earliest practicable date. Accordingly, pursuant to the administrative provisions of 5 U.S.C. 553, it is found upon good cause that notice and public procedure on this amendment are impracticable, unnecessary, and contrary to the public interest and good cause is found for making this amendment effective less than 30 days after publication in the FEDERAL REGISTER.

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

Done at Washington, D.C. this 27th day of October 1978.

T. D. DARLING,
*Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.*

[FR Doc. 78-30907 Filed 10-30-78; 8:45 am]

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[3410-34-M]

## Title 9—Animals and Animal Products

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

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

## PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

### Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. This amendment establishes commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of Veterinary Services performs overtime or holiday duty when such travel is performed solely on account of overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. H. L. Arnold, USDA, APHIS, VS, Federal Building, Room 867, Hyattsville, Md. 20782, 301-436-8684.

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service by § 97.1 of the regulations concerning overtime services relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1978 ed.), as amended May 5, 1978 (43 FR 19350), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty, are hereby amended by adding to the respective list therein as follows:

**§ 97.2 Administrative instructions prescribing commuted traveltime.**

* * * * *

OUTSIDE METROPOLITAN AREA

ONE HOUR

Add: Bradley Field, Hartford, Conn. (served from Ashford, Conn.).

TWO HOURS

Add: Bradley Field, Hartford, Conn. (served from Harwinton, Conn.).

THREE HOURS

Add: Bradley Field, Hartford, Conn. (served from Stockbridge, Mass., and East Brookfield, Mass.).

FOUR HOURS

Add: Bradley Field, Hartford, Conn. (served from East Providence, R.I.).

* * * * *

(64 Stat. 561 (7 U.S.C. 2260).)

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and public procedure on these instructions are impracticable, unnecessary, and contrary to the public interest and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 26th day of October 1978.

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

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

[FR Doc. 78-30756 Filed 10-30-78; 8:45 am]

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[6210-01-M]

## Title 12—Banks and Banking

## CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z]

## PART 226—TRUTH IN LENDING

### Right of Rescission

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final interpretation.

SUMMARY: The Board hereby adopts an amendment to interpretation § 226.904 of regulation Z concerning disclosures which creditors may use to satisfy certain requirements of the regulation in connection with open end credit plans secured by consumer's residences. Specifically, the amendment modifies the sample disclosure which creditors may use to advise consumers of their rights when a change in the underlying terms of such a credit plan is proposed by a creditor. The amended disclosure is intended to emphasize these rights of the consumer. However, use by a creditor of the disclosure as originally promulgated by the Board shall not constitute a violation of the regulation.

EFFECTIVE DATE: October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Loney, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3867.

SUPPLEMENTARY INFORMATION: On August 3, 1978, the Board published (43 FR 34111) an amendment to regulation Z, § 226.9(g)(6) of the regulation, creating an exception to the rescission provisions of the regulation for individual transactions under certain open end credit accounts secured by consumers' residences. Under the terms of that amendment, consumers would not have the right to cancel each individual transaction on such accounts, provided that the specific requirements of the amendment are met.

The amendment provides, among other things, that a creditor may not change the underlying terms of an open end account secured by a customer's home without affording the customer an opportunity to refuse the change in terms. If the customer refuses the proposed change in terms, the creditor need not extend any further credit on the account; however, the customer retains the right to continue to repay any existing obligation on the account under the then existing terms of the account. The amendment requires that a creditor that proposes to change the terms of a customer's account disclose these rights to the customer.

Interpretation § 226.904 of regulation Z, published by the Board together with the amendment, provides, among other things, a sample disclosure which creditors may use to satisfy, as to form and content, the amendment's disclosure requirements in connection with a proposed change in terms. For convenient reference, that sample disclosure is reproduced below:

Section 226.9(g)(6)(iii) (Change in Terms)

NOTICE TO CUSTOMER REQUIRED BY FEDERAL LAW:

(Name of creditor) ———————

Intends to change the terms of your open end credit account which is secured by your home. You have a right to refuse to accept this change in terms. If you refuse this change in terms, we have the right to refuse to extend any further credit on your open end account and may require you to repay any existing obligation on your account under the present terms of the account. You may exercise your right to refuse the change in terms within three business days of (date disclosure delivered to customer) ——————— by notifying us at (address of creditor's place of business) ——————— by mail or telegram sent not later than midnight of (date) ————. You may also use any other form of written notice to refuse the change in terms if it is delivered to the above address not later than that time. This notice may be used for that purpose by dating and signing below.

I hereby refuse the change in the terms of my account.

(date) ———————

———————

(customer's signature)

It has been suggested to the Board that the foregoing disclosure, specifically the third sentence thereof, may not sufficiently inform consumers of the rights which they have in the event of a proposed change in terms of open end credit accounts secured by their homes and, further, that the impression may be created that the right to pay any existing obligation without the change in terms is, in fact, a penalty to consumers who refuse such a change.

The Board believes that it may benefit consumers to modify the disclosure set forth above to further emphasize consumers' rights in connection with changes in the terms of open end accounts secured by their homes and to avoid any implication that these rights constitute a penalty. However, by amending the disclosure, the Board does not intend that use of the disclosure as originally published shall constitute a violation of regulation Z.

Inasmuch as the following amendment to interpretation § 226.904 constitutes an interpretive rule within the meaning of 5 U.S.C. § 553 (1976), and, further, because the amendment provides only a sample disclosure which creditors may but need not use, the Board finds that publication of the amendment for public comment prior to final adoption and a delay in the effective date of the amendment are unnecessary.

Accordingly, pursuant to the authority granted in 15 U.S.C. 1604 (1976), the Board hereby amends official Board interpretation of regulation Z, 12 CFR 226.904, effective immediately, by deleting the third sentence of the disclosure captioned "Section 226.9(g)(6)(iii) (Change in terms)" which reads, "If you refuse this change in terms, we have the right to refuse to extend any further credit on your account and may require you to repay any existing obligation on your account under the present terms of the account" and substituting therefor "If you refuse this change in terms, you have the right to continue to repay your existing obligation under the present terms of the account. However, we would then have the right to refuse to extend any further credit, except pursuant to these new terms", so that the disclosure reads as follows:

Section 226.9(g)(6)(iii) (Change in Terms)

NOTICE TO CUSTOMER REQUIRED BY FEDERAL LAW:

(Name of Creditor) ———————

Intends to change the terms of your open end credit account which is secured by your home. You have a right to refuse to accept this change in terms. If you refuse this change in terms, you have the right to continue to repay your existing obligation under the present terms of the account. However, we would then have the right to refuse to extend any further credit, except pursuant to these new terms. You may exercise your right to refuse the change in terms within three business days of (date disclosure delivered to customer) ——————— by notifying us at (address of creditor's place of business) ——————— by mail or telegram sent not later than midnight of (date) ————. You may also use any other form of written notice to refuse the change in terms if it is delivered to the above address not later than that time. This notice may be used for that purpose by dating and signing below.

I hereby refuse the change in the terms of my account.

(date) ———————

———————

(customer's signature)

By order of the Board of Govenors, October 23, 1978.

THEODORE E. ALLISON,
*Secretary of the Board.*

[FR Doc. 78-30730 Filed 10-30-78; 8:45 am]

[7510-01-M]

## Title 14—Aeronautics and Space

## CHAPTER V—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

## PART 1209—BOARDS AND COMMITTEES

### Subpart 3—Contract Adjustment Board

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: The National Aeronautics and Space Administration, is amending its regulation to reflect a change in the cite to the NASA Management Instruction which sets forth the standards and procedures governing requests for extraordinary contractual adjustments, the expansion of the Board from three to five members, and deletion of an obsolete title, "Director of Business Administration."

EFFECTIVE DATE: October 31, 1978.

ADDRESS: Contract Adjustment Board, National Aeronautics and Space Administration, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT:

Helen S. Kupperman, Contract Adjustment Board, 202-755-3927.

SUPPLEMENTARY INFORMATION: The proposed changes will conform the regulation with the way the Board is actually organized and understood by the general public. Since this regulation involves administrative procedural matters it has been determined that no public comment period is required.

Subpart 1209.3 is revised as follows:

#### Subpart 1209.3—Contract Adjustment Board

Sec.
1209.300 Scope.
1209.301 Authority.
1209.302 Establishment of Board.
1209.303 Function of Board.
1209.304 Membership.
1209.305 Legal advice and assistance.

AUTHORITY: Pub. L. 85-804 and 42 U.S.C. 2473(c)(1).

### Subpart 1209.3—Contract Adjustment Board

§ 1209.300 Scope.

This subpart continues in effect the Contract Adjustment Board (hereinafter referred to as "the Board") to consider and dispose of requests for extraordinary contractual adjustments by contractors of the National Aeronautics and Space Administration (hereinafter referred to as NASA).

§ 1209.301 Authority.

(a) The Act of August 28, 1958 (50 U.S.C. 1431-35), (hereinafter referred to as "the Act") empowers the President to authorize departments and agencies exercising functions in connection with the national defense to enter into contracts or into amendments or modifications of contracts and to make advance payments, without regard to other provisions of law relating to the making, performance, amendment, or modification of contracts, whenever the President deems that such action would facilitate the national defense.

(b) Executive Order No. 10789, dated November 14, 1958 (23 FR 8897), authorizes the Administrator, NASA, to exercise the authority conferred by the Act and to prescribe regulations for the carrying out of such authority.

(c) NASA Procurement Regulation, Part 17 (41 CFR Chapter 18), establishes standards and procedures for the disposition of requests for extraordinary contractual adjustments by NASA contractors.

§ 1209.302 Establishment of Board.

The Board was established on May 15, 1961, was continued in effect by NASA Management Issuances (NMI) 1152.5, dated October 25, 1963, NMI 1152.5A, dated October 8, 1971, and NMI 1152.5B, dated February 20, 1976, and is further continued in effect by this regulation.

(a) The Board is authorized to act for an exercise the authority of the Administrator in cases involving request by NASA contractors for extraordinary contractual adjustments under the Act. Such authority will be exercised in accordance with the standards and procedures established by the Administrator, subject to such limitations as the Administrator may prescribe.

(b) The Board shall have the power to approve, authorize or direct any action, including the modification or release of any obligations, and to make all determinations and findings, which are necessary or appropriate for the conduct of its functions, and may adopt such rules of procedure as it considers desirable.

(c) The concurring vote of a majority of the total Board membership shall constitute an action of the Board. Decisions of the Board shall be final but the Board may reconsider and modify, correct or reverse any Board decision previously made.

§ 1209.304 Membership.

The Board will consist of a chairperson and four other members, all of whom shall be appointed by the Administrator.

§ 1209.305 Legal advice and assistance.

The General Counsel of NASA shall provide the Board with all necessary legal advice and assistance.

ROBERT A. FROSCH,
*Administrator.*

[FR Doc. 78-30645 Filed 10-30-78; 8:45 am]

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[3510-07-M]

## Title 15—Commerce and Foreign Trade

## CHAPTER I—BUREAU OF THE CENSUS, DEPARTMENT OF COMMERCE

## PART 30—FOREIGN TRADE STATISTICS

### Exports of Used Vehicles

AGENCY: Bureau of the Census, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Foreign Trade Statistics Regulations to provide that for a period of 6 months, for exports of used vehicles from the United States (including vehicles shipped to Puerto Rico), the exporter or his agent must present the Shipper's Export Declaration bearing that vehicle's identification number to Customs at least 48 hours in advance of exportation; and that carriers may not depart with used vehicles unless and until a copy of the Shipper's Export Declaration approved by Customs has been delivered to the carrier.

EFFECTIVE DATE: November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Emanuel A. Lipscomb, Chief, Foreign Trade Division, Bureau of the Census, Washington, D.C. 20233, 301-763-5342.

SUPPLEMENTARY INFORMATION: On February 24, 1978, a notice of proposed rulemaking was published (43 FR 3510-07) to amend the Foreign Trade Statistics Regulations to provide that for a period of 6 months, for exports of used vehicles from the United States to all destinations, the required Shipper's Export Declaration must show that vehicle's identification number and be presented to Customs by the exporter or his agent at least 48 hours in advance of exportation. The summary information in the notice further provided that carriers must submit such declarations to Customs prior to the departure of such carriers. The sole purpose of this proposed amendment was to assist law enforce-

ment agencies in the deterrence of vehicle theft.

A total of 12 letters of comment was received in response to the proposed changes. Five letters of comment were received from law enforcement agencies, and all were in favor of the proposal. The remaining letters of comments were from carriers, carrier associations, and agents, and expressed objections to the proposals.

DISCUSSION OF MAJOR COMMENTS: Objection was expressed to the wording of proposed § 30.42(c) that "Failure of the exporter (or his agent, including the carrier) to provide Customs at least 48 hours prior * * *," since in those cases where the carrier acts as agent of the exporter, the phrase "exporter or his agent" would render "including the carrier" superfluous. This wording has been changed to eliminate any inference that it is the carrier's responsibility (as carrier) to present the Shipper's Export Declaration to Customs 48 hours in advance of exportation.

In addition, objection was expressed to the proposed requirement, indicated in the summary but not addressed in the amended regulations, that in addition to the exporter's (or his agent's) having to present the Shipper's Export Declaration to Customs for approval at least 48 hours in advance of exportation, the carrier would have to present the Shipper's Export Declaration to Customs prior to exportation of the used vehicle, instead of with the vessel's complete manifest as is normally done. It was argued that no useful purpose would be served by this requirement. The Bureau of the Census agrees. Since in accordance with proposed § 30.42(b) "* * * carriers may not export used vehicles from the United States until *the required Shipper's Export Declaration bearing the notation of its prior receipt by Customs has been received by the carrier*" (italics added), there appears to be no reason to require the carrier to resubmit the declaration in advance of shipment. Since the proposed regulations never carried the stipulation that the carrier file the approved copy of the Shipper's Export Declaration with Customs prior to exportation, no change in the wording of the proposed regulations is required.

Carriers in the United States to Puerto Rico trade objected to the proposal in its entirety. Shipments of used autos to Puerto Rico are handled primarily by only three or four carriers and, in many cases, Shipper's Export Declarations are prepared by the carriers on behalf of their clients. If advance presentation of the Shipper's Export Declaration should be required, it was argued that serious problems would be encountered in storage facilities, scheduling shipments, extra costs, and delays. Moreover, the largest of such carriers described in detail the degree of surveillance already being exercised by that company to avoid exportation of stolen vehicles; e.g., it already furnishes the Federal Bureau of Investigation a list of the vehicle identification numbers prior to exportation; it compares reported vehicle identification numbers with actual vehicle identification numbers and notifies Customs of any discrepancies; etc.

In view of the nature of the objections submitted by the carriers in the United States to Puerto Rico trade, and the limited number of carriers involved, and since Puerto Rico is subject to U.S. jurisdiction, the Bureau of the Census has concluded that where carriers of merchandise from the United States to Puerto Rico make satisfactory arrangements to inform Customs of the vehicle identification numbers of used vehicles scheduled for exportation sufficiently in advance of actual exportation to permit Customs to query its stolen vehicle list and detain any vehicles determined to be stolen, the proposed new rules would be unduly onerous with respect to shipments from the United States to Puerto Rico and may, therefore, be waived by the Foreign Trade Division of the Bureau of the Census. Accordingly, a new sentence is being added to § 30.42 to provide for the granting of exemptions from the new requirements for shipments from the United States to Puerto Rico.

To effect these changes in reporting requirements, the Foreign Trade Statistics Regulations (15 CFR Part 30) are amended as set forth below.

These regulations are to be issued under the authority of Title 13, United States Code, section 302; and 5 U.S.C. 301; Reorganization Plan No. 5 of 1950, Department of Commerce Organization Order No. 35-2A, August 4, 1975, 40 FR 42765.

1. Section 30.7 is amended by the addition of the following sentence, immediately after the first sentence, and preceding the present parenthetical sentence.

**§ 30.7 Information required on Shipper's Export Declarations.**

* * * (See § 30.42 for additional information required for a limited time on Shipper's Export Declarations covering the exportation of used vehicles to foreign countries.) * * *

2. A new § 30.42 is added to read as follows:

**§ 30.42 Special temporary requirements for the exportation of used motor vehicles.**

Shipper's Export Declarations covering exports of used motor vehicles, including automobiles, trucks, tractors, buses, motorcycles, special purpose vehicles, self-propelled farm machinery, self-propelled construction equipment, self-propelled special use equipment, and other similar vehicles are subject to the following special provisions:

(a) When a used motor vehicle as defined above is to be exported from the United States to a foreign country, or shipped from the United States to Puerto Rico, exporters (or their agents) shall show on the Shipper's Export Declaration required under these regulations, under the description of commodities, that vehicle's identification number.

(b) Shipper's Export Declarations covering the exportation of used vehicles shall be presented to Customs at the port of exportation at least 48 hours prior to exportation by the exporter (or his agent). One copy of the Shipper's Export Declaration, presented to Customs by the exporter (or his agent), bearing a notation of its prior receipt by Customs, must be delivered to the exporting carrier prior to exportation; and, notwithstanding the provisions of § 30.24 of these regulations relating to the delayed filing of Shipper's Export Declarations and manifests, carriers may not transport used vehicles from the United States until the required Shipper's Export Declaration bearing the notation of its prior receipt by Customs has been received by the carrier.

(c) Failure of the exporter (or his agent) to provide Customs, at least 48 hours prior to exportation, a copy of the required Shipper's Export Declaration containing the vehicle identification number of the used vehicle to be exported shall result in the detention of such vehicle by Customs until there is compliance with the above requirements.

(d) Where carriers of merchandise from the United States to Puerto Rico make satisfactory arrangements to inform Customs of the vehicle identification numbers of used vehicles scheduled for exportation sufficiently in advance of actual exportation to permit Customs to query its stolen vehicle list and detain any vehicles determined to be stolen, such carriers may inform the Foreign Trade Division of the Bureau of the Census of the details of such arrangements and may request waiver of the provisions of § 30.42(a)-(c).

(e) The provisions of § 30.42 shall be effective for a period of six (6) months

only from the effective date of these regulations.

MANUEL D. PLOTKIN,
*Director,*
*Bureau of the Census.*

I concur:

RICHARD J. DAVIS,
*Assistant Secretary,*
*Department of the Treasury.*

[FR Doc. 78-30727 Filed 10-30-78; 8:45 am]

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[6750-01-M]

**Title 16—Commercial Practices**

**CHAPTER I—FEDERAL TRADE COMMISSION**

[Docket No. C-2930]

**PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS**

**John Hancock Mutual Life Insurance Co., et al.**

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, these four (4) consent orders, among other things, require four (4) Boston, Mass., insurance companies to cease interlocking directors by allowing any individual to sit on their boards who is simultaneously sitting on the board of any of the other boards or of any other competitive firms. The consent orders additionally require the companies to initiate prescribed procedures designed to eliminate interlocking directorates, and to submit detailed compliance reports to the Commission annually for a 5-year period.

DATES: Complaint and order issued September 19, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

FTC/C, Alfred F. Dougherty, Jr., Washington, D.C. 20580, 202-523-3601.

SUPPLEMENTARY INFORMATION: On Tuesday, July 11, 1978, there was published in the FEDERAL REGISTER, 43 FR 29797, a proposed consent agreement with analysis in the matter of John Hancock Mutual Life Insurance Co., a corporation; Liberty Mutual Insurance Co., a corporation; New England Mutual Life Insurance Co., a corporation; and State Mutual Life Assurance Co. of America, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

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

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Interlocking Directorates Unlawfully: § 13.1106 Interlocking directorates unlawfully.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45); sec. 8, 38 Stat. 732; 49 Stat. 717 (15 U.S.C. 19).)

CAROL M. THOMAS,
*Secretary.*

[FR Doc. 78-30713 Filed 10-30-78; 8:45 am]

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

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[4810-22-M]

**Title 19—Customs Duties**

**CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY**

[T.D. 78-181]

**PART 159—LIQUIDATION OF DUTIES**

**Certain Fish From Canada; Correction of Notice of Final Countervailing Duty Determination**

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Correction of notice of final countervailing duty determination.

SUMMARY: This notice is to inform the public that a technical correction is being made in the notice of final countervailing duty determination regarding certain fish from Canada.

EFFECTIVE DATE: October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles F. Goldsmith, Economist, Office of Tariff Affairs, Department of the Treasury, 15th Street and Pennsylvania Avenue NW., Washington, D.C. 20220, telephone 202-566-2323.

SUPPLEMENTARY INFORMATION: On June 16, 1978, a notice of "Final Countervailing Duty Determination" concerning fish from Canada, T.D. 78-181, was published in the FEDERAL REGISTER (43 FR 25996). A waiver was concurrently granted.

In that final determination, a statement directing publication of the decision in the Customs Regulations was inadvertently omitted. The following paragraph should have appeared in that notice:

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting after the last entry from Canada under the commodity heading "Fish," the number "78-181" in the column headed "Treasury Decision"; and in the column headed "Action," the words "Bounty declared-rate." (R.S. 251, sections 303, as amended, 624; 46 Stat. 687, 759, 88 Stat. 2049; 19 U.S.C. 66, 1303, as amended, 1624).

Consequently, this entry will immediately precede the entry for certain fish from Canada which was added as a result of T.D. 78-182.

ROBERT H. MUNDHEIM,
*General Counsel of the Treasury.*

OCTOBER 25, 1978.

[FR Doc. 78-30724 Filed 10-30-78; 8:45 am]

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[4110-03-M]

**Title 21—Food and Drugs**

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

**SUBCHAPTER D—DRUGS FOR HUMAN USE**

[Docket No. 78N-0123]

**PART 446—TETRACYCLINE ANTIBIOTIC DRUGS**

**Concentrated Liquid Dosage Forms of Tetracycline; Revocation of Provisions for Certification**

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the antibiotic drug regulations by revoking provisions for certification of concentrated liquid dosage forms of tetracycline which are labeled and formulated specifically for pediatric use. Less concentrated syrups and suspensions of tetracyclines, 25 milligrams per milliliter (mg/ml) or less, will continue to be certified because of the need for these products in certain geriatric patients, in patients who cannot swallow solid dosage forms, and in children for whom other antibiotics are not likely to be effective or are contraindicated.

EFFECTIVE DATE: January 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Merle L. Gibson, Bureau of Drugs

(HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4310.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of May 19, 1978 (43 FR 21694), the Commissioner of Food and Drugs proposed to amend the antibiotic drug regulations by revoking provisions for certification of concentrated liquid dosage forms of tetracyclines which are labeled and formulated specifically for pediatric use. This action was taken because new evidence revealed continued extensive prescribing of concentrated liquid dosage forms specifically formulated for children, from infancy to the age of 8 years, despite known adverse reactions in this age group. Interested persons were invited to submit comments by July 18, 1978. Comments were received from consumers, pharmacists, dentists, physicians, nurses, and professional associations.

The agency received comments objecting to the proposal from persons who interpreted the proposal as intending to remove all liquid dosage forms of tetracycline from the market. These comments stressed that there is a demonstrated need for liquid dosage forms of tetracycline in certain patients who are unable to ingest solid dosage forms and in those few children for whom other antibiotics are not likely to be effective or are contraindicated.

The Commissioner believes the objecting comments misunderstood the proposal, which acknowledged the need for less concentrated syrups and suspensions (25 mg/ml or less) and proposed to revoke only the provisions for certification of the concentrated liquid dosage forms that are labeled and formulated specifically for children. The Commissioner considers the final rule, which is adopted as proposed, as responsive to the objecting comments, because the less concentrated liquid dosage forms will continue to be available.

The remainder of the comments were in agreement with the proposal.

All outstanding certificates of certification or release of batches of tetracycline concentrated syrups and suspensions formulated specifically for pediatric use are revoked on the effective date of this final rule. Recall will be requested to the retail level for all products covered by these certificates. Holders of the certificates will be notified by letter of the revocations of the certificates and of the details of the recall request.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 446 is amended as follows:

1. In § 446.115a, the second sentence of paragraph (a)(1) is revised to read as follows:

**§ 446.115a Demeclocycline oral suspension.**

(a) * * *

(1) * * * Each milliliter contains demeclocycline equivalent to 15 milligrams of demecloycline hydrochloride. * * *

* * * * *

2. In § 446.166, the third sentence of paragraph (a)(1) is revised to read as follows:

**§ 446.166 Oxytetracycline calcium oral suspension.**

(a) * * *

(1) * * * Each milliliter contains a quantity of oxytetracycline calcium equivalent to 25 milligrams of oxytetracycline. * * *

* * * * *

*Effective date.* This regulation is effective January 2, 1979.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357))

Dated: October 24, 1978.

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

[FR Doc. 78-30516 Filed 10-30-78; 8:45 am]

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[4410-01-M]

## Title 28—Judicial Administration

## CHAPTER I—DEPARTMENT OF JUSTICE

[Criminal Division Directive No. 2]

## PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

### Subpart Y—Authority To Compromise and Close Civil Claims and Responsibility for Judgments, Fines, Penalties, and Forfeitures.

APPENDIX TO SUBPART Y—REDELEGATIONS OF AUTHORITY TO U.S. ATTORNEYS, DEPUTY ASSISTANT ATTORNEYS GENERAL, AND SECTION CHIEFS IN CRIMINAL DIVISION CASES

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This Criminal Division Directive supersedes Criminal Division Directive No. 1, regarding redelegation of the Assistant Attorney General's authority with respect to compromise of civil penalties and forfeitures and closing of civil claims. This directive lodges settlement authority in U.S. attorneys in cases falling within certain monetary limitations and redelegates the remainder of the Assistant Attorney General's authority to Deputy Assistant Attorneys General and to Section Chiefs.

EFFECTIVE DATE: October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald B. Nicholson, attorney, Government Regulations and Labor Section, Criminal Division, Department of Justice, Washington, D.C. 20530, 202-739-2694.

By virtue of the authority vested in me by part 0 of title 28 of the Code of Federal Regulations as amended, particularly §§ 0.160, 0.162, 0.164, and 0.168, it is hereby ordered that Criminal Division Directive No. 1 (29 FR 7383, June 6, 1964) is deleted and is superseded by the following:

(a) Each U.S. attorney is authorized to accept or reject offers in compromise of claims in behalf of the United States in all cases in which the difference between the gross amount of the original claim (or the forfeiture value of the merchandise claimed) and the proposed settlement does not exceed $60,000, and of claims against the United States in all cases, or in administrative actions to settle, in which the amount of the proposed settlement does not exceed $60,000, and to close (other than by compromise or by entry of judgment) civil claims asserted by the United States in all cases in which the gross amount of the original claim or the forfeiture value of the merchandise claimed does not exceed $60,000 except:

(1) when, for any reason, the compromise or closing of a particular claim, as a practical matter, will control or adversely influence the disposition of other claims which, when added to the claim in question, total more than the respective amounts designated above, or

(2) when the U.S. attorney is of the opinion that because of a question of law or policy presented, or for any other reason, the matter should receive the personnel attention of the Assistant Attorney General.

(b) Notwithstanding the provisions of this Directive, the Assistant Attorney General of the Criminal Division may delegate to U.S. attorneys authority to compromise or close other cases, including those involving amounts greater than as set forth in paragraph (a) above, and up to the maximum limit of his authority, where the circumstances warrant such delegation.

(c) All other authority delegated to me by §§ 0.160, 0.162, and 0.164 of title 28 of the Code of Federal Regulations not falling within the limitations of

paragraph (a) above is hereby redelegated to Section Chiefs in the Criminal Division, except that when a Section Chief is of the opinion that because of a question of law or policy presented, or for any other reason, the matter should receive the personal attention of a Deputy Assistant Attorney General or the Assistant Attorney General, he shall refer the matter to the appropriate Deputy Assistant Attorney General or to the Assistant Attorney General.

(d) Notwithstanding any of the above redelegations, when the agency or agencies involved have objected in writing to the proposed closing or dismissal of a case, or to the acceptance or rejection of an offer in compromise, and the matter cannot be resolved below the Assistant Attorney General level, it must be decided by the Assistant Attorney General.

Dated: October 16, 1978.

PHILIP B. HEYMANN,
*Assistant Attorney General, Criminal Division.*

Approved:

MICHAEL J. EGAN,
*Associate Attorney General.*

[FR Doc. 78-30639 Filed 10-30-78; 8:45 am]

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[1505-01-M]

## Title 30—Mineral Resources

## CHAPTER I—MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

### SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

### Part 70—Mandatory Health Standards—Underground Coal Mines

### Noise Dosimeters

*Correction*

In FR Doc. 78-25640, erroneously published as FR Doc. 78-35640, appearing at page 40760 in the issue for Tuesday, September 12, 1978 make the following change:

In the third column of page 40761, § 70.506, paragraph (d)(3)(ii) should read as follows:

"(ii) Comparison of the dosimeter, at 1000Hz, with a laboratory type condensor microphone of known sensitivity, and"

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[4510-43-M]

## PART 70—MANDATORY HEALTH STANDARDS—UNDERGROUND COAL MINES

## PART 71—MANDATORY HEALTH STANDARDS—SURFACE COAL MINES

### Noise Dosimeters

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Correction.

SUMMARY: In the FEDERAL REGISTER of September 12, 1978, MSHA published a final rule on amendments to 30 CFR Part 70 to permit the use of noise dosimeters to measure noise exposure in coal mines. This document corrects typographical errors in the text of the final rule, FR Doc. 78-25640, erroneously published as FR Doc. 78-35640.

FOR FURTHER INFORMATION CONTACT:

Joseph A. Lamonica, Chief, Division of Health, Coal Mine Safety and Health, Mine Safety and Health Administration, Ballston Tower No. 3, Room 830, 4015 Wilson Boulevard, Arlington, Va. 22203, phone 703-235-1358.

On page 40760, in the middle column, in the last paragraph, in lines 12 and 21 of that paragraph "RI 1072" is corrected to read "IR 1072".

Dated: October 26, 1978.

ECKEHARD MUESSIG,
*Deputy Assistant Secretary for Mine Safety and Health.*

[FR Doc. 78-30821 Filed 10-30-78; 8:45 am]

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[1410-03-M]

## Title 37—Patents, Trademarks, and Copyrights

## CHAPTER II—COPYRIGHT OFFICE, LIBRARY OF CONGRESS

[Docket RM 77-4A]

## PART 201—GENERAL PROVISIONS

### Recordation and Certification of Coin-Operated Phonorecord Players

AGENCY: Library of Congress, Copyright Office.

ACTION: Final regulations.

SUMMARY: This notice is issued to inform the public that the Copyright Office of the Library of Congress is adopting final amendments to § 201.16 of our regulations. The effects of the amendments are: To establish requirements governing the correction of errors in applications for recordation of coin-operated phonorecord players and in related certificates; to clarify our examination of applications and our treatment of certain time limits imposed by the Copyright Act in connection with the recordation of coin-operated phonorecord players; to modify the requirement for the "full address" of an operator of coin-operated phonorecord players to include post office boxes in certain cases; and to make other technical amendments.

DATE: The final regulations are effective on October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Susan Aramayo, Chief, Licensing Division, U.S. Copyright Office, Library of Congress, Washington, D.C. 20557, 703-557-1397.

SUPPLEMENTARY INFORMATION: 17 U.S.C. 116 establishes conditions under which operators of coin-operated phonorecord players—commonly referred to as "jukeboxes"—may obtain a compulsory license for the performance of nondramatic musical works.

A compulsory license permits the use of a copyrighted work without the consent of the copyright owner, if certain conditions are met and royalties paid. Section 116 establishes general rules governing the conditions of the compulsory license for coin-operated phonorecord players, and requires the Register of Copyrights to prescribe regulations governing compulsory license applications and the certificates to be affixed to licensed phonorecord players.

Section 116 also sets forth certain time limitations in connection with applications for recordation of jukeboxes: For jukeboxes already in use on January 1, 1978, the application was to be submitted between January 1, 1978, and January 31, 1978; for jukeboxes put into use after January 1, 1978, the application must be submitted before or within 1 month after the date performances are first made available on that player; and for jukeboxes previously recorded in the Copyright Office the application must be submitted between January 1 and January 31 of each succeeding year that the machine is in use. In addition, as an exception to the requirement that applications are to be accompanied by a royalty fee of $8 per player, the statute provides that, if performances "are made available on a particular phonorecord player for the first time after July 1 of any year, the royalty fee to be deposited for the remainder of that year" is $4.

On March 30, 1977, we published in the FEDERAL REGISTER (42 FR 16838) an advance notice of proposed rulemaking in this matter. After consider-

ing the comments received in response to the advance notice, on October 11, 1977, we published a proposed regulation (42 FR 54840) and, on October 25, 1977, we held a public hearing on the proposal. After considering the comments made at the hearing and in supplemental filings, on December 20, 1977, we published (42 FR 63779) final regulations implementing section 116. In the light of our experience since January of this year, on August 23, 1978, we adopted interim amendments to the regulations (43 FR 37451). The amendments are fully discussed in the preamble to our notice of August 23, 1978; in summary:

1. We amended § 201.16(b)(1)(ii) to provide that, after consultation with postal officials, we will accept a post office box or similar designation as a jukebox operator's "address" in special cases where no better address for the operator's place of business is possible.

2. We amended § 201.16(c) to state our general operating principle in examining applications for recordation of jukeboxes: We will require the correction of errors appearing on the face of the application, but will generally not go beyond the information in the document itself. This amendment also makes clear that the issuance of a jukebox certificate by the Copyright Office shall not be considered "a determination that the application was properly prepared or that all of the requirements to qualify for a compulsory license have been satisfied."

3. We added a new paragraph (f) to § 201.16 to explain our handling of the time limitations established in the statute for the filing of applications for recordation of jukeboxes and the payment of royalty fees. This amendment: (a) States the general rule that the Copyright Office will not inquire into the timeliness of applications and will accept late filings where a proper fee is paid, for whatever effect a court may accord to such filings; (b) requires that applications filed before June 1 of a particular year and accompanied by $4 fees for listed players be supplemented by a statement that the players will not be put into use until after July 1 of that year; and (c) makes clear that applications filed after July 1 of a particular year and accompanied by $8 fees will be considered by the Copyright Office to cover players first put into use before that date.

4. We added a new paragraph (g) to § 201.16 to deal with situations where jukebox operators discover errors in their applications or certificates. This amendment specifies that corrections (and consequent refunds) will be made after the issuance of certificates in four cases: The duplicate listing of players; the entry of certain erroneous information in the application; Copyright Office error in issuing a certificate; and overpayment of an $8 fee where only a $4 fee is required. The amendment also establishes specific conditions under which corrections and refunds will be made in these cases.

5. We amended § 201.16(b)(2)(i) to require that applications for players that lack serial numbers must give the model number of the player only where that number is known to the operator.

6. We made a technical amendment to § 201.16(d) to correct a typographical error.

Members of the public were given until October 11, 1978, to comment on the interim amendments. One comment, from the American Society of Composers, Authors and Publishers (ASCAP), was received. That comment "fully support[ed]" the interim amendments.

The interim amendments as published on August 23, 1978, are adopted as final and are set forth below.

Dated: October 24, 1978.

BARBARA RINGER,
*Register of Copyrights.*

DANIEL J. BOORSTIN,
*The Librarian*
*of Congress.*

FINAL AMENDMENTS

Part 201 of 37 CFR Chapter II is amended:

§ 201.16 [Amended]

1. By revising § 201.16(b)(1)(ii) (as adopted on Jan. 1, 1978) to read as follows:

* * * * *

(b) * * *
(1) * * *
(ii) The full address of the operator's place of business, including a specific number and street name or rural route. A post office box number or similar designation will not generally be accepted. The Copyright Office will accept a post office box number or similar designation in special cases if, after consulting with officials of the U.S. Postal Service, the Office concludes that no better address for the operator's place of business is possible.

* * * * *

2. By adding the words "if known;" following the phrase "Its model number" in § 201.16(b)(2)(i).

3. By correcting the phrase "a statement in accordance with section 1746 or title 28 of the United States Code, and signed * * *" in § 201.16(d) to read "a statement in accordance with section 1746 of title 28 of the United States Code, made and signed * * *."

4. By adding a new paragraph (4) to § 201.16(c) to read as follows:

* * * * *

(c) *Certificate.* * * *

* * * * * * *

(4) The Copyright Office will advise jukebox operators of errors or omissions appearing on the face of forms submitted to it, and will require that any such obvious errors or omissions (including errors in the calculation of fees) be corrected before certificates will be issued. However, the issuance of a certificate by the Copyright Office shall establish only the fact, date of issuance, and date of expiration of the certificate; it shall in no case be considered a determination that the application form was properly prepared or that all of the requirements to qualify for a compulsory license have been satisfied.

* * * * *

5. By adding new paragraphs (f) and (g) to § 201.16 to read as follows:

* * * * *

(f) *Time limitations.* (1) The Copyright Office may, when it considers it reasonable and appropriate, advise applicants of the time limitations governing the filing of applications and amount of royalty fees as set forth in 17 U.S.C. 116. However, except as set forth in paragraph (f)(2) of this section, the Office will normally not inquire into the date on which performances were actually made available on particular phonorecord players identified in the application or whether such players were previously recorded in the Copyright Office. In the following cases, the Office's acceptance of the application and issuance of a certificate is not to be considered as relieving the operator from any legal consequences arising from the late filing, and shall have only such effect as may be attributed to it by a court of competent jurisdiction: (i) Where, on the date the application covering a particular phonorecord player was received in the Copyright Office, performances had been first made available on that player more than 1 month earlier; and (ii) where, in 1979 and thereafter, a particular phonorecord player had been recorded in the Copyright Office during the previous calendar year, but the application is received after January 31 of the year in question.

(2) In the case of an application that is received in the Copyright Office before June 1 of a particular year, and that is accompanied by a fee of $4 for each player identified in the application, the Copyright Office will not

issue certificates unless the application is accompanied or supplemented by a statement that performances will not be made available on such players until after July 1 of that year. The statement shall be in the form of a letter addressed to the Licensing Division of the Copyright Office, and shall be signed by the operator named in the application or the duly authorized agent of that operator. If a business entity is the operator, the signature or name shall be that of an officer if the entity is a corporation, or a partner if the entity is a partnership, and shall be accompanied by the organizational title of that person. The statement shall, for all purposes including section 116(b)(1)(B) of title 17 of the United States Code, be considered a part of the application. The statement described in this paragraph shall not be required in the case of applications covering a particular year received in the Copyright Office after June 1 of that year. In any case, if performances are actually made available for the first time on any players covered by $4 fees on or before July 1 of that year, the Office's acceptance of the application and issuance of a certificate is not to be considered as relieving the operator from any legal consequences arising from the failure to pay the correct fee, and shall have only such effect as may be attributed to it by a court of competent jurisdiction.

(3) If an application received in the Copyright Office after July 1 of any year is accompanied by a royalty fee of $8 for each player identified, the Copyright Office will assume without further inquiry that the application pertains to players on which performances were made available for the first time on or before July 1 of that year.

(g) *Corrections and refunds.* (1) Upon compliance with the procedures and within the time limits set forth in paragraph (g)(3) of this section, corrections to applications for recordation of coin-operated phonorecord players will be made, and corrected certificates and refunds will be issued, in the following cases:

(i) Where the same player, identified by the same serial number or other identifying information, is listed more than once in the same application, or in two or more applications filed during the same year by or on behalf of the same operator. In these cases the operator named in the application shall be entitled to a refund of any duplicate fee paid;

(ii) Where any of the following information was incorrect at the time the application was signed: (A) The operator's name or address; (B) the serial number or name of the manufacturer of a player; or (C) the identifying information required by paragraph (b)(2) of this section. In any such case the Copyright Office will issue a new certificate containing the correct information. Each corrected certificate will be identified by a double asterisk following the name of the manufacturer.

(iii) Where an application contains information that was correct at the time the application was signed but, as the result of Copyright Office error, the certificate contains incorrect information. In this case the Copyright Office will issue a new certificate containing the correct information; and

(iv) Where an application was accompanied by payment of an $8 fee for each phonorecord player listed but, with respect to one or more such players, performances were actually made available for the first time after July 1 of the year in which the application was filed. In this case the operator named in the application shall be entitled to a refund of any excess fee paid and the Copyright Office will issue a new certificate for each player subject to the $4 fee.

(2) Corrected certificates or refunds will not be issued after the issuance of original certificates in the following cases:

(i) Where the application was correct on the date on which the application was signed, but changes (for example, a change in the operator's name or address, or the sale or destruction of a player) took place later;

(ii) Where the application identified one or more players that the operator named in the application never owned or operated, or did not own or operate at the time the application was signed, or where, before the application was signed, an identified player had been destroyed or otherwise rendered permanently incapable of being repaired; or

(iii) In any other case not specifically mentioned in paragraph (g)(1) of this section.

(3) Requests for corrections and refunds in the cases mentioned in paragraph (g)(1) of this section shall be made to the Licensing Division of the Copyright Office, and shall meet the following conditions:

(i) The request must be in writing, must be clearly identifiable as a request for a correction or refund, and, except in the cases described in paragraph (g)(1)(iii) of this section, must be received in the Copyright Office with the appropriate fee, certificate or certificates, and affidavit (where required) before the expiration of 30 days from the date on which the original certificate was issued by the Copyright Office. A request made by telephone or by telegraphic or similar unsigned communication, will be considered to meet this requirement, if it clearly identifies the basis of the request, if it is received in the Copyright Office within the required 30-day period, and if a written request meeting all the conditions of this paragraph (g)(3) of this section is also received in the Copyright Office within 14 days after the end of such 30-day period.

(ii) The original application pertaining to each correction must be sufficiently identified in the request so that it can be readily located in the records of the Copyright Office.

(iii) The original certificate pertaining to each correction or refund must be returned to the Copyright Office within the time period prescribed by paragraph (g)(3)(i) of this section. No request will be processed until the applicable certificate is returned; and

(iv) The request must contain a clear statement of the facts on which it is based, in accordance with the following requirements:

(A) In the case of duplicate listings (paragraph (g)(1)(i)) a precise and accurate identification of the particular player or players must be given.

(B) In the case of incorrect information given in the application (paragraph (g)(1)(ii) of this section) the request must clearly identify the erroneous information and provide the correct information.

(C) In the case of a certificate that contains erroneous information resulting from Copyright Office error (paragraph (g)(1)(iii) of this section) the error must be clearly indicated.

(D) In the case of overpayment within the meaning of paragraph (g)(1)(iv) of this section, the request must be accompanied by an affidavit under the official seal of any officer authorized to administer oaths within the United States, or a statement in accordance with section 1746 of title 28 of the United States Code, made and signed by the operator named in the application of the duly authorized agent of that operator in accordance with paragraph (b)(1)(vi) of this section. The affidavit or statement shall: aver that performances of nondramatic musical works were actually made available on the particular phonorecord player(s) for the first time after July 1 of the year covered by the application; Give the exact date, including month, day, and year on which such performances were first made available and the location where that event took place; specifically identify the particular phonorecord player(s) involved by the same identifying information as given in the application; and include a brief explanation of the reason for the original submission of a $8 fee for those players.

(v) In those cases where corrections or refunds are to be made under paragraph (g)(1) of this section, the request must be accompanied by a certi-

fied check, cashier's check, or money order in the following amount: (A) In the case of a duplicate listing (paragraph (g)(1)(i) of this section): $4 for each application involved; (B) in the case of an error in the operator's name or address (paragraph (g)(1)(ii)(A)) or overpayment within the meaning of paragraph (g)(1)(iv) of this section: $4 for each separate original application pertaining to the certificates to be corrected; and (C) in the case of an error in the serial number or name of the manufacturer of the player, or other identifying information (paragraph (g)(1)(ii) (B) and (C) of this section): $4 for each separate certificate to be corrected. No request will be processed until the appropriate fee is received; and

(vi) The request must be signed by the operator named in the application, or the duly authorized agent of the operator, in accordance with paragraph (b)(1)(vi) of this section.

(4) Each request for correction or refund will be made part of the original application in the records of the Copyright Office. Nothing contained in this paragraph (g) shall be considered to relieve the operator from its full obligations under title 17 of the United States Code, including penalties for affixing a certificate to a player other than the one it covers.

(17 U.S.C. 116, 702, 708.)

[FR Doc. 78-30753 Filed 10-30-78; 8:45 am]

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[6560-01-M]

**Title 40—Protection of Environment**

## CHAPTER 1—ENVIRONMENTAL PROTECTION AGENCY

[FRL 960-2]

## PART 65—DELAYED COMPLIANCE ORDERS

### Delayed Compliance Order for Scott Paper Co., Everett, Wash.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of EPA issues a delayed compliance order to the Scott Paper Co. The order requires the company to bring air emissions from its sulfite pulp mill at Everett, Wash., into compliance with certain regulations contained in the federally-approved Washington State Implementation Plan (SIP). Scott Paper Co.'s compliance with the order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the order.

DATE: This rule takes effect on October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr Kenneth Brooks, EPA Region 10, 1200 Sixth Avenue M/S 513, Seattle, Wash. 98101 or telephone 206-399-1387.

SUPPLEMENTARY INFORMATION: On June 9, 1978 the Regional Administrator of EPA's region 10 office published in the FEDERAL REGISTER (43 FR 25147) a notice setting out the provisions of a proposed delayed compliance order for Scott Paper Co. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed order. No public comments or requests for a public hearing were received in response to the proposed notice.

Therefore, a delayed compliance order effective this date is issued to Scott Paper Co. by the Administrator of EPA pursuant to the authority of section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The order places Scott Paper Co. on a schedule to bring its sulfite pulp mill at Everett, Wash., into compliance as expeditiously as practicable with Washington Administrative Code (WAC) 18-04-070 and PSAPCA Regulation I, a part of the federally-approved Washington State Implementation Plan. Scott Paper Co. is unable to immediately comply with these regulations. The order also imposes interim requirements which meet sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If conditions of the order are met, it will permit Scott Paper Co. to delay compliance with the SIP regulations covered by the order until July 1, 1979.

Compliance with the order by Scott Paper Co. will preclude Federal enforcement action under section 113 of the Act for violations of the SIP regulations covered by the order. Citizen suits under section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the order and for violations of the regulations covered by the order which occurred before the order was issued by EPA or after the order is terminated. If the Administrator determined that Scott Paper Co. is in violation of a requirement contained in the order, one or more of the actions required by section 113(d)(a) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under section 307(b) of the Act.

EPA has determined that the order shall be effective upon publication of this notice because of the need to immediately place Scott Paper Co. on a schedule for compliance with the Washington State Implementation Plan.

AUTHORITY: 42 U.S.C. 7413(d), 7601.

Dated: October 24, 1978.

BARBARA BLUM,
*Acting Administrator.*

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

1. By adding § 65.521 to read as follows:

### Subpart WW—Washington

**§ 65.521 EPA Approval of State delayed compliance orders issued to major stationary sources.**

The State orders identified below have been approved by the Administrator in accordance with section 113(d)(2) of the Act and with this part. With regard to each order, the Administrator has made all the determinations and findings which are necessary for approval of the order under section 113(d) of the Act.

| Source | Location | Order No. | SIP regulation(s) involved | Date of adoption | Final compliance date |
|---|---|---|---|---|---|
| Scott Paper Co. | Everett, Wash. | WO2 | WAC 18-04-070, PSAPCA Reg. I. | Mar. 9, 1978 | July 1, 1979. |

[FR Doc. 78-30633 Filed 10-30-78; 8:45 am]

[6560-01-M]

## PART 65—DELAYED COMPLIANCE ORDERS

### Delayed Compliance Order for Georgia-Pacific Corp., Bellingham, Wash.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of EPA issues a delayed compliance order to the Georgia-Pacific Corp. The order requires the company to bring air emissions from its sulfite pulp mill at Bellingham, Wash. into compliance with certain regulations contained in the federally approved Washington State implementation plan (SIP). Georgia-Pacific Corp.'s compliance with the order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violation of the SIP regulations covered by the order.

DATE: This rule takes effect on October 31, 1978.

FOR FURTHER INFORMATION CONTACT:
Mr. Kenneth Brooks, EPA Region X, 1200 Sixth Avenue, M/S 513, Seattle, Wash. 98101 or telephone 206-399-1387.

SUPPLEMENTARY INFORMATION: On May 31, 1978, the Regional Administrator of EPA's region X office published in the FEDERAL REGISTER (43 FR 23615) a notice setting out the provisions of a proposed delayed compliance order for Georgia-Pacific Corp. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed order. No public comments or requests for a public hearing were received in response to the proposal notice.

Therefore, a delayed compliance order effective this date is issued to Georgia-Pacific Corp. by the Administrator of EPA pursuant to the authority of section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The order places Georgia-Pacific Corp. on a schedule to bring its sulfite pulp mill at Bellingham, Wash. into compliance as expeditiously as practicable with Washington Administrative Code 18-04-070(3) and NWAPA Regulation: Section 451—Emission of Air Contaminants; Visual Standard and Section 455—Emission of Particulate Matter, a part of the federally approved Washington State implementation plan. Georgia-Pacific Corp. is unable to immediately comply with these regulations. The order also imposes interim requirements which meet sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the order are met, it will permit Georgia-Pacific Corp. to delay compliance with the SIP regulations covered by the order until June 30, 1979.

Compliance with the order by Georgia-Pacific Corp. will preclude Federal enforcement action under section 113 of the Act for violations of the SIP regulations covered by the order. Citizen suits under section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the order, and for violations of the regulation covered by the order which occurred before the order was issued by EPA or after the order is terminated. If the Administrator determined that Georgia-Pacific Corp. is in violation of a requirement contained in the order, one or more of the actions required by section 113(d)(a) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under section 307(b) of the Act.

EPA has determined that the order shall be effective upon publication of this notice because of the need to immediately place Georgia-Pacific Corp. on a schedule for compliance with the Washington State implementation plan. (Authority: 42 U.S.C. 7413(d), 7601).

Dated: October 24, 1978.

BARBARA BLUM,
*Acting Administrator.*

In consideration of the foregoing, chapter 1 of title 40 of the Code of Federal Regulations is amended as follows:

1. By adding § 65.521 to read as follows:

### Subpart WW—Washington

**§ 65.521 EPA approval of State delayed compliance orders issued to major stationary sources.**

The State orders identified below have been approved by the Administrator in accordance with section 113(d)(2) of the Act and with this part. With regard to each order, the Administrator has made all the determinations and findings which are necessary for approval of the order under section 113(d) of the Act.

| Source | Location | Order No. | SIP regulation involved | Date of adoption | Final compliance date |
|---|---|---|---|---|---|
| Georgia-Pacific..... | Bellingham, Wash. | WO1 | WAC 18-04-070(3). | Dec. 14, 1977..... | June 3, 1979. |

[FR Doc. 78-30634 Filed 10-30-78; 8:45 am]

[4710-05-M]

## Title 41—Public Contracts and Property Management

## CHAPTER 6—DEPARTMENT OF STATE

[Dept. Reg. 108.757]

## PART 6-1—GENERAL

## PART 6-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

### International Narcotics Control Program Procurement

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This amendment to the Department of State procurement regulations incorporates regulations and procedures for procurement under the International Narcotics Control Program as authorized by section 481 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2291), and delegates authority for such procurement.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:
Harry M. Hite, 703-235-9529.

SUPPLEMENTARY INFORMATION: Effective October 1, 1978, procurement support for the International Narcotics Control Program, formerly administered by the Agency for International development, is transferred to the Department of State. Since procurement under this program is authorized by the Foreign Assistance Act, this amendment will permit utilization of Agency for International Development Regulations (chapter 7 of this title) which prescribe procedures for procurement under the act.

Accordingly, subpart 6-1.1 is amended, and a new part 6-4 is added in chapter 6 of title 41 of the Code of Federal Regulations as follows:

1. In subpart 6-1.1, § 6-1.104 is amended by revising paragraph (a) to read as follows:

§ 6-1.104 Applicability.

(a) The DOSPR and the FPR apply to all procurement of personal property and nonpersonal services (including construction) by the Department of State both within and outside the United States except procurement which is exempt from the Federal Property and Administrative Services Act of 1949, as amended (see 40 U.S.C. 474). Procurement under the International Narcotics Control Program is specifically governed by part 6-4 of this chapter.

* * * * *

2. A new part 6-4 is added to read as follows:

## PART 6-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

### Subpart 6-4.50—International Narcotics Control Program Procurement

Sec.
6-4.5000 Scope.
6-4.5001 Applicability.
6-4.5002 Procurement authority.
6-4.5003 Interim regulations.
6-4.5004 Procedures.

AUTHORITY: Sec. 621(a), 75 Stat. 445, 22 U.S.C. 2381(a); Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); Sec. 4, 63 Stat. 111, 22 U.S.C. 2658, as amended.

### Subpart 6-4.50—International Narcotics Control Program Procurement

§ 6-4.5000 Scope.

This subpart incorporates by reference regulations and procedures for procurement under the International Narcotics Control Program authorized by section 481 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2291), and delegates authority for such procurement.

§ 6-4.5001 Applicability.

The provisions of this subpart apply to procurement under the International Narcotics Control Program both within and outside the United States.

§ 6-4.5002 Procurement authority.

The Chief, Supply and Transportation Division, is designated the chief officer responsible for procurement for the International Narcotics Control Program. In this capacity, this officer has the specific authority to enter into and administer contracts. Unless otherwise directed by the Secretary of State or provided for in the regulations of the Department, this officer shall also provide policy direction and prescribe or approve standards, procedures, and internal instructions for the award and administration of contracts both within and outside the United States, including contracts with individuals for personal services abroad. To accomplish the purposes of the International Narcotics Control Program, implementing authorities contained in the Foreign Assistance Act of 1961, as amended, and in sections 1, 2, and 3 of Executive Order No. 11223 of May 12, 1965 may be utilized to the extent this officer deems necessary or appropriate in the performance of the procurement function. Authority to perform functions under this chapter may be redelegated to subordinate personnel and, on a case-by-case basis, to technically qualified personnel of the Foreign Service located at posts overseas.

§ 6-4.5003 Interim regulations.

The Chief, Supply and Transportation Division, is authorized and empowered to utilize those provisions of chapter 7 of this title (included herein by reference), Agency for International Development Procurement Regulations, including any amendments thereto, which this officer deems necessary and appropriate to accomplish the purposes of procurement under the International Narcotics Control Program.

§ 6-4.5004 Procedures.

Internal instructions will be issued to redesignate counterpart Department of State functions, offices, and positions in lieu of those designated in the Agency for International Development procurement regulations (chapter 7 of this title). Any further implementation material may also be included in such instructions.

(Sec. 621(a), 75 Stat. 445, 22 U.S.C. 2381(a); Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); Sec. 4, 63 Stat. 111, 22 U.S.C. 2658, as amended.)

Dated: October 12, 1978.

CYRUS R. VANCE,
*Secretary of State.*

[FR Doc. 78-30763 Filed 10-30-78; 8:45 am]

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[6712-01-M]

### Title 47—Telecommunication

### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 78-681]

### PART 73—RADIO BROADCAST SERVICES

### Reregulation of Radio and TV Broadcasting; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction.

SUMMARY: This action corrects § 73.1225, changed by order published in the FEDERAL REGISTER on October 4, 1978, as 43 FR 45842.

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

FOR FURTHER INFORMATION CONTACT:

Steve Crane, Broadcast Bureau, 202-632-9660.

SUPPLEMENTARY INFORMATION:

Released: October 24, 1978.

In the above captioned *Order*, FCC 78-681, appearing in the FEDERAL REGISTER October 4, 1978, at 43 FR 45842, § 73.1225(c) (2)(iii) and (3) follow § 73.1226 erroneously.

Subdivision "(iii) Chief operator agreements and contracts with first-class operators employed part-time for maintenance duties." and subparagraph "(3) *For TV Stations.* (i) Program, operating and maintenance logs." appear at the end of § 73.1226 in error and should appear at the end of § 73.1225.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
*Secretary.*

[FR Doc. 78-30755 Filed 10-30-78; 8:45 am]

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[7035-01-M]

### Title 49—Transportation

### CHAPTER X—INTERSTATE COMMERCE COMMISSION

### SUBCHAPTER C—ACCOUNTS, RECORDS, AND REPORTS

[Docket No. 36483]

### PART 1200—GENERAL ACCOUNTING REGULATIONS UNDER THE INTERSTATE COMMERCE ACT

### Correction

AGENCY: Interstate Commerce Commission.

ACTION: Rule correction.

SUMMARY: In the above proceeding, published June 19, 1978, 43 FR 26313, the authority citation was inadvertently omitted. This document is being published to show the proper authority citation.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT:

Bryan Brown, Jr., Chief, Section of Accounting, telephone 202-275-7448.

SUPPLEMENTARY INFORMATION: The proper authority citation for the above is:

(49 U.S.C. 20, 320, 913, and 1012.)

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

[FR Doc. 78-30782 Filed 10-30-78; 8:45 am]

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[7035-01-M]

## ACOUNTING FOR CHARITABLE CONTRIBUTIONS

## MISCELLANEOUS CHANGES TO REGULATIONS; CORRECTION

In the matter of Part 1201—Railroad Companies, Subpart A—Uniform System of Accounts for Railroad Companies; Part 1202—Uniform System of Accounts for Electric Railways; Part 1205—Uniform System of Accounts for Refrigerator Car Lines; Part 1206—Uniform System of Accounts for Common and Contract Motor Carriers of Passengers; Part 1207—Uniform System of Accounts for Class I and Class II Common and Contract Motor Carriers of Property; Part 1208—Uniform System of Accounts for Maritime Carriers; Part 1209—Uniform System of Accounts for Inland and Coastal Waterways Carriers; Part 1210—Uniform System of Accounts for Freight Forwarders.

AGENCY: Interstate Commerce Commission.

ACTION: Rule correction.

SUMMARY: In the above proceeding, published December 23, 1977, 42 FR 64350, the authority citation was inadvertently omitted. This document is being published to show the proper authority citation.

EFFECTIVE DATE: January 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Bryan Brown, Jr., Chief, Section of Accounting, telephone 202-275-7448.

SUPPLEMENTARY INFORMATION: The proper authority citation for the above is:

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

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

[FR Doc. 78-30783 Filed 10-30-78; 8:45 am]

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[7035-01-M]

[No. 36730]

## DESIGNATING A CLASS III RAILROAD FOR ACCOUNTING AND REPORTING PURPOSES; CORRECTION

In the matter of Part 1201A—Uniform System of Accounts for Railroad Companies; Part 1240—Classes of Carriers; Part 1241—Annual, Special or Periodic Reports; Carriers Subject to Part I of the Interstate Commerce Act.

AGENCY: Interstate Commerce Commission.

ACTION: Rule correction.

SUMMARY: In the above proceeding, published June 29, 1978, 43 FR 28204, the authority citation was inadvertently omitted. This document is being published to show the proper authority citation.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Bryan Brown, Jr., Chief, Section of Accounting, telephone 202-275-7448.

SUPPLEMENTARY INFORMATION: The proper authority citation for the above is:

(49 U.S.C. 12 and 20.)

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

[FR Doc. 78-30780 Filed 10-30-78; 8:45 am]

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[7035-01-M]

[No. 36604]

## ACCOUNTING FOR LEASES; CORRECTION

In the matter of appendix A, Part 1201A—Uniform System of Accounts for Railroad Companies; Appendix B, Part 1201A—Uniform System of Accounts for Railroad Companies; Appendix C, Part 1202—Uniform System of Accounts for Electric Railways; Appendix E, Part 1205—Uniform System of Accounts for Refrigerator Car Lines; Appendix F, Part 1206—Uniform System of Accounts for Common and Contract Motor Carriers of Passengers; Appendix G, Part 1207—Uniform System of Accounts for Class I and Class II Common and Contract Motor Carriers of Propety; Appendix H, Part 1208—Uniform System of Accounts for Maritime Carriers; Appendix I, Part 1209—Uniform System of Accounts for Inland and Coastal Waterways Carriers; Appendix J, Part 1210—Uniform System of Accounts for Freight Forwarders.

AGENCY: Interstate Commerce Commission.

ACTION: Rule correction.

SUMMARY: In the above proceeding, published October 27, 1977, 42 FR 56610, the authority citation was inadverently omitted. This document is being published to show the proper citation.

EFFECTIVE DATE: January 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Bryan Brown, Jr., Chief, Section of Accounting, telephone 202-275-7448.

SUPPLEMENTARY INFORMATION: The proper authority citation for the above is:

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

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

FR Doc. 78-30779 Filed 10-30-78; 8:45 am]

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[7035-01-M]

[Docket No. 36923]

## UNIFORM SYSTEM OF ACCOUNTS

### Accounting for Prior Period Adjustments; Correction

In the matter of Part 1201A—Railroad Companies; Part 1202—Electric Railways; Part 1205—Refrigerator Car Lines; Part 1206—Common and Contract Motor Carriers of Passengers; Part 1207—Class I and Class II Common and Contract Motor Carriers of Property; Part 1208—Maritime Carriers; Part 1209—Inland and Coastal Waterways Carriers; Part 1210—Freight Forwarders; Part 1211—Rate Bureaus.

AGENCY: Interstate Commerce Commission.

ACTION: Rule correction.

SUMMARY: In the above proceeding, published August 23, 1978, 43 FR 47455, the authority citation was inadvertently omitted. This document is being published to show the proper authority citation.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Bryan Brown, Jr., Chief, Section of Accounting, telephone 202-275-7448.

SUPPLEMENTARY INFORMATION: The proper authority citation for the above is:

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

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

[FR Doc. 78-30781 Filed 10-30-78; 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 Ch. IX]

[Docket No. AO-382]

### MELONS GROWN IN SOUTH TEXAS

### Hearing on Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and notice of hearing.

SUMMARY: A public hearing will be held beginning 9 a.m. on November 28, 1978, at the Hidalgo County Courthouse, 100 North Closner Street, Edinburg, Tex. 78539, regarding a proposed marketing agreement and order for melons grown in south Texas.

The public hearing is for the purpose of:

(a) Receiving evidence with respect to the economic and marketing conditions which relate to the proposed marketing agreement and order, hereinafter set forth;

(b) Determining whether the handling of melons grown in the proposed production area is in the current of interstate or foreign commerce or directly burdens, obstructs or affects interstate or foreign commerce;

(c) Determining whether there is a need for a marketing agreement or order regulating the handling of such melons; and

(d) Determining whether the proposed marketing agreement and order or appropriate modification thereof will tend to effectuate the declared policy of the act.

DATES: Hearing begins November 28, 1978.

ADDRESS: Hearing will be held at: Auditorium of the Hidalgo County Courthouse, 100 North Closner Street, Edinburg, Tex. 78539.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The proposed marketing agreement and order, the provisions of which are as follows, were submitted with a request for a hearing thereon by the South Texas Melon Steering Committee. The hearing is called 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). The proposed marketing agreement and order have not received the approval of the Secretary of Agriculture.

DEFINITIONS

§ .1 *Secretary.*

"Secretary" means the Secretary of Agriculture of the United States, or any other officer or employee of the Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

§ .2 *Act.*

"Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

§ .3 *Person.*

"Person" means an individual, partnership, corporation, association, or any other business unit.

§ .4 *Production area.*

"Production area" means the counties of Bee, Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, La Salle, Live Oak, McMullen, Nueces, Refugio, San Patricio, Starr, Webb, Willacy, and Zapata in the State of Texas.

§ .5 *Melons.*

"Melons" means all varieties of *Cucumis melo*, commonly called muskmelons and including but not limited to varieties *reticulatus* and *inodorus*, grown in the production area. Such varieties include cantaloupes, honeydew and honey ball melons. Watermelons (*Citrullus* vulgaris) are not included in the foregoing definition.

§ .6 *Handler.*

"Handler" is synonymous with "shipper" and means any person (except a common or contract carrier of melons owned by another person) who handles melons or causes melons to be handled.

§ .7 *Handle.*

"Handle" or "ship" means to harvest, grade, package, sell, transport, or in any other way to place melons grown in the production area, or cause such melons to be placed, in the current of commerce within the production area or between the production area and any point outside thereof. Such term shall not include the transportation, sale, or delivery within the production area of field-run melons to a person for the purpose of having such melons prepared for market.

§ .8 *Grower.*

"Grower" is synonymous with "producer" and means any person engaged in a proprietary capacity in the production of melons for market.

§ .9 *Committee.*

"Committee" means the South Texas Melon Committee established pursuant to § .22.

§ .10 *Fiscal period.*

"Fiscal period" means the annual period beginning and ending on such dates as may be approved by the Secretary pursuant to recommendations of the committee.

§ .11 *Grade, size, and maturity.*

"Grade," "size," and "maturity" mean, respectively, any of the officially established grade, size, or maturity definitions as set forth in the U.S. Standards for Grades of Cantaloupes (§§ 2851.475-2851.494(c) of this title) or U.S. Standards for Grades of Honey Dew and Honey Ball Type Mellons (§§ 2851.3740-2851.3749 of this title), including amendments, modifications, or variations thereof, or, such other grades, sizes, and maturities as may be recommended by the committee and approved by the Secretary.

§ .12 *Grading.*

"Grading" is synonymous with "preparing melons for commercial market" and means sorting or separation of melons into grades, sizes, maturities, or packs, or any combination thereof, for handling.

§ .13 *Pack.*

"Pack" means a quantity of melons specified by grade, size, weight, or count, or by type or conditions of container, or any combination of these recommended by the committee and approved by the Secretary.

§ .14 *Container.*

"Container" means any carton, crate, box, bag, hamper, pallet bin, package, basket, bulk load, or any other type of receptacle used in handling melons.

§ .15 *Varieties.*

"Varieties" means and includes all classifications, subdividions, or types of melons according to those definitive characteristics now and hereinafter recognized by the U.S. Department of Agriculture or recommended by the committee, and approved by the Secretary.

§ .16 *Export.*

"Export" means shipment of melons to any destination which is not within the 48 contiguous States, or the District of Columbia, of the United States.

§ .17 *District.*

"District" means each of the geographic divisions of the production area initially established pursuant to § .24 or as reestablished pursuant to § .25.

§ .18 *Part and subpart.*

"Part" means the Order Regulating the Handling of Melons in South Texas and all rules and regulations, and supplementary orders issued thereunder. The aforesaid Order Regulating the Handling of Melons Grown in South Texas shall be a "subpart" of such "part."

COMMITTEE

§ .22 *Establishment and membership.*

(a) There is hereby established a South Texas Melon Committee, consisting of ten (10) members, to administer the terms and provisions of this part. Six members shall be growers, three members shall be handlers, and one shall be a public member. Each shall have an alternate who shall have the same qualifications as the member.

(b) Each member, other than the public member, shall be an individual who is, prior to his selection and during his term of office (1) a resident of the production area, and (2) a grower or handler, or an officer or employee of a grower or handler, or of growers' cooperative marketing organization.

(c) Five members shall be growers from district 1 and one members shall be a grower from district 2. No person, if he handles melons, shall be eligible for selection as a grower member on the committee unless at least 100 percent of the melons handled by him during the fiscal period immediately preceding his proposed selection to the committee were his own production, or unless such person is an officer or employee of a growers' cooperative marketing association. Three members shall be handlers from district 1.

(d) The public member and alternate shall be a resident of the production area and be neither a grower nor a handler and shall have no direct financial interest in the commercial production, financing, buying, packing or marketing of melons, except as a consumer, nor shall such person be a director, officer or employee of any firm so engaged.

§ .23 *Term of office.*

(a) Except as otherwise provided in paragraph (b) of this section, the term of office of committee members and their respective alternates shall be for 2 years and shall begin as of March 1 and end the last day of February or for such other 2-year period as the committee may recommend and the Secretary approve. The terms shall be so determined that approximately one-half of the total committee membership shall terminate each year. Members and alternates shall serve in such capacity for the portion of the term of office for which they are selected and have qualified, and until their respective successors are selected and have qualified;

(b) The term of office of the initial members and alternates shall begin on the effective date of this subpart. Approximately one-half the initial committee members and alternates shall serve for a 1 year term.

§ .24 *Districts.*

To determine a basis for selecting committee members, the following districts of the production area are hereby initially established:

District No. 1: (Lower Valley) the counties of Cameron, Hidalgo, Starr, Brooks, Kleberg, Jim Hogg, Kenedy, and Willacy in the State of Texas.

District No. 2: (Laredo) the counties of Zapata, Webb, Duval, Jim Wells, Nueces, San Patricio, La Salle, McMullen, Live Oak, Bee, and Refugio in the State of Texas.

§ .25 *Redistricting.*

The committee may recommend, and pursuant thereto, the Secretary may approve, the reapportionment of members among districts, and the reestablishment of districts within the production area. In recommending any such changes, the committee shall give consideration to:

(a) Shifts in melon acreage within the districts and within the production area during recent years;

(b) The importance of new production in its relation to existing districts;

(c) The equitable relationship of committee membership and districts; and

(d) Other relevant factors. No change in districting or in apportionment of members within districts may become effective less than 30 days prior to the date on which terms of office begin each year and no recommendations for such redistricting or reapportionment may be made less than 6 months prior to such date.

§ .26 *Nominations.*

(a) Initial members. For nominations to the initial committee, the meeting or meetings may be sponsored by the U.S. Department of Agriculture or by any agency or group requested to do so by the Department. The nominations, resulting from these meetings, for each of the six initial grower and three initial handler members of the committee, together with nomination for the initial alternate members for each position shall be submitted to the Secretary prior to the effective date of this subpart. In the event nominations for initial members and alternate members of the committee are not filed pursuant to, and within the time specified in this section, the Secretary may select such initial members and alternate members without regard to nominations, but selection shall be on the basis of the representation provided for in § .22.

(b) Successor members. (1) The committee shall hold or cause to be held, not later than January 15 of each year, or such other date as may be specified by the Secretary, a meeting or meetings of growers and handlers in each district for the purpose of designating at least one nominee for each position as member and for each position as alternate member of the committee which is vacant, or which is about to become vacant;

(2) The names of nominees shall be supplied to the Secretary at such time and in such manner and form as he may prescribe;

(3) Only growers may participate in designating grower nominees and only handlers may participate in designating handler nominees to the committee;

(4) Only growers and handlers who are present at such nomination meetings, or represented at such meetings by a duly authorized employee, may participate in the nomination and election of nominees for members and their alternates.

(c) Each person, whether grower or handler, is entitled to cast only one vote on behalf of himself, his agents,

subsidiaries, affiliates, and representatives in designating nominees for committee members and alternates. An eligible voter's privilege of casting only one vote shall be construed to permit a voter to cast one vote for each position to be filled;

(d) The public member and alternate member shall be nominated by the members of the committee. The public member and alternate member shall not be growers or handlers, or employees of growers or handlers. The committee shall recommend rules for receiving names of persons to be considered for nomination to the public member and alternate positions. Rules shall also be recommended for establishing eligibility of persons nominated to the public member and alternate positions. The persons nominated for the public member and alternate positions shall be submitted by the incumbent committee to the Secretary by January 15, or such other date recommended by the committee and approved by the Secretary, of the years the terms expire together with information deemed pertinent by the committee or as requested by the Secretary. The names of the nominees for the initial public member and alternate shall be submitted to the Secretary not later than 90 days after the first regular meeting of the initial South Texas Melon Committee.

§ .27 *Selection.*

Committee members and alternates shall be selected by the Secretary on the basis of representation provided for in § .22 from nominations made pursuant to § .26.

§ .28 *Failure to nominate.*

If nominations, including initial nominations, are not made within the time and manner prescribed in § .26, the Secretary may, without regard to nominations, select the members and alternates on the basis of the representation provided for in § .22.

§ .29 *Acceptance.*

Any person selected by the Secretary as member or as an alternate member of the committee shall, prior to serving as such, qualify by filing a written acceptance with the Secretary within the time period specified by the Secretary.

§ .30 *Vacancies.*

To fill committee vacancies, the Secretary may select members or alternates from nominees on the latest nomination reports or from nominations made in the manner specified in § .26 or from other eligible persons. If the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, the vacancy may be filled without regard to nomination, but such selection shall be made on the basis of representation provided for in § .22.

§ .31 *Alternate member.*

An alternate member of the committee shall act in the place and stead of the member for whom he is an alternate, during such member's absence or when designated to do so by such member. In the event both a member of the committee and his alternate are unable to attend a commmittee meeting, the member or his alternate or the committee, in that order, may designate another alternate from the same district and the same group (handler or grower) to serve in such member's stead. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor of such member is selected and has qualified. The committee may request the attendance of alternates at any or all meetings, notwithstanding the expected or actual presence of the respective members.

§ .32 *Procedure.*

(a) Seven members of the committee shall be necessary to constitute a quorum and the same number of concurring votes shall be required to pass any motion or approve any committee actions.

(b) In assembled meetings all votes shall be cast in person. However, the committee may provide for meetings by telephone, telegraph, or other means of communication and any vote cast at such meetings shall be promptly confirmed in writing and recorded in the minutes of each meeting so as to reflect how each member voted.

§ .33 *Expenses and compensation.*

Members and alternates, when serving as members of the committee, shall serve without compensation but shall be reimbursed for such expenses authorized by the committee and necessarily incurred by them in attending committee meetings and in the performance of their duties under this part: *Provided,* That the committee at its discretion may request the attendance of one or more alternates at any or all meetings notwithstanding the expected or actual presence of the respective members and may pay expenses as aforesaid.

§ .34 *Power.*

The committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms;

(b) To make rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violation of the provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ .35 *Duties.*

The committee shall have, among others, the following duties:

(a) As soon as practicable after the beginning of each term of office, to meet and organize, to select a chairman and such other officers as may be necessary, to select subcommittees, and to adopt such rules, regulations, and bylaws for the conduct of its business as it deems necessary, and to recommend nominees for the public member and alternate;

(b) To act as intermediary between the Secretary and any grower or handler;

(c) To furnish to the Secretary such available information as he may request;

(d) To appoint such employees, agents, and representatives as it may deem necessary, to determine the compensation and define the duties of each such person, and to protect the handling of committee funds through fidelity bonds;

(e) To investigate from time to time and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to melons;

(f) To recommend research projects to the Secretary in accordance with this part;

(g) To notify handlers of each meeting of the committee to consider recommendations for regulations and of all regulatory actions taken which might affect growers or handlers and to provide such notification to producers through appropriate news releases or such other means as may be available to the committee;

(h) To give the Secretary the same notice of meetings of the committee and its subcommittee as is given to its members;

(i) To prepare a marketing policy;

(j) To recommend marketing regulations to the Secretary;

(k) To recommend rules and procedures for, and to make determination in connection with appropriate safeguards;

(l) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee and such minutes, books, and records shall be subject to examination at any time by the Secretary or his authorized agent or representative. Minutes of each committee meeting shall be reported promptly to the Secretary.

(m) Prior to or at the beginning of each fiscal period, to prepare a budget or anticipated expenses for such fiscal period, together with a report thereon;

(n) To prepare periodic statements of the financial operations of the com-

mittee and to make copies of each such statement available to producers and handlers for examination at the office of the committee;

(o) To prepare and forward to the Secretary, prior to the last day of each fiscal period, an annual report, and make a copy available to each handler and grower who requests it. This annual report shall contain at least:

(1) A complete review of the regulatory operations during the fiscal period.

(2) An appraisal of the effect of such regulatory operations upon the melon industry; and

(3) Any recommendations for changes in the program.

(p) To cause the books of the committee to be audited by a competent accountant at least once each fiscal period and at such other times as the committee may deem necessary or as the Secretary may request. The report of such audit shall show the receipt and expenditure of funds collected pursuant to this part. Two copies of such report shall be furnished to the Secretary and a copy of each such report shall be made available at the principal office of the committee for inspection by growers and handlers; and

(q) To consult, cooperate, and exchange information with other marketing order committees and other individuals or agencies in connection with all proper activities and objectives under this part.

EXPENSES AND ASSESSMENTS

§ .40 *Expenses.*

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred during each fiscal period by the committee for its maintenance and functioning, and for such purposes as the Secretary, pursuant to this subpart, determines to be appropriate. Each first handler's pro rata share of such expenses shall be proportionate to the ratio between the total quantity of melons handled by him as the first handler thereof during a fiscal period and the total quantity of melons so handled by all handlers as first handlers thereof during such fiscal period.

§ .41 *Budget.*

Prior to or at the beginning of each fiscal period and as may be necessary thereafter, the committee shall prepare an estimated budget of income and expenditures necessary for the administration of this part. The committee may recommend a rate of assessment calculated to provide adequate funds to defray its proposed expenditures. The committee shall present such budget to the Secretary with an accompanying report showing the basis for its calculations.

§ .42 *Assessments.*

(a) The funds to cover the committee's expenses shall be acquired by the levying of assessments upon handlers as provided for in this subpart. Each handler who first handles melons shall pay assessments to the committee upon demand, which assessments shall be in payment of such handler's pro rata share of the committee's expenses;

(b) Assessments shall be levied during each fiscal period upon handlers at a rate per unit established by the Secretary. Such rates may be established upon the basis of the committee's recommendations and other available information;

(c) At any time during or after a given fiscal period the committee may recommend the approval of an amended budget and an increase in the rate of assessment in conformance with § .41. Upon the basis of such recommendations, or other available information, the Secretary may approve an amended budget and increase the assessment rate. Such increase shall be applicable to all melons which were handled by each first handler thereof during such fiscal period.

(d) The payment of assessments for the maintenance and functioning of the committee may be required irrespective of whether particular provisions of this part are suspended or become inoperative;

(e) To provide funds for the administration of the provisions of this part the committee may accept the payment of assessments in advance;

(f) If a handler does not pay his assessment within the time prescribed by the committee, the assessment may be increased by a late payment charge or an interest charge at rates prescribed by the committee with the approval of the Secretary.

§ .43 *Accounting.*

(a) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes specified in this part. At the end of the fiscal period an annual financial audit shall be conducted by a competent accountant and two copies sent to the Secretary;

(b) The Secretary may at any time require the committee, its members and alternates, employees, agents, and all other persons to account for all receipts and disbursements, funds, property, or records for which they are responsible. Whenever any person ceases to be a member of the committee or alternate, he shall account to his successor, the committee, or to the person designated by the Secretary, for all receipts, disbursements, funds, and property (including but not limited to books and other records) pertaining to the committee's activities for which he is responsible, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in the successor, the committee, or person designated by the Secretary, the right to all such property and funds and all claims vested in such person;

(c) The committee may make recommendations to the Secretary for one or more of the members thereof, or any other person to act as a trustee for holding records, funds, or any other committee property during periods of suspension of this part, or during any period or periods when regulations under this part are not in effect, and, if the Secretary determines such action appropriate, he may direct that such person or persons may act as such trustee or trustees.

§ .44 *Excess funds.*

(a) If, at the end of a fiscal period the assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund of any such assessments which represent payments by the handler in excess of his pro rata share, shall be credited with such refund against his operations of the following fiscal period or such excess shall be accounted for in accordance with one of the following:

(1) The committee, with the approval of the Secretary, may establish an operating monetary reserve and may carry over to subsequent fiscal periods excess funds in a reserve so established, except funds in the reserve shall not exceed approximately two fiscal periods' expenses. Such reserve funds may be used (i) to defray any expenses authorized under this part, (ii) to defray expenses during any fiscal period prior to the time assessment income is sufficient to cover such expenses, (iii) to cover deficits incurred during any fiscal period when assessment income is less than expenses, (iv) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative, and (v) to cover necessary expenses of liquidation in the event of termination of this part. Any funds remaining after termination should be refunded to handlers on a pro rata basis. If it is found impracticable to return such remaining funds to handlers, such funds shall be disposed of in such manner as the Secretary may determine to be appropriate;

(2) If such excess is not retained in a reserve or used to defray necessary expenses of liquidation, as provided for in subparagraph (1) of this paragraph, it shall be refunded proportionately to the handlers from whom collected, except any sum paid by any handler in excess of his pro rata share of the expenses during any fiscal period may be

applied by the committee at the end of such fiscal period to any outstanding obligations due the committee from such handler.

RESEARCH AND DEVELOPMENT

§ .48 *Research and development.*

The committee, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research, and development projects designed to assist, improve, or promote the marketing, distribution, consumption, or efficient production of melons. The expenses of such projects shall be paid from funds collected pursuant to § .42.

REGULATIONS

§ .50 *Marketing policy.*

(a) Prior to or at the same time initial recommendations in any fiscal period are made pursuant to § .51, and as the Secretary may require, the committee shall prepare a marketing policy statement. Notice of such marketing policy shall be given to producers, handlers, and other interested parties by bulletins, newspapers, or other appropriate media, and copies thereof shall be submitted to the Secretary and shall be available at the committee office to all interested parties;

(b) Marketing policy statements relating to recommendations for regulations shall give appropriate consideration to melon supplies for the remainder of the season, with special consideration to:

(1) Estimates of total supplies including grade, size, and quality thereof, in the production area;

(2) Estimates of supplies of melons in competing areas;

(3) Estimates of supplies of other competing commodities;

(4) Market prices by grades, sizes, containers, and packs;

(5) Anticipated marketing problems;

(6) Level and trend of consumer income; and

(7) Other relevant factors.

§ .51 *Issuance of regulations.*

(a) The Secretary shall limit by regulation the handling of melons when he finds from the recommendations and information submitted by the committee, or from other available information, that such regulations would tend to effectuate the declared policy of the act.

(b) Such regulations may:

(1) Limit the handling of particular grades, sizes, maturities, qualities, or packs, or any combination thereof, of any or all varieties of melons during any period;

(2) Limit the handling of particular grades, sizes, naturities, qualities, or packs of melons differently for different varieties, for different districts, for different markets, for different containers, or any combination of the foregoing, during any period;

(3) Fix the size, capacity, weight, dimension, or pack of the container, or containers, which may be used in the packaging or handling of melons, including appropriate container markings to identify the contents thereof.

(c) The regulations or any portions of such regulations issued hereunder may be amended, modified, suspended, or terminated by the Secretary whenever it is determined:

(1) That such action is warranted upon recommendation of the committee or other available information;

(2) That such action is essential to provide relief from inspection, assessment, or regulations under paragraph (b) of this section for minimum quantities less than customary commercial transactions; or

(3) That regulations issued hereunder obstruct or no longer tend to effectuate the declared policy of the act.

§ .54 *Handling for special purposes.*

Regulations in effect pursuant to § .42, § .52, or § .60 may be modified, suspended, or terminated by the Secretary, upon recommendation of the committee, to facilitate handling of melons for: (a) Relief or charity, (b) experimental purposes, (c) exports, and (d) other special purposes, which may be recommended by the committee and approved by the Secretary.

§ .55 *Safeguards.*

The committee, with the approval of the Secretary, may establish, through rules and regulations, the requirements with respect to proof that shipments made pursuant to § .54 were handled and used for the purpose stated.

§ .56 *Notification of regulation.*

The Secretary shall promptly notify the committee of regulations issued and of any modification, suspension, or termination thereof. The committee shall give notice thereof to all handlers of melons in the production area. In addition, the committee shall make the information available to growers through appropriate news releases or such other means as may be available.

INSPECTION

§ .60 *Inspection and certification.*

(a) Whenever the handling of melons is regulated pursuant to § .52 or at other times when recommended by the committee and approved by the Secretary, no handler shall handle melons unless they are inspected by an authorized representative of the Federal-State Inspection Service and are covered by a valid inspection certificate, except when relieved from such requirements pursuant to § .52(c), or § .54, or paragraph (b) of this section. The cost of such inspection shall be borne by the applicant.

(b) Regrading, resorting, repacking any lot of melons, or breaking any lot (without continuing identification of applicable inspection or subcertification thereof) shall invalidate any applicable inspection certificate insofar as the requirements of this section are concerned. No handler shall handle melons after a lot has been broken, regraded, repacked, or resorted, or in any other way additionally prepared for market, unless such melons are inspected by an authorized representative of the Federal or Federal-State Inspection Service. Such inspection requirements on regraded, resorted, repacked, or broken lots of melons may be modified, suspended or terminated upon recommendation by the committee, and approval of the Secretary.

(c) Insofar as the requirements of this section are concerned, the length of time for which an inspection certificate is valid may be established by the committee with the approval of the Secretary.

(d) When melons are inspected in accordance with the requirements of this section, a copy of each inspection certificate issued shall be made available to the committee by the Inspection Service.

(e) The committee may recommend and the Secretary may require that no handler shall transport or cause the transportation of melons by motor vehicle or by other means unless such shipment is accompanied by a copy of the inspection certificate issued thereon, or such other documents as may be required by the committee. Such certificates or documents shall be surrendered to proper authorities at such time and in such manner as may be designated by the committee, with the approval of the Secretary.

REPORTS

§ .80 *Reports.*

Upon request of the committee, made with the approval of the Secretary, each handler shall furnish to the committee, in such manner and form and at such time as it may prescribe, such reports and other information as may be necessary for the committee to perform its duties under this part.

(a) Such reports may include, but are not necessarily limited to, the following:

(1) The number of acres of melons and the approximate dates planted, for all melons which will be handled by each handler;

(2) The quantities of melons received by a handler;

(3) Identification certificates relating to the melons which were handled pursuant to § .52 or § .54 or both.

(b) All such reports shall be held under appropriate protective classification and custody by the committee, or duly appointed employees thereof, so that the information contained therein which may adversely affect the competitive position of any handler in relation to the handlers will not be disclosed. Compilations of general reports from data submitted by handlers is authorized, subject to the prohibition of disclosure of individual handlers' identities or operations.

(c) Each handler shall maintain for at least 2 succeeding years such records and documents on melons received by him as may be necessary to verify reports submitted to the committee pursuant to this section.

(d) For the purpose of assuring compliance with recordkeeping requirements and certifying reports of handlers, the Secretary and the committee, through their duly authorized employees or agents, shall have access to any premises where applicable records are located, and where melons are handled, and at any time during reasonable business hours shall be permitted to inspect such handler's premises and examine any and all records of such persons with respect to matters within the purview of this part.

(e) Any person filing a report, record, or application that is willfully misrepresented shall be subject to the legal penalties for such misrepresentation of Government reports.

COMPLIANCE

§ .81 *Compliance.*

Except as provided in this subpart, no handler shall handle melons, the handling of which has been prohibited by the Secretary in accordance with provisions of this subpart, or the rules and regulations thereunder, and no handler shall handle melons except in conformity with the provisions of this part.

MISCELLANEOUS PROVISIONS

§ .82 *Right of the Secretary.*

The members of the committee (including successors and alternates) and any agents or employees appointed or employed by the committee shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decisions, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ .83 *Effective Time.*

The provisions of this subpart or any amendment thereto shall become effective at such time as the Secretary may declare and shall continue in force until terminated in one of the ways specified in this subpart.

§ .84 *Termination.*

(a) The Secretary shall, whenever he finds that any or all provisions of this subpart obstruct or do not tend to effectuate the declared policy of this act, terminate or suspend the operation of this subpart of such provision thereof.

(b) The Secretary shall terminate the provisions of this subpart at the end of the then current fiscal period whenever he finds that such termination is favored by a majority of the growers who, during a representative period determined by the Secretary, have been engaged in the production for market of melons within the production area: *Provided*, That such majority has during such representative period, produced for market more than 50 percent of the volume of such melons produced for market.

(c) The provisions for this subpart shall, in any event, terminate whenever the provisions of the Act authorizing them cease to be in effect.

§ .85 *Proceedings after Termination.*

(a) Upon the termination of the provisions of this subpart, the then functioning members of the committee shall continue as joint trustees for the purpose of setting the affairs of the committee by liquidating all funds and property then in the possession of or under control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) The said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such persons as the Secretary may direct; and shall, upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all of the funds, property and claims vested in the committee or the trustees pursuant to this subpart.

(c) Any person to whom funds, property or claims have been transferred or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the committee and upon the said trustees.

§ .86 *Effect of Termination of Amendments.*

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendments to either thereof, shall not (a) affect or waive any right, duty, obligation or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart, or (b) release or extinguish any violation of this subpart or any regulation issued under this subpart, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ .87 *Duration of Immunities.*

The benefits, privileges and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§ .88 *Agents.*

The Secretary may, by designation in writing, name any person, including any officer or employee of the U.S. Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

§ .89 *Derogation.*

Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ .90 *Personal Liability.*

No member or alternate member of the committee nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others in any way whatever, to any handler or to any person for errors in judgment, mistakes or other acts, either of commission or omission, as such member, alternate, agent or employee, except for acts of dishonesty, willful misconduct or gross negligence.

§ .91 *Separability.*

If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart, or the applicability thereof to any other

person, circumstance, or thing, shall not be affected thereby.

§ .92 *Amendments.*

Amendments to this subpart may be proposed from time to time, by the committee or by the Secretary.

§ .93 *Counterparts.*

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.

§ .94 *Additional parties.*

After the effective date hereof, any handler may become a party to this agreement if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.

§ .95 *Order with marketing agreement.*

Each signatory handler hereby requests the Secretary to issue, pursuant to the act, an order providing for regulating the handling of melons in the same manner as is provided for in this agreement.

Copies of this notice may be obtained from the Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, or from "Marketing Field Office, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture" at the following address: 320 North Main, Room A-103, McAllen, Tex. 78501.

Signed at Washington, D.C., on October 26, 1978.

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

[FR Doc. 78-30729 Filed 10-30-78; 8:45 am]

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[3410-02-M]

[7 CFR Ch. IX]

[Docket No. AO-381]

## APPLES GROWN IN STATES OF CONNECTICUT, MAINE, MASSACHUSETTS, NEW HAMPSHIRE, RHODE ISLAND, AND VERMONT

### Hearing on Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public Hearing On Proposed Rulemaking.

SUMMARY: The hearing is being held to consider a proposed marketing agreement and order regulating the handling of apples grown in the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The principal provisions to be considered are: (1) The establishment of a committee of New England apple growers and handlers to assist the Secretary of Agriculture in administering the proposed marketing agreement and order program, (2) authorization for the committee to conduct marketing research and market development programs, including paid advertising, and to collect assessments from apple handlers to cover the costs of the program, and (3) authorization for maturity regulations, establishing maturity dates for individual apple varieties.

DATES: The hearing will be held beginning on December 4 and 7, 1978, at two locations listed under addresses below.

ADDRESSES: The hearing will be held beginning in the Hampden Improvement League Building, Exposition Grounds, 1499 Memorial Avenue, West Springfield, Massachusetts and continuing in the Hilton Auditorium, Blaisdell Building, Rockingham Nursing Home, North Road, Brentwood, New Hampshire.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held beginning at West Springfield, Mass., on December 4, 1978, at 11 a.m., local time in the Hampden Improvement League Building, Exposition Grounds, 1499 Memorial Avenue and continuing at Brentwood (Epping), N.H. on December 7, 1978, at 9:30 a.m., local time, in the Hilton Auditorium, Blaisdell Building, Rockingham Nursing Home, North Road, with respect to a proposed marketing agreement and order regulating the handling of apples grown in the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The proposed marketing agreement and order have not received the approval of the Secretary of Agriculture.

The hearing is called 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).

The public hearing is for the purpose of: (a) Receiving evidence with respect to the economic and marketing conditions which relate to the proposed marketing agreement and order, hereinafter set forth;

(b) Determining whether the handling of apples grown in the proposed production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce;

(c) Determining whether there is a need for a marketing agreement or order regulating the handling of such apples; and

(d) Determining whether the proposed marketing agreement and order or appropriate modifications thereof will tend to effectuate the declared policy of the Act.

The New England Apple Marketing Order Study Committee submitted, and requested the hearing on, the proposed marketing agreement and order, the provisions of which are as follows (the sections identified with asterisks (***) apply only to the proposed marketing agreement and not to the proposed marketing order):

DEFINITIONS

§ .1 *Secretary.*

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in this stead.

§ .2 *Act.*

"Act" means public Act No. 10 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (46 Stat. 31, as amended; 7 U.S.C. 601-674).

§ .3 *Person*

"Person" Means an individual, partnership, corporation, association, or any other business unit.

§ .4 *Production area.*

"Production area" means the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

§ .5 *Apple(s).*

"Apple(s)" means all of the varieties grown in the production area classified botanically as malus sylvestris (Malus communis) and Malus pumila (Pyrus Malus), with the exception of crabapples.

§ .6 *Varieties.*

"Varieties" means and includes all classifications or subdivisions of apples.

§ .7 *Fiscal period.*

"Fiscal period" is synonymous with fiscal year and means the 12-month period beginning on July 1 on one year and ending on the last day of June of the following or such other period as the committee, with the approval of the Secretary, may prescribe.

§ .8 *Committee.*

"Committee" means the New England Apple Administrative Committee established pursuant to § .20.

§ .9 *Grower.*

"Grower" is synonymous with "producer" and means any person who produces apples for market, and who has a proprietary interest therein.

§ .10 *Handler.*

"Handler" is synonmous with "shipper" and means any person who first sells or handles apples or first causes apples to be handled, or sold.

§ .11 *Handle.*

"Handle" or "ship" are synonmous and mean to sell, consign, deliver, or transport apples, or cause apples to be sold, consigned, delivered, or transported within the production area or between the production area and any point outside thereof: *Provided,* that such term shall not include: (1) a contract or common carrier transporting apples owned by another person, or (2) the transportation of apples from the location where grown, to a packing house, or storage facility within the production area or to such other points as the committee may prescribe with approval of the Secretary for the purpose of storing, or having the apples prepared for market.

§ .12 *District.*

"District" means the applicable one of the following described subdivisions of the production area:

(a) "District 1" shall include the State of Maine;

(b) "District 2" shall include the State of New Hampshire;

(c) "District 3" shall include the State of Vermont;

(d) "District 4" shall include the State of Massachusetts;

(e) "District 5" shall include the States of Connecticut and Rhode Island.

§ .13 *Container.*

"Container" means any box, bag, crate, basket, carton, package, bulk carton, or bin, or any other type of receptacle used in packaging or handling of apples.

§ .14 *First sale unit.*

"First sale unit" means approximately 40 pounds of apples in any container or containers or in bulk.

ADMINISTRATIVE BODY

§ .20 *Establishment and membership.*

There is hereby established a New England Apple Committee consisting of fourteen (14) members, each of whom shall have an alternate who shall have the same qualifications as the member for whom he or she is an alternate. Ten (10) of the members and their respective alternates shall be growers and are referred to as "grower" members of the committee. Each of the five (5) districts shall each be represented by two (2) grower members and their respective alternates: *Provided,* That each shall be a producer of apples in his or her respective district; and *Provided further,* that one grower member or alternate representing "District 5" shall be from the State of Rhode Island. Four (4) members and their respective alternates shall be handlers or employees of handlers and are referred to as "handler" members of the Committee. Handler members and alternates shall be selected from the production area at large; *Provided,* That not more than two shall be from one district. The Committee shall be increased by one public member and respective alternate nominated by the Committee and selected by the Secretary. The Committee, with the approval of the Secretary, shall prescribe qualifications, term of office, and the procedure for nominating the public member and alternate.

§ .21 *Term of office.*

(a) The term of office of each member and alternate member of the Committee shall be for 3 fiscal periods: *Provided,* That the initial term of office of one grower member and alternate member of the Committee from each district shall be for 3 years beginning July 1 and ending on the third succeeding June 30. The initial term of office of one grower member and alternate member from each District shall be for 2 years beginning July 1 and ending on the second succeeding June 30. The initial term of office of two handler members and alternate members shall be for 3 years beginning July 1 and ending on the third succeeding June 30. The initial term of office of the other two handler members and alternate members shall be for 2 years beginning and ending on the dates herein prescribed. (Determination of length of term of initial members shall be by lot). No member may serve more than two successive terms. The Committee, with the approval of the Secretary, may change the term of office of members and alternate members.

(b) Members and alternate members shall serve in such capacities for the portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified.

§ .22 *Nomination.*

(a) *Initial members.* Nominations for each of the initial members of the Committee, together with nominations for the initial alternate members for each position, may be submitted to the Secretary by individual growers and handlers. Such nominations may be made by means of a meeting of handlers, and meetings of growers in each district. Such nominations, if made, shall be filed with the Secretary no later than the effective date of this part. In the event nominations for the initial members are not filed pursuant to, and within the time specified in this section, the Secretary may select such initial members and alternate members without regard to nominations, but selection shall be on the basis of the representation provided for in § .20.

(b) *Successor members.* (1) The Committee shall hold or cause to be held, not later than May 15, in the year in which nominations are to be made, a meeting of growers in each district and a meeting of handlers for the purpose of designating nominees for successor members and alternate members of the committee, which shall be publicized and open to all growers and handlers. At each meeting, a chairman and a secretary shall be selected by persons eligible to participate therein. The chairman shall announce at the meeting the number of votes cast for each person nominated for member or alternate member and shall submit promptly to the committee a complete report concerning such meeting. The committee shall, in turn, promptly submit a copy of each such report to the Secretary. (2) Only growers, including duly authorized officers or employees of growers, who are present at such nomination meetings may participate in the nomination and election of nominees for grower members and their alternates. Each grower shall be entitled to cast only one vote for each nominee to be elected in the district which the grower produces apples. No grower shall participate in the election of nominees in more than one district in any one fiscal year. If a person is both a grower and a handler of apples, such person may vote either as a grower or as a handler but not as both. (3) Only handlers, including duly authorized officers or employees of handlers, who are present at such nomination meetings may participate in the nomination and election of nominees for handler members and their alternates. Each handler shall be entitled to cast only one vote, which vote shall be weighted by the volume of apples handled by such handler during the

preceding fiscal year. If a person is both a grower and a handler of apples, such person may vote either as a grower or as a handler but not as both.

§ .23 *Selection.*

From the nominations made pursuant to § .22, or from other qualified persons, the Secretary shall select the 10 grower members of the committee, the four handler members of the committee, and an alternate for each such member.

§ .24 *Failure to nominate.*

If nominations are not made within the time and in the manner prescribed in § .22, the Secretary may, without regard to nominations, select the members and alternate members of the committee on the basis of the representation provided for in § .20.

§ .25 *Acceptance.*

Any person selected by the Secretary as a member or as an alternate member of the committee shall qualify by filing a written acceptance with the Secretary promptly after being notified of such selection.

§ .26 *Vacancies.*

To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate of the committee to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the committee, a successor for the unexpired term of such member or alternate member of the committee shall be nominated and selected in the manner specified in § .22 and § .23. If the names of nominees to fill any such vacancy are not made available to the Secretary within a reasonable time after such vacancy occurs the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of representation provided for in § .20.

§ .27 *Alternate members.*

An alternate member of the committee, during the absence or at the request of the member shall act in the place and stead of such member and perform such other duties as assigned. In the event of the death, removal, resignation, or disqualification of a member, the alternate shall act until a successor for such member is selected and has qualified.

§ .30 *Powers.*

The Committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms;

(b) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this part;

(c) To make and adopt rules and regulations to effectuate the terms and provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ .31 *Duties.*

The Committee shall have, among others, the following duties:

(a) To select a chairman and such other officers as may be necessary, and to define the duties of such officers; and to select subcommittees, and define the duties of each;

(b) To appoint such employees, agents, and representatives as it may deem necessary, and to determine the compensation and to define the duties and procedures of each;

(c) To submit to the Secretary at the beginning of each fiscal year a budget for such fiscal year, including a report in explanation of the items appearing therein and a recommendation as to the rate of assessment for such fiscal year;

(d) To keep minutes, books, and records which will reflect all of the acts and transactions of the Committee and which shall be subject to examination by the Secretary;

(e) To prepare a statement of the financial operations of the committee and to make copies of each such statement available to growers and handlers for examination at the office of the committee;

(f) To require adequate fidelity bonds for all persons handling funds;

(g) To cause its books to be audited by a competent public accountant at least once each fiscal year, and at such other times as the Secretary may request;

(h) To act as intermediary between the Secretary and any grower or handler;

(i) To provide an adequate system for estimating the total season crop of apples and to make such determinations, as it may deem necessary, or as may be prescribed by the Secretary, in connection with the administration of this part;

(j) To investigate the growing, handling, and marketing conditions with respect to apples, and to assemble data in connection therewith;

(k) To engage in such research relating to improved packaging and/or to the determination of maturity, grade and condition standards for apples as may be approved by the Secretary;

(l) To contract with appropriate parties for the purpose of conducting production and marketing research programs, including paid advertising, promotion, and publicity for apples;

(m) To submit to the Secretary such available information, including verified reports, as he may request;

(n) To notify producers and handlers of meetings of the committee; and

(o) To give the Secretary the same notice of meetings of the committee as is given to its members.

§ .32 *Procedure.*

(a) Eight members of the Committee, six of whom shall be grower members including alternates acting for members, shall constitute a quorum; and any action of the committee shall require at least eight concurring grower and/or handler votes.

(b) The Committee may vote by telegraph, telephone, or other means of communication, and any vote so cast shall be confirmed promptly in writing: *Provided,* That, if an assembled meeting is held, all votes shall be cast in person.

§ .33 *Expenses and compensation.*

The members of the Committee and alternates when acting as members, or when requested by the Committee to attend a Committee meeting or to perform another Committee function shall serve without compensation; but shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part.

§ .34 *Annual report.*

The Committee shall, as soon as practicable after the end of the fiscal year, prepare and mail an annual report to the Secretary and make a copy available to each handler and grower who requests a copy of the report. This annual report shall contain at least: (a) A review of the operations during the fiscal year; (b) a summary of marketing research and development, promotion and advertising activities, if any; and (c) any recommendations for changes in the program.

EXPENSES AND ASSESSMENTS

§ .40 *Expenses.*

The Committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the Committee for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part during each fiscal year.

§ .41 *Assessments.*

(a) Each person who first handled apples shall, with respect to the apples so handled by him, pay to the committee upon demand such person's pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee during each fiscal year. Each such person's share of such expenses shall be equal to the ratio between the total quantity of apples handled by him as the first handler thereof during the

applicable fiscal year and the total quantity of apples so handled by all persons during the same fiscal year. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) The Secretary, shall fix the rate of assessment not to exceed 5 cents per first sale unit or equivalent in any container or containers to be paid by each such person. At any time during or after the fiscal year, the Secretary may, subject to the limitations of this paragraph, increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expense which may be incurred. A higher rate of assessment may be established but first must be approved by grower referendum. Such assessments shall be applied to all apples handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this part during the fiscal year before sufficient operating income is available from assessments, the committee may accept the payment of assessments in advance and may also borrow money for such purpose.

(c) The committee shall impose a late payment charge on any handler who fails to pay his assessment within the time prescribed by the committee. In the event the handler thereafter fails to pay the amount outstanding, including the late payment charge, within the prescribed time, the committee shall impose an additional charge in the form of interest on such outstanding amount. The rate of such charges shall be prescribed by the committee, with the approval of the Secretary.

§ .42 *Accounting.*

(a) If, at the end of a fiscal year the assessments collected are in excess of expenses incurred, such excess shall be accounted for as follows:

(1) Except as provided in subparagraphs (2) and (3) of this paragraph, each person entitled to a proportionate refund of any excess assessment shall be credited with such refund against the operation of the following fiscal year unless such person demands payment thereof, in which event it shall be paid to him: *Provided,* That any sum paid by a person in excess of his pro rata share of the expenses during any fiscal year may be applied by the committee at the end of such fiscal year to any outstanding obligations of such person.

(2) The committee, with the approval of the Secretary, may establish and maintain during one or more fiscal years, an operating monetary reserve in an amount not to exceed approximately 1 fiscal year's operational expenses. Upon approval by the Secretary, funds in such reserve shall be available for use by the committee for all expenses pursuant to § .40.

(3) Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided,* That to the extent practical, such funds will be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in his possession to his successor in office and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor full title to all of the property, funds, and claims vested in such member pursuant to this part.

§ .43 *Exemptions.*

(a) The committee may, with the approval of the Secretary, relieve from any or all requirements established under this part, the handling of apples for such specified purposes (including shipments to facilitate the conduct of marketing research and development projects established pursuant to< § 0.45), or in such minimum quantities or types of shipments, as may be prescribed.

(b) Except as otherwise provided in this section, any person may, without regard to the provisions of § .41, handle apples he or she produces: (1) in quantities not exceeding 250 first sale units in any fiscal period; (2) for processing and juice; (3) in gift packages; (4) for distribution by relief agencies.

(c) The committee shall, with the approval of the Secretary, prescribe such rules, regulations, and safeguards as it may deem necessary to prevent aples handled under provisions of this section from entering into channels of trade for other than the specific purposes authorized by this section. Such rules, regulations, and safeguards may include requirements that handlers shall file applications and receive approval from the committee for authorization to handle apples pursuant to this section, and that such applications be accompanied by a certification by the intended purchaser or receiver that the apples will not be used for any purpose not authorized by this section.

RESEARCH AND MARKET DEVELOPMENT

§ .45 *Production Research, Marketing Research, and Market Development.*

(a) The committee, with the approval of the Secretary, may establish or provide for the establishment of production research and marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of apples. Such projects may provide for any form of marketing promotion, including paid advertising. The expenses of such projects shall be paid by funds collected pursuant to § .41.

(b) The committee, with the approval of the Secretary, may contract with any person or persons to carry out advertising, promotion, and publicity programs. No advertising, promotion or publicity programs shall be conducted with reference to any particular private brand or trade name and no such program shall disparage the quality, value, sale or use of any other agricultural commodity. The expenses of such programs shall be paid by funds collected pursuant to § .41.

§ .50 *Marketing Policy.*

(a) Each season prior to making any recommendations pursuant to §§ .41 and .52, the committee shall submit to the Secretary a report setting forth its marketing policy for the season. Such marketing policy report shall contain information relative to:

(1) The estimated total production of apples within the production area;

(2) The estimated utilization of the crop, showing the quantity and percentages of the crop expected to be marketed through fresh fruit channels; the quantity and percent of the crop expected to be utilized in processed products; and storage information;

(3) Available supplies of competitive apples from outside the production area, and other competitive fruit;

(4) Other factors having a bearing on the marketing of apples;

(5) The type of maturity regulations expected to be recommended during the season; and

(6) The type of research and market development projects expected to be recommended during the season and the effect on utilization.

(b) In the event that it becomes advisable to substantially modify such marketing policy the committee shall submit to the Secretary a revised marketing policy setting forth the information as required in this section. The

committee shall transmit a copy of each marketing policy report or revision thereof to the Secretary. Copies of all such reports shall be maintained in the office of the committee where they shall be available for examination by growers and handlers. The committee shall announce the contents of each marketing policy report, including each revised marketing policy report.

MATURITY REGULATIONS

§ .51 *Recommendations for regulations.*

(a) Whenever the committee deems it advisable to regulate the handling of any variety or varieties of apples in the manner provided in § .52, it shall so recommend to the Secretary.

(b) All meetings of the committee held for the purpose of formulating recommendations for regulations shall be open to growers and handlers. The committee shall give notice of each such meeting to growers and handlers by mailing a notice to each grower and handler who has filed his address with the committee and requested such notice.

§ .52 *Issuance of regulations.*

(a) The Secretary shall regulate, in the manner specified in this section, the handling of apples whenever he finds, from the recommendations and information submitted by the committee that such regulations will tend to effectuate the declared policy of the act. Such regulations may: Prohibit, prior to such date as shall be specified, the handling of any variety or varieties of apples grown in any District which do not meet such maturity standards as shall be prescribed.

(b) The committee shall be informed immediately of any such regulations issued by the Secretary and the committee shall promptly give notice thereof to growers and handlers.

REPORTS

§ .60 *Reports.*

(a) Each grower shall furnish to the committee, at such times and for such periods as the committee may designate, reports covering the production, utilization, and disposition of his or her crop, to the extent necessary for the committee to perform its functions.

(b) Each handler shall furnish to the committee, at such times and for such periods as the committee may designate, certified reports covering, to the extent necessary for the committee to perform its functions, all shipments of apples.

(c) Each grower and handler shall maintain for at least two succeeding fiscal years, such records of the production, utilization and disposition of apples or of apples received and disposed of by him, if applicable, as may be necessary to verify the reports submitted to the committee pursuant to this section.

(d) All reports and records submitted by growers and handlers pursuant to the provisions of this section shall be received by, and at all times be in custody of, one or more designated employees of the committee. No such employee shall disclose to any person, other than the Secretary upon request therefor, data or information obtained or extracted from such reports and records which might affect the trade position, financial condition, or business operation of the particular grower or handler from whom received: *Provided*, That such data and information may be combined, and made available to any person in the form of general reports in which the identities of the individual furnishing the information is not disclosed and may be revealed to any extent necessary to effect compliance with the provisions of this part and the regulations issued thereunder.

MISCELLANEOUS PROVISIONS

§ .61 *Compliance.*

Except as provided in this part, no person shall handle apples except in conformity with the provisions of this part and the regulations issued thereunder.

§ .62 *Right of the Secretary.*

The members of the committee (including successors and alternates), and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

§ .63 *Effective time.*

The provisions of this part, and of any amendment thereto, shall become effective at such time as the Secretary may declare above his signature and shall continue in force until terminated in one of the ways specified in § .64.

§ .64 *Termination.*

(a) The Secretary may at any time terminate the provisions of the part by giving at least 1 day's notice by means of a press release or in any other manner in which he may determine.

(b) The Secretary shall terminate or suspend the operation of any and all of the provisions of this part whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this part whenever he finds by referendum or otherwise that such termination is favored by a majority of the growers voting in such referendum: *Provided*, That such majority has, during a representative period determined by the Secretary, produced more than 50 percent of the volume of the apples which were produced within the production area for shipment. Such termination shall become effective on the first day of July subsequent to the announcement thereof by the Secretary.

(d) The Secretary shall, as soon as practicable after the close of the fifth fiscal year following the effective date of this part, conduct a referendum, to ascertain whether continuance of this part is favored by the growers. The Secretary shall terminate the provisions of this part if he finds by such referendum, as provided in paragraph (c) of this section, that termination is favored by growers.

(e) Upon petition and recommendation of 25 percent of the growers of record, the Secretary shall be referendum determine whether termination of this part is favored by growers, but such action shall be effected only if the petition is submitted for validation by the committee on or before December 15 of the current fiscal year. To determine by such referendum whether termination is favored by producers, the required persentages set forth in the act with respect to producer approval of the issuance of a marketing order shall be used.

(f) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ .65 *Proceedings after termination.*

(a) Upon the termination of the provisions of this part, the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustee of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said Trustees shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the Trustees, to such persons as the Secretary may direct; and (3) upon the request of the Secretary, execute such

assignments or other instruments necessary or appropriate to vest in such person, full title and right to all of the funds, property, and claims vested in the committee or the Trustees pursuant thereto.

(c) Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the committee and upon the Trustees.

§ .66 *Effect of termination or amendment.*

Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not (a) effect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provisions of this part or any regulation issued under this part, or (b) release or extinguish any violation of this part or of any regulation issued under this part, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ .67 *Duration of immunities.*

The benefits, privileges, and immunities conferred upon any person by virtue of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

§ .68 *Agents.*

The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

§ .69 *Derogation.*

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ .70 *Personal liability.*

No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

§ .71 *Separability.*

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ .72 *Amendments.*

Amendments to this subpart may be proposed from time to time, by the committee or by the Secretary.

§ .73 *Counterparts.*

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original. * * *

§ .74 *Additional parties.*

After the effective date hereof, any handler may become a party to this agreement if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party. * * *

§ .75 *Order with marketing agreement.*

Each signatory handler hereby requests the Secretary to issue, pursuant to the Act, an order providing for regulating the handling of apples in the same manner as is provided for in this agreement. * * *

Copies of this notice may be obtained from the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250.

Dated: October 26, 1978.

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

[FR Doc. 78-30726 Filed 10:30-78; 8:45 am]

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[6320-01-M]

## CIVIL AERONAUTICS BOARD

[14 CFR Part 302]

[PDR-57, Docket 33723, October 20, 1978]

### RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

#### Applications for Route Authority; Correction

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This document corrects a previously proposed rulemaking document. These proposed amendments would require a motion to have a new route application consolidated with an earlier one to be made within 30 days of the filing date of the earlier one. It would also prohibit petitions for reconsideration asking for changes in the scope of route proceedings after instituting orders have been issued. The Board is proposing these amendments on its own initiative to reduce the time needed to complete route proceedings.

DATES: Comments by: December 26, 1978.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 33723, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

William F. Adler, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5205.

SUPPLEMENTARY INFORMATION: The docket number under the address heading was incorrect in the rule published in 43 FR 49993, October 26, 1978. Comments should be sent to Docket 33723.

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc. 78-30757 Filed 10-30-78; 8:45 am]

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[3510-07-M]

## DEPARTMENT OF COMMERCE

### Bureau of the Census

[15 CFR Part 90]

### CERTAIN POPULATION AND PER CAPITA INCOME ESTIMATES

#### Challenge Procedures

AGENCY: Bureau of the Census.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to establish standard procedures to be followed in the event that a State or unit of local govern-

ment wishes to challenge certain population or per capita income estimates prepared by the Bureau of the Census. The proposed rule is needed to formalize procedures which were previously followed informally and to extend to the State or unit of local government the right to a final determination of the challenged estimate by the Director of the Census Bureau. In addition to this notice in the FEDERAL REGISTER, States and units of local government are being informed of this proposed rule through notification in the Census Bureau publication, "Data User News," advance notice to the National League of Cities and the National Association of Counties, and advance notice to the members of the Federal-State Cooperative Program for Local Population Estimates in each State.

DATE: Comments must be received on or before January 2, 1978.

ADDRESSES: Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments to: Director, Bureau of the Census, Washington, D.C. 20233.

Comments received on or before January 2, 1978, will be considered before final action is taken on this proposal. Copies of all written comments will be available for examination by interested persons at: The Census Library, Room 2471, FB No. 3, Suitland, Md. 20233.

The proposal may be changed in light of the comments received.

FOR FURTHER INFORMATION CONTACT:

Daniel B. Levine, Associate Director for Demographic Fields, Bureau of the Census, Room 2061, FB No. 3, Washington, D.C. 20233, 301-763-5167.

SUPPLEMENTARY INFORMATION: This proposed rule would provide a two-part procedure for States and units of local government wishing to challenge the population or per capita income estimates (or both) of the Bureau. Under this proposal the State or unit of local government would initiate the procedure by writing the Bureau of the Census. The Bureau would receive and review any evidence and attempt to resolve the challenge informally, through letters and telephone calls.

If the challenge is unable to be resolved informally, the State or unit of local government would be given the opportunity of proceeding formally. A hearing officer would be appointed by the Census Director to review the data and to receive any further evidence, atempt to resolve the matter, and conduct a hearing if the State or unit of local government so requests.

In consideration of the foregoing, it is proposed that a new part 90 be added to 15 CFR in the manner set forth below.

## PART 90—PROCEDURE FOR CHALLENGING CERTAIN POPULATION AND INCOME ESTIMATES

Sec.

90.1 Scope and applicability.
90.2 Policy of the Bureau of the Census.
90.3 Definitions.
90.4 General.
90.5 When challenge may be filed.
90.6 Where to file challenge.
90.7 Evidence required.
90.8 Review of challenge.
90.9 When formal procedure may be invoked.
90.10 Form of formal challenge and time limit for filing.
90.11 Appointment of hearing officer.
90.12 Qualifications of hearing officer.
90.13 Offer of hearing.
90.14 Hearing.
90.15 Decision by Director.
90.16 Notification of adjustment.

AUTHORITY: 13 U.S.C. 4.

### § 90.1 Scope and applicability.

These rules prescribe the administrative procedure available to States and units of local government to challenge the current estimates of population or per capita income developed by the Bureau of the Census.

### § 90.2 Policy of the Bureau of the Census.

It is the policy of the Bureau of the Census to provide the most accurate population and per capita income estimates possible given the constraints of time, money, and available statistical techniques. It is also the policy of the Bureau to provide States and units of local government the opportunity to challenge these estimates and to present probative evidence relating to the accuracy of the estimates.

### § 90.3 Definitions.

As used in this part (except where the context clearly indicates otherwise) the following definitions shall apply:

(a) "Bureau" means the Bureau of the Census, Department of Commerce.

(b) "Challenge" means, in accordance with this part, the process of objecting to or calling into question the Bureau's population or per capita income estimates of a State or unit of local government by that State or unit of local government.

(c) "Director" means Director of the Bureau of the Census, or an individual designated by the Director to perform under this part.

(d) "Entitlement period" is used consistently with the definition of the term in Pub. L. 92-512, section 141, as amended (31 U.S.C. 1261).

(e) "Estimate" means a statistically derived intercensal population or per capita income figure prepared to update earlier census figures.

(f) "State" includes the District of Columbia.

(g) "Unit of local government" means the government of a county, municipality, township, place, or other minor civil division, which is a unit of general government below the State.

### § 90.4 General.

This part provides a procedure for a State or unit of local government to challenge the population or per capita income estimates of the Bureau. The Bureau shall receive these challenges and attempt to resolve them informally with the locality. If the challenge is not resolved informally, the challenging State or unit of local government may then, at its option, proceed formally.

### § 90.5 When challenge may be filed.

A challenge to the population or per capita income estimates pertaining to a particular entitlement period may be filed any time up to 180 days after the beginning of the General Revenue Sharing (Pub. L. 92-512) initial entitlement period for which the estimates are issued. A challenge to an estimate may also be filed any time up to 180 days from the date the Bureau, on its own initiative, revises that estimate. If, however, a State or unit of local government has sufficiently meritorious reason for not filing in a timely manner, the Bureau has the discretion to accept the challenge.

### § 90.6 Where to file challenge.

A challenge must be in writing and is to be filed with the Chief, Population Division, Bureau of the Census, Room 2011, Federal Building 3, Washington, D.C. 20233.

### § 90.7 Evidence required.

The challenging State or unit of local government shall provide whatever evidence it has relative to the challenge at the time the challenge is filed. The Bureau may request further evidence.

### § 90.8 Review of challenge.

The Chief, Population Division, Bureau of the Census, or the Chief's designee shall review the challenge and the evidence supporting the challenge and shall attempt to resolve the challenge.

### § 90.9 When formal procedure may be invoked.

In the event the Chief, Population Division, is unable to resolve the challenge to the satisfaction of the challenging State or unit of local government, the challenging State or unit of local government shall be informed in

writing of the reasons for the outcome and of its right to proceed formally.

**§ 90.10 Form of formal challenge and time limit for filing.**

The formal challenge shall be in writing and may be mailed or hand delivered to the Director, Bureau of the Census, Washington, D.C. 20233. The formal challenge shall include a list indicating the material submitted to the Chief, Population Division, during the informal stage, and shall include any additional relevant material it chooses to submit. The formal challenge shall be filed within 30 days of the date the State or unit of local government receives notification by certified mail (return receipt requested) of its right to proceed formally. If, however, a State or unit of local government has a sufficiently meritorious reason for not filing in a timely manner, the Bureau has the discretion to accept the formal challenge.

**§ 90.11 Appointment of hearing officer.**

Upon receipt of a formal challenge filed in accordance with this part, the Director will appoint a hearing officer to receive written and oral evidence.

**§ 90.12 Qualifications of hearing officer.**

The hearing officer, a person not involved in the preparation of the estimates being challenged, shall be appointed by the Director from a roster of employees of the Bureau of the Census who have been approved in advance by the Assistant Secretary for Administration, Department of Commerce.

**§ 90.13 Offer of hearing.**

The hearing officer shall receive the formal challenge and shall notify the State or unit of local government in writing of (a) its right to a hearing prior to the development of a recommended decision for the consideration of the Director; and (b) its right to the development of a recommended decision for the consideration of the Director without a hearing. If the State or unit of local government requests that a hearing be conducted, the hearing officer shall establish the date, time, and meeting place for the hearing.

**§ 90.14 Hearing.**

(a) The hearing shall be conducted by the same hearing officer who collected the documentary evidence, if possible, and shall be held at Bureau of the Census headquarters in Suitland, Md., unless the Director determines that the hearing should be held elsewhere.

(b) The hearing shall be conducted in a manner so as to bring out the pertinent facts relating to the challenge.

(c) The rule of evidence will not be strictly enforced but irrelevant and unduly repetitious testimony shall be excluded.

(d) Cross-examination of all witnesses is permitted and all testimony shall be received under oath or affirmation.

(e) the hearing officer shall have the authority to: (1) Administer oaths or affirmations, (2) rule on the admissibility of evidence, (3) limit the number of witnesses, (4) exclude any person from the hearing room for contumacious conduct or misbehavior that obstructs the hearing, (5) perform other such acts as are necessary or appropriate to the efficient conduct of any proceeding; and (6) make initial findings, analyses, and recommendations.

(f) The hearing shall be electronically recorded but no written record will be prepared unless the Bureau so orders or unless the challenging locality desires one in whole or part and pays the costs of such a written record, or the apportioned costs should the Bureau also desire a written record.

(g) The hearing officer shall prepare findings, analyses, and recommendations and shall transmit them along with all documentary evidence received and the tape or written record (if any) of the hearing to the Director.

**§ 90.15 Decision by Director.**

Upon receiving the material specified in § 90.14(g), the Director shall (a) review the findings and recommendations of the hearing officer, and (b) prepare and transmit a letter to the challenging State or unit of local government stating the decision and the reasons therefor. A copy of the hearing officer's findings, analyses, and recommendations shall also be transmitted to the challenging State or unit of local government, and is otherwise publicly available. This decision is final for the Department of Commerce.

**§ 90.16 Notification of adjustment.**

In the event that the Director finds that the population or per capita income estimate should be adjusted, the Bureau shall promptly inform the appropriate governmental agencies of the revision.

Dated: October 26, 1978.

MANUEL D. PLOTKIN,
*Director,*
*Bureau of the Census.*

[FR Doc. 78-30775 Filed 10-30-78; 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; Correction**

AGENCY: Federal Trade Commission.

ACTION: Correction.

SUMMARY: This document corrects a Commission document previously published in the FEDERAL REGISTER on Wednesday, October 11, 1978. The language of the "Summary" of the original document misstated certain provisions of the Commission's proposed order.

DATE: The correction is effective on October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Gregory E. Hales, SSR-I-512, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580; 202-724-1184.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-28588, appearing in FEDERAL REGISTER issue for Wednesday, October 11, 1978, 43 FR 46856, the language of the "Summary" of the document misstated certain provisions of the proposed order. Therefore, the following language is to be substituted for the previously published "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 restraining or impeding anesthesiologists from engaging in the practice of anesthesiology on other than a fee-for-service basis, to cease including statements relating to compensation arrangements in membership documents, and to cease conditioning membership privileges on compensation arrangements. The society would be further required to delete from its files any record of disciplinary sanctions imposed upon members for engaging in practice on other than a fee-for-service arrangement and to 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."

CAROL M. THOMAS,
*Secretary.*

[FR Doc. 78-30778 Filed 10-30-78; 8:45 am]

[6351-01-M]

## COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 1]

### GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

**Proposed Rule Requiring That Records Subject to Inspection, and Copies Thereof, Be Provided to the Commission**

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission is proposing to adopt an amendment to its record-keeping requirements expressly entitling its representatives to remove temporarily and reproduce any books and records required to be kept and subject to inspection under the Commodity Exchange Act as amended ("Act"),[1] unless copies of such are furnished to the Commission's representative as and when requested.

The Commission has been informed that some confusion exists regarding the procedure pursuant to which Commission staff may obtain books and records or copies thereof to facilitate completion of inspections conducted under the Act. The regulation is intended to clarify this procedure, to set forth expressly the obligations of those persons required to keep books and records pursuant to the Act and Commission regulations, and to facilitate implementation of the broad statutory inspection authority given the Commission.[2]

DATES: Comments must be received on or before November 30, 1978.

ADDRESS: Comments on the proposed amendment should be sent to: Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, attention: Secretariat.

FOR FURTHER INFORMATION CONTACT:

Eric Vinson, Esq., Contract Markets Section, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, 202-254-8955.

SUPPLEMENTARY INFORMATION: Section 1.31 of the Commission's regulations, 17 CFR 1.31 (1977), implements the Commission's inspection powers over books and records required to be kept by the Act and Commission regulations. Such books and records are required to be kept readily accessible to facilitate inspection by Commission staff in the exercise of Commission regulatory functions. However, the ability to reproduce or copy information quickly is often an essential requirement for the effective, complete and thorough inspection of business records. Moreover, providing copies to Commission staff may reduce the burden and inconvenience, on the person required to keep records, of having Commission staff work with original business records for prolonged periods.

Accordingly, the Commission is proposing to supplement rule § 1.31 by clarifying the procedure Commission staff uses to conduct inspections. The requirement that persons required to keep records must immediately provide copies at their own expense is consistent with the existing provision in § 1.31(c)(3).

Although it is not anticipated that many instances will arise where further access to the original records will be necessary once copies are provided, the proposed amendment expressly provides that the obligation to keep records readily accessible for inspection does not cease after copies are provided. Of course, the copies provided must be true and accurate copies of the originals, and additional inspection may be required to verify that this is so.

The Commission also wishes to emphasize that the procedures covered by regulation 1.31 do not affect the obligations of any person to produce books, records or other documents through the exercise of Commission subpoena power during the course of a formal investigation.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. All comments submitted will be available, both before and after the closing date, for inspection in the Office of the Secretariat.

The amendment is proposed under the authority of sections 4, 4g, 4i, 5, 5a, 8a, 7 U.S.C. 6, 6g, 6i, 7, 7a, 12a (1976), as amended by Pub. L. 95-405, September 30, 1978, 92 Stat. 865 et seq. In consideration of the foregoing, it is proposed to amend Chapter I of Title 17 of the Code of Federal Regulations by amending § 1.31 as set forth below (paragraph (a)(2) is new language):

**§ 1.31 Books and records; keeping and inspection.**

(a)(1) All books and records required to be kept by the Act or by these regulations shall be kept for a period of five years from the date thereof and shall be readily accessible during the first 2 years of the 5-year period. All such books and records shall be open to inspection by any representative of the Commission or the United States Department of Justice.

(2) Without limiting the provisions of paragraph (c) of this section, to facilitate effective completion of such inspections, any representative of the Commission may obtain and/or remove temporarily such books and records for reproduction, unless the person required to keep such books and records immediately provides copies thereof, at his own expense, and continues to keep the original books and records readily accessible for inspection in accordance with this section.

(b) Reproductions on microfilm may be substituted for hard copy as follows:

(1) Computer, accounting machine or business machine generated records may be immediately produced or reproduced on microfilm and kept in that form; other records may be immediately produced or reproduced on microfilm and kept in that form if prepared by any means from source documents which are retained in hard copy form for two years as provided in paragraph (b)(2) of this section;

(2) For all other books and records, microfilm reproductions thereof may be substituted for the hard copy for the final 3 years of the 5-year period.

(c) If such microfilm substitution for hard copy is made, the person required to keep such records shall:

(1) At all times have available for examination of his records facilities for immediate, easily readable projection of the microfilm and for producing easily readable facsimile enlargements;

(2) Arrange, index and file the films in such a manner as to permit the immediate location of any particular record; and

(3) Be ready at all times to provide, and immediately provide, at the expense of the person required to keep such records, any facsimile enlargement of such records which any representative of the Commission or United States Department of Justice may request.

Issued in Washington, D.C., on October 26, 1978, by the Commission.

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

[FR Doc. 78-30728 Filed 10-30-78; 8:45 am]

[1] 7 U.S.C. 1 et seq. (1976) as amended by Pub. L. 95-405, September 30, 1978, 92 Stat. 865 et seq.

[2] Sections 4, 4g, 4i, 5, 5a of the Act.

[4110-07-M]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

**Social Security Administration**

**[20 CFR Part 404]**

**COVERAGE OF EMPLOYEES OF STATE AND LOCAL GOVERNMENTS**

**Annual Wage Reporting**

AGENCY: Social Security Administration, HEW.

ACTION: Extension of Comment Period.

SUMMARY: This Notice extends the period for comments to the Notice of Proposed Rule Making (NPRM) published in the FEDERAL REGISTER on August 9, 1978 (43 FR 35344). The NPRM concerned a change in the wage reporting requirements for State and local governments. The NPRM would change the reporting frequency from quarterly to annual.

Several persons have requested an extension of the time for submitting comments on the proposed rules. They believe that a 60-day comment period is inadequate in view of the importance of these proposed rules. The Department of Health, Education, and Welfare has therefore decided to extend the comment period an additional 60 days.

DATE: Comments concerning the NPRM will now be considered if received on or before December 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Armand Esposito, Legal Assistant, Office of Policy and Regulations, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-6697.

Dated: September 25, 1978.

DON WORTMAN,
*Acting Commissioner of Social Security.*

Approved: October 26, 1978.

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

[FR Doc. 78-30810 Filed 10-30-78; 8:45 am]

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[4110-03-M]

**Food and Drug Administration**

**[21 CFR Parts 16, 20, 809, 861]**

[Docket No. 78N-0002]

**MEDICAL DEVICES**

**Proposed Procedures for Development of Standards; Extension of Comment Period**

AGENCY: Food and Drug Adminstration.

ACTION: Extension of comment period.

SUMMARY: In response to a written request, the agency is extending the comment period on proposed procedures for the development of medical device performance standards.

DATE: The deadline for written comments is extended to November 30, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857

FOR FURTHER INFORMATION CONTACT:

James McCue, Bureau of Medical Devices (HFK-305), Food and Drug Administration, Department of Health, Education, and Welfare,8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7222.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of July 25, 1978 (43 FR 32264), the Food and Drug Administration (FDA) proposed procedures for the initiation, development, establishment, amendment, and revocation of performance standards for medical devices. These procedures would implement section 514 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360d). The deadline for written comments was September 25, 1978.

The Food and Drug Administration has received a written request for an extension of the comment period, and the Commissioner of Food and Drugs has determined that it is appropriate to extend the period for comment on the proposal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 502, 513, 514, 701, 52 Stat. 1049-1051 as amended, 1055-1056 as amended, 90 Stat. 540-552 (21 U.S.C. 351, 352, 360c, 360d, 371)) and under authority delegated to him (21 CFR 5.1), the Commissioner hereby grants an extension of the comment period until November 30, 1978.

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

Dated: October 24, 1978.

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

[FR Doc. 78-30514 Filed 10-25-78; 11:39 am]

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[4110-03-M]

**[21 CFR Parts 182, 184]**

[Docket No. 77N-0037]

**CERTAIN RED AND BROWN ALGAE**

**Affirmation of GRAS Status as Direct Human Food Ingredients; Extension of Comment Period**

AGENCY: Food and Drug Administration.

ACTION: Extension of comment period.

SUMMARY: This document extends the comment period on the Food and Drug Administration (FDA) proposal to affirm the generally recognized as safe (GRAS) status of certain red and brown algae as direct human food ingredients. This action is taken in response to a request for extension of the comment period.

DATE: Written comments by January 31, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER August 4, 1978 (43 FR 34500), the Commissioner of Food and Drugs proposed to affirm the generally recognized as safe (GRAS) status of a brown alga, *Macrocystis pyrifera*, as a direct human food ingredient. Interested persons were invited to submit comments on the proposal by October 3, 1978.

On October 2, 1978, a letter was received from Japan Food Corp. This letter requested an extension of the comment period for the GRAS affir-

mation proposal for certain red and brown algae for an additional 120 days, to January 31, 1979. The extension was requested to allow sufficient time for Japan Food Corp. to prepare comments on the proposed rule.

The Commissioner has decided that the opportunity to comment on GRAS affirmation proposals is an important part of the GRAS review process, that an extension of the comment period for this proposal would be appropriate, and that the additional time should be extended to all interested parties.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated in 21 CFR 5.1, the Commissioner extends the comment period for the GRAS affirmation proposal for certain red and brown algae for an additional 120 days.

Accordingly, interested persons may, on or before January 31, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments (preferably four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding the Commissioner's proposal. The envelope containing the comments should be prominently marked "Red and Brown Algae." Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 24, 1978.

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

[FR Doc. 78-30515 Filed 10-30-78; 8:45 am]

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[4210-01-M]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Federal Insurance Administration

### [24 CFR Part 1917]

[Docket No. FI-4718]

### NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for City of Valley, Douglas County, Nebr.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 210 North Locust, Valley, Nebr. Send comments to: Hon. Carroll L. Smith, mayor, city of Valley, City Hall, 210 North Locust, Valley, Nebr. 68064.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Elkhorn River..... | Southeast section of zoning limits bounded by County Road 96 and Union Pacific Railroad. | 1,130 |

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

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 78-30270 Filed 10-30-78; 8:45 am]

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[4210-01-M]

### [24 CFR Part 1917]

[Docket No. FI-4719]

### NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for City of Gloucester, Camden County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Gloucester, Camden County, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Gloucester City Municipal Building, 512 Monmouth Street, Gloucester, N.J. Send comments to: Hon. William E. Gartland, mayor, city of Gloucester, Gloucester City Municipal Building, 512 Monmouth Street, Gloucester, N.J. 08030.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insur-

ance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

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

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

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

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Delaware River | Whitman Bridge* | 10 |
| Newton Creek | Interstate 676* | 10 |
| South Branch Newton Creek. | North-South Freeway* | 10 |
| Little Timber Creek. | Broadway* | 10 |

*Centerline

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

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 78-30271 Filed 10-30-78; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4720]

**NATIONAL FLOOD INSURANCE PROGRAM**

**Proposed Flood Elevation Determination for Town of New Castle, Westchester County, N.Y.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the town clerk's office, New Castle, N.Y. Send comments to: Mr. Charles G. Banks, Jr., Town Supervisor of New Castle, 200 South Greeley Avenue, Chappaqua, N.Y. 10514.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Saw Mill River | Downstream Corporate Limits. | 309 |
| | Saw Mill River Parkway | 312 |
| | New York Route 120 | 346 |
| | Private Driveway | 365 |
| Gedney Brook | Downstream Corporate Limits. | 267 |
| | Millwood Road | 309 |
| | Swimming Pool Culvert | 333 |
| | Woodmill Road | 409 |
| Kisco River | Confluence with New Croton Reservoir. | 199 |
| | Lake Road | 199 |
| | Nitra Road | 215 |
| | Millwood | 281 |
| | Upstream Corporate Limits. | 284 |
| Branch 2, Kisco River. | Downstream Corporate Limits. | 343 |
| | Horseshoe Road | 347 |
| | Daly Cross Road | 349 |
| | Kathleen Lane | 349 |

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

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 78-30272 Filed 10-30-78; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4721]

**NATIONAL FLOOD INSURANCE PROGRAM**

**Proposed Flood Elevation Determination for the City of Hilliard, Franklin County, Ohio**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Hilliard, Franklin County, Ohio. These base (100-year) flood elevations are the basis for the flood

plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the 3800 Municipal Square, Hilliard, Ohio. Send comments to: The Honorable Roger Reynolds, Mayor, City of Hilliard, 3800 Municipal Square, Hilliard, Ohio 43026.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

| Source of flooding | Location | Elevation in feet national geodetic vertical datum |
|---|---|---|
| Clover Groff Ditch. | South corporate limits ... | 937 |
| | Just downstream of Scioto Darby Creek Rd. | 940 |
| Hayden Run..... | East corporate limit..... | 909 |
| | 640 ft upstream of Avery Rd. | 910 |
| | 1,400 ft upstream of Avery Rd. | 912 |
| Tudor Ditch..... | 100 ft upstream of east corporate limit. | 870 |
| | 50 ft upstream of Parkway Lane. | 875 |
| | 940 ft upstream of Parkway Lane. | 880 |
| | Just downstream of Conrail. | 889 |
| Hamilton Ditch..... | East corporate limit..... | 869 |
| | 100 ft downstream of Lyman Dr. | 876 |
| | 800 ft upstream of Lyman Dr. | 884 |
| | Just downstream of ConRail. | 898 |
| | Just upstream of ConRail. | 902 |
| | Just downstream of Leap Rd. | 903 |
| | Just upstream of Leap Rd. | 907 |
| | 1,670 ft upstream of Leap Rd. | 912 |

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

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 78-30273 Filed 10-30-78; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4722]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for the Township of East Hanover, Lebanon County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Building, Old Route 22, East Hanover, Pa. Send comments to: Mr. Henry W. Shuey Chairman of the Board of Supervisors of East Hanover, P.O. Box 68, Ono, Pa. 17077.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Swatara Creek..... | Downstream limit of detailed study (3,450 ft downstream of Legislative Route 38004 Bridge). | 395 |
| | Legislative Route 38004 (upstream). | 397 |

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| | Legislative Route 38060 (upstream). | 399 |
| | Upstream corporate limits. | 401 |

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

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 78-30274 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4723]

**NATIONAL FLOOD INSURANCE PROGRAM**

**Proposed Flood Elevation Determination for the Borough of East Petersburg, Lancaster County, Pa.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of East Petersburg, Lancaster County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the residence of Mrs. Mary Rose Turnpaugh, 6040 Main Street, East Petersburg, Pa. Send comments to: Mr. A. W. Kenlin, president of the borough, Council of East Petersburg, Box 34, East Petersburg, Pa. 17520.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Little Conestoga Creek. | Manheim Pike (upstream). | 317 |
| | Petersburg Rd (upstream). | 329 |
| | Upstream-most corporate limits. | 336 |

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

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 78-30275 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4724]

**NATIONAL FLOOD INSURANCE PROGRAM**

**Proposed Flood Elevation Determination for Borough of Hellertown, Northampton County, Pa.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the borough hall, Hellertown, Pa. Send comments to: Hon. Emerson J. Mills, mayor of Hellertown, 685 Main Street, Hellertown, Pa. 18055.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

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

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Saucon Creek | Corporate limits (downstream). | 259 |
| | Friendensville Rd. (upstream). | 277 |
| | Walnut St. (upstream) | 284 |
| | ConRail (downstream of tracks). | 291 |
| | ConRail (upstream of tracks). | 296 |
| | Corporate limits (upstream). | 298 |
| Silver Creek | ConRail tracks (downstream). | 277 |
| | ConRail tracks (upstream). | 278 |
| | Front St. | 279 |
| | Harris St. (downstream). | 280 |
| | Harris St. (upstream) | 281 |
| | Main St. (upstream) | 284 |
| | Northampton Ave. (upstream). | 290 |
| | Delaware Ave | 293 |

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

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 78-30276 Filed 10-30-78; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4725]

NATIONAL FLOOD INSURANCE PROGRAM

**Proposed Flood Elevation Determination for the Township of Howe, Perry County, Pa.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the township municipal building, Howe, Pa. Send comments to: Mr. Gilbert Little, Chairman of the Board of Supervisors of Howe, Newport, Pa. 17074.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Juniata River | Downstream corporate limits. | 379 |
| | Confluence of Howe Run. | 381 |
| | State Route 34 upstream. | 395 |
| | Upstream corporate limits. | 399 |

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

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 78-30277 Filed 10-30-78; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4726]

NATIONAL FLOOD INSURANCE PROGRAM

**Proposed Flood Elevation Determination for the Borough of Latrobe, Westmoreland County, Pa.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the office of the secretary, 321 Thompson Street, Latrobe, Pa.15650. Send comments to: Mr. Howard J. Barnhart, Director of Administrators of Latrobe, 321 Thompson Street, Latrobe, Pa. 15650.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

| Source of flooding | Location | Elevation in feet, National geodetic vertical datum |
|---|---|---|
| Loyalhanna Lake upstream reservoir. | Ligonier St. bridge | 970 |
| | Washington St. extended. | 970 |
| Loyalhanna Creek | Ligonier St. bridge 100' north of Buttonwood St.. | 973 |
| | ConRail overpass (upstream side). | 979 |
| | Lloyd Ave. (State Route 981 upstream side). | 982 |
| | ConRail spur at Legion-Kenner Park. | 986 |
| | Mission Rd. bridge | 998 |
| | Easton Rd. (State Route 982). | 1,003 |

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

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 78-30278 Filed 10-30-78; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4727]

**NATIONAL FLOOD INSURANCE PROGRAM**

**Proposed Flood Elevation Determination for the Township of Little Mahanoy, Northumberland County, Pa.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the residence of Mr. Carl Keller, R.D. 1, Dornsife, Pa. Send comments to: Mr. Lester Howerter, Chairman of the township of Little Mahanoy, R.D. 1, Shamokan, Pa. 17872.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

| Source of flooding | Location | Elevation in feet, National geodetic vertical datum |
|---|---|---|
| Mahanoy Creek | State Route 225 (downstream). | 497 |
| | State Route 225 (upstream). | 499 |
| | 7,900 ft upstream of State Route 225. | 511 |
| | Confluence of Zerbe Run/township Route 405. | 518 |
| Zerbe Run | Mahanoy Rd. | 518 |
| | Private Rd (3,575 ft upstream of Mahanoy Rd). | 532 |
| | Mine Dump Road/ township Route 409. | 549 |
| | 3,500 ft upstream of Mine Dump Road/ township Route 409. | 568 |
| | 7,500 ft upstream of Mine Dump Road/ township Route 409. | 605 |

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

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 78-30279 Filed 10-30-78; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4728]

**NATIONAL FLOOD INSURANCE PROGRAM**

**Proposed Flood Elevation Determination for the Township of Manheim, Lancaster County, Pa.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Manheim, Lancaster County, Pa. These base (100-year)

flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the municipal building, 1821 Municipal Drive, Lancaster, Pa. 17601. Send comments to: Mr. Jay Gregg, Township Manager of Manheim, 1821 Municipal Drive, Lancaster, Pa. 17601.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

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

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

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

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Little Conestoga Creek. | Farmingdale Rd. (upstream). | 299 |
| | Harrisburg Pike (upstream). | 300 |
| | Shreiner Station Rd. (upstream). | 302 |
| | Flory Bros. Mill Rd. (upstream). | 310 |
| | Manheim Pike (upstream). | 319 |
| | Buch Ave. (upstream) | 324 |
| | Petersburg Rd. (upstream). | 329 |
| | Quarry Rd. (upstream) | 344 |
| Tributary No. 1 | Confluence with Little Conestoga Creek. | 296 |
| | Harrisburg Pike (upstream). | 307 |
| Tributary No. 2 | Confluence with Little Conestoga Creek. | 301 |
| | Route 72 (upstream) | 314 |
| | Route 283 (upstream) | 316 |
| Conestoga River | Water treatment plant service bridge. | 272 |
| | Route 30 (upstream) | 274 |
| | Pine Dr. (upstream) | 278 |
| | New Holland Pike (upstream). | 280 |
| | Confluence of Little Run. | 290 |
| | Bushong Rd. (upstream) | 295 |
| Tributary No. 3 | Downstream corporate limits. | 271 |
| | Sunnybrook Dr. (upstream). | 287 |
| | New Holland Pike (upstream). | 289 |
| Landis Run | Confluence with Conestoga River. | 279 |
| | Butter Rd. 1,000 ft. above New Holland Pike (upstream). | 294 |
| | Route 222 (upstream) | 311 |
| | Oregon Pike (upstream). | 326 |
| Lititz Run | Old Route 222 (upstream). | 290 |
| | Route 722 (upstream) | 299 |

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

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 78-30280 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4729]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for the Township of Middle Paxton, Dauphin County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the township office, Middle Paxton, Pa. Send comments to: Mr. Daniel Ludwig, Chairman of the Board of Supervisors of Middle Paxton, P.O. Box 187, R.D. 2, Dauphin, Pa. 17018.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

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

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

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

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Susquehanna River. | Confluence of Clark Creek. | 339 |
| | Confluence of Cove Creek. | 349 |
| Fishing Creek East. | U.S. Route 22/322 | 328 |
| | ConRail | 345 |
| | State Route 443 (Fishing Creek Rd.). | 389 |
| | Piney La | 394 |
| | State Route 443 (Fishing Creek Rd.) 300 ft upstream of Piney La. | 400 |
| | Getcel driveway | 406 |
| | Mobile Home Park Rd | 424 |
| | Back Hoe Rd | 438 |
| | Glen Hills Swim Club Rd. | 446 |
| | Footbridge 1,800 ft downstream of wooden bridge. | 453 |
| | State Route 443 (Fishing Creek Rd. 400 ft upstream of wooden bridge. | 462 |
| | Moore Rd | 469 |
| | Dirt road 2,200 ft upstream of Moore Rd. | 478 |
| | Snyder's Acres Rd | 494 |
| | Upper Creek dirt road 2,400 ft upstream of Snyders Acres Rd. | 500 |
| | Tree Farm Rd | 515 |
| | Ramsey Rd | 522 |
| | Hedrick Rd | 529 |
| Clark Creek | Confluence with Susquehanna River. | 339 |
| | Red Hill Rd | 339 |
| | Extension of private road off of T537—800 yds upstream of T537 intersection with McKelvey Rd. | 362 |
| | T437 extended | 372 |
| | Pa. Route 225 | 393 |
| | Way Rd | 392 |
| | Access Rd | 398 |
| | Pine Rd | 407 |
| | Old Pa. Route 325 | 415 |
| | Pa. Route 325, 2,300 ft upstream of old Pa. Route 325. | 422 |
| | Dirt road off of Route 325, 1,200 ft upstream of Pa. Route 325. | 425 |
| | Dirt road off Route 325, 800 yds downstream of Safety Rd. | 449 |
| | Safety Rd | 454 |
| Stony Creek | Confluence with Susquehanna River. | 333 |
| | State Route 22/322 | 342 |
| | Stony Creek Reservoir Dam. | 346 |
| | Private road, 2,200 ft downstream of Singer Lane. | 356 |
| | Singer Lane | 366 |
| | Wynn Rd | 374 |
| | House Rd | 380 |
| | Down Creek footbridge 1,100 ft upstream of House Rd. | 383 |
| | Dangerous Bridge Rd | 391 |
| | Upper Creek dirt road; 100 ft upstream of Lower Creek dirt road and 2,500 ft downstream from Posted Rd. | 403 |
| | Posted Rd | 412 |

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

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 78-30281 Filed 10-30-78; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4730]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for Bourough of Pine Grove, Schuylkill County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of Pine Grove, Schuylkill County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Municipal Building, Pine Grove, Pa. Send comments to: Mr. Frank R. Winsheimer, President of the Council of Pine Grove, 119 Walnut Street, Pine Grove, Pa. 17963.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Swatara Creek | Corporate limits (upstream). | 530 |
| | Confluence of Wide Wake Creek. | 518 |
| | ConRail 10 ft downstream from confluence of Wide Wake Creek. | 515 |
| | Confluence with Daubert Creek. | 514 |
| | Wood St. (upstream) | 507 |
| | Corporate limits (downstream). | 501 |
| Wide Wake Creek. | Corporate limits (upstream). | 531 |
| | Tulpehocken St. (upstream). | 521 |
| | ConRail 200 ft downstream from Tulpehocken St. (upstream). | 521 |
| | Confluence with Swatara Creek. | 518 |

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

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 78-30282 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4731]

NATIONAL FLOOD INSURANCE PROGRAM

**Proposed Flood Elevation Determination for Borough of Sewickley, Allegheny County, Pa.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the municipal building, Sewickley, Pa. Send comments to: Honorable William Gourley, Jr. Mayor of Sewickley, 230 Thorn Street, Sewickley, Pa. 15143.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Ohio River ..... | Downstream corporate limits. | 715 |
| | Upstream corporate limits. | 716 |

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

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 78-30283 Filed 10-30-78; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4732]

NATIONAL FLOOD INSURANCE PROGRAM

**Proposed Flood Elevation Determination for Borough of Sharon Hill, Delaware County, Pa.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of Sharon Hill, Delaware County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the borough Hall, Sharon Hill, Pa. 19079. Send comments to: Mr. Roscoe R. Woodrow, President of the Council of Sharon Hill, 1319 Spring Street, Sharon Hill, Pa. 19079.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Darby Creek ..... | Upstream of Amtrak Bridge, 800 ft downstream of corporate limits. | 22 |
| | Upstream of Conrail Bridge for track from S. S. Kresge Plant. | 20 |
| | At confluence of Cobbs Creek. | 19 |
| Hermesprota Creek. | Upstream corporate limits. | 56 |
| | Upstream of ConRail Bridge. | 50 |
| | Upstream of Elmwood Ave. | 44 |
| | Downstream corporate limits. | 40 |

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

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Adminstrator.*

[FR Doc. 78-30284 Filed 10-30-78; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4733]

**NATIONAL FLOOD INSURANCE PROGRAM**

**Proposed Flood Elevation Determination for Township or Tremont, Schuylkill County,Pa.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of Mr. Gerald Workman, Chairman of Tremont, R.D. 4, Pine Grove, Pa. 17963. Send comments to: Mr. Gerald Workman, Chairman of the Township of Tremont, R.D. 4, Pine Grove, Pa. 17963

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

| Source of flooding | Location | Elevation in feet, national geodetic vetical datum |
|---|---|---|
| Swatara Creek..... | Corporate limits (downstream). | 613 |
| | Legislative Route 53029 . | 630 |
| | 1,100 ft upstream of Legislative Route 53029. | 637 |
| | Confluence of Black Creek. | 669 |
| | 1,000 ft upstream of confluence of Black Creek. | 672 |
| | 4,500 ft upstream of confluence of Black Creek. | 718 |

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

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 78-30285 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4734]

**NATIONAL FLOOD INSURANCE PROGRAM**

**Proposed Flood Elevation Determination for Township of Turbot, Northumberland County, Pa.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Turbot Township Building, Broadway Road, R.D. 3, Milton, Pa. 17847. Send comments to: Mr. William Vogle, Chairman of Turbot, R.D. 2, Box 289, Milton, Pa. 17847

FOR FURTHER INFORMATION CONTACT:

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

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

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change

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

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

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| West Branch Susquehanna River. | Interstate Route 80 (upstream). | 473 |
| Limestone Run | State Route 147 (downstream). | 478 |
| | Township Route 583 (upstream). | 490 |
| | Hoy Rd. (upstream) | 502 |
| | Legislative Route 49056 (upstream). | 508 |
| | Township Route 549 (upstream). | 516 |
| Tributary No. 1 to Limestone Run. | Township Route 577 (upstream). | |
| | Upstream of State Route 254. | 484 |
| Muddy Run | State Route 405 (upstream). | 472 |
| | State Route 147 (upstream). | 472 |
| | L.R. 49059 (upstream) | 486 |
| | Township Rd. 591 (upstream). | 493 |

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

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 78-30286 Filed 10-30-78; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4735]

NATIONAL FLOOD INSURANCE PROGRAM

**Proposed Flood Elevation Determination for Township of Upper Paxton, Dauphin County, Pa.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Municipal Building, Upper Paxton, Pa. Send comments to: Mr. Marvin Adams, Chairman of the Township of Upper Paxton, 208 Maple Street, Millersburg, Pennsylvania 17061.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Susquehanna River. | Confluence of Wiconisco Creek. | 384 |
| | Confluence of Shippens Run. | 385 |
| | Confluence of Barger Run. | 390 |
| | Tributary No. 37 to Susquehanna River. | 392 |
| | Confluence of Mahantango Creek. | 404 |
| Wiconisco Creek | Confluence with Susquehanna River. | 384 |
| | Pennsylvania Route 147 (Market St.). | 392 |
| | Confluence of Little Wiconisoco Creek Wiconisco Rd. | 402 |
| | Township Route 406 | 426 |
| Tributary No. 1 to Wiconisco Creek. | Township Route 466 | 448 |
| | Confluence with Wiconisco Creek State St. | 400 |
| | | 432 |
| Little Wiconisco Creek. | Wiconisco St | 401 |
| | Pennsylvania Route 209. | 420 |
| Mahantango Creek. | Confluence with Susquehanna River. | 404 |
| | Pennsylvania Route 147. | 404 |
| | Township Route 302 bridge. | 420 |

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

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
*Fedaral Insurance Administrator.*

[FR Doc. 78-30287 Filed 10-30-78; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4736]

NATIONAL FLOOD INSURANCE PROGRAM

**Proposed Flood Elevation Determination for Township of West Hempfield, Lancaster Country, Pa.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the municipal building, 3401 Marietta Avenue, Lancaster, Pa. 17601. Send comments to: Mr. Frank R. Burkhart, Secretary of West Hempfield, 1030 Silver Springs Road, Lancaster, Pa. 17601

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Strickler Run | 11,000 ft. above mouth | 311 |
| | Franklin Rd. (upstream) | 287 |
| | downstream corporate limits. | 265 |
| North Branch | Oswego Drive (upstream). | 298 |
| Strickler Run | Confluence with Strickler Run. | 276 |
| Chickies Creek | Chiques Rd. | 340 |
| | Siegrist Rd. (upstream) | 307 |
| | Valley Rd. (upstream) | 297 |
| West Branch | Donnerville Rd. (upstream). | 396 |
| Little Conestoga Creek. | downstream corporate limits. | 383 |

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

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 78-30288 Filed 10-30-78; 8:45 am]

[6735-01-M]

## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

[29 CFR Part 2700]

### PROCEDURAL RULES

#### Proposed Rulemaking

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Federal Mine Safety and Health Review Commission proposes to issue its Rules of Procedure by which interested parties may participate in the proceedings of the Commission. The Commission is mandated by the Federal Mine Safety and Health Act of 1977 to prescribe rules of procedure for review of cases. The proposed rules are intended to afford simple procedures, to dispense with unnecessary papers, and to be brief.

DATES: Written views and data may be filed until November 30, 1978.

ADDRESS: Address all comments to: Executive Director, Federal Mine Safety and Health Review Commission, 1730 K Street NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT:

Robert Pleasure, General Counsel, Federal Mine Safety and Health Review Commission, 1730 K Street NW., Washington, D.C. 20006. Phone, 202-653-5610.

SUPPLEMENTARY INFORMATION: The Federal Mine Safety and Health Review Commission proposes to adopt the following rules pursuant to section 113(d)(2) of the Federal Mine Safety and Health Act of 1977 (the Act) 83 Stat. 742, 30 U.S.C. 801-960. They replace Interim Rules published on March 10, 1978, in the FEDERAL REGISTER at 43 FR 10320. Although notice and opportunity for public comment are not required, the Commission has determined that it is in the public interest to invite the participation of the general public in the formulation of significant Commission rules and believes that seeking public comment at an early date is in keeping with the spirit of Executive Order 12044, "Improving Government Regulations," published in the FEDERAL REGISTER on March 24, 1978.

Persons accepting the Commission's invitation to comment on the proposed Rules of Procedure are requested to read the proposed rules in association with the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801-960 (the Act), and pertinent provisions of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, and particularly 5 U.S.C. 554, "Adjudications." The Commission, in drafting the proposed Rules of Procedure, has sought to avoid unnecessary repetition of provisions already prescribed by statute.

JEROME R. WALDIE,
*Chairman, Federal Mine Safety and Health Review Commission.*

Under the authority of sections 105 and 113 of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164 (30 U.S.C. 815 and 823), the Commission proposes that 29 CFR part 2700 be amended to read as follows:

#### Subpart A—General Provisions

Sec.
2700.1 Scope; rules of construction.
2700.2 Definitions.
2700.3 Parties and representatives.
2700.4 Papers, responses, statements of affirmative defenses, answers to complaints.
2700.5 Amendments to papers.
2700.6 Filing of papers.
2700.7 Service of papers.
2700.8 Computation of time.

#### Subpart B—Hearings

2700.10 Docketing; assignment of judge.
2700.11 Discovery.
2700.12 Expedited proceedings.
2700.13 Authority and duty of judges.
2700.14 Decision of the judge.

#### Subpart C—Review by the Commission

2700.20 Petitions for discretionary review.
2700.21 Interlocutory review.
2700.22 Briefs before the Commission.
2700.23 Review by a panel of the Commissioners.
2700.24 Oral argument before the Commission.

#### Subpart D—Miscellaneous

2700.30 Special circumstances; wavier of rules.
2700.31 Settlement.
2700.32 Ex parte communications.
2700.33 Relief from final orders of the Commission.

2700.34 Hearings before the Commission or members thereof.

AUTHORITY: Secs. 105 and 113, Federal Mine Safety and Health Act of 1977, Pub. L. 95-164 (30 U.S.C. 815 and 823).

### Subpart A—General Provisions

§ 2700.1 Scope; rules of construction.

(a) These rules govern all proceedings before the Commission and its judges.

(b) These rules shall be construed to afford expeditious, fair, and inexpensive procedures to all parties.

(c) Unless the context indicates differently, words importing the singular also import the plural and vice versa. Words importing the masculine gender also import the feminine and vice versa.

(d) On any procedural question not regulated by the act, these Procedural Rules, or the Administrative Procedure Act (particularly 5 U.S.C. 554 and 556), the Commission or any judge shall be guided to the extent practicable by any pertinent provisions of the Federal Rules of Civil Procedure or Federal Rules of Evidence as appropriate; except that hearsay evidence shall be admissible, in the discretion of the presiding judge or Commission, whether the declarant is available or unavailable, if the evidence is of the type that the presiding judge or Commission finds offers assurances of accuracy.

§ 2700.2 Definitions.

(a) "Act" means the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq.

(b) "Commission," "Secretary," "commerce," "operator," "agent," "mine," and "person," have the meanings stated in section 3 of the Act.

(c) Words used in these rules have the meaning with which they are used in the Act.

(d) "A paper initiating a proceeding" or "initiating paper" is: a request for temporary relief under section 105(b)(2), 30 U.S.C. 815(b)(2); a complaint under section 105(c), 30 U.S.C. 815(c); a notice of contest under section 105(d), 30 U.S.C. 815(d); an application under section 107(e)(1), 30 U.S.C. 817(e)(1); or a complaint under section 111, 30 U.S.C. 821.

(e) "Paper" includes a brief, petition, motion, statement of affirmative defenses, answer, response and initiating paper.

(f) The term "Judge" means an Administrative Law Judge qualified pursuant to section 3105 of title 5, United States Code, and appointed by or transferred to the Commission under section 113 of the Act.

§ 2700.3 Parties and representatives.

(a) *Party status.* A complaining miner, applicant, or a representative of a miner under sections 105(c) and 111, 30 U.S.C. 815(c) and 821, an affected miner or his representative who has filed a notice of party status before hearing, and an intervenor, are parties. Affected miners or their representatives who state after the start of the hearing their desire to participate as parties shall, upon just terms, be freely accorded party status.

(b) *Intervention.* A motion for leave to intervene may be filed at any time before hearing on the merits. The motion shall set forth the interest of the petitioner, and show that intervention will expedite rather than delay the determination of issues. The Secretary may at any time intervene as of right in proceedings under sections 105(c)(3) and 111, 30 U.S.C. 815(c)(3) and 821.

(c) *Representatives.* A party may appear through a representative. These rules do not require representation by a lawyer, nor do they prohibit representation by persons not lawyers.

§ 2700.4 Papers, responses, statement of affirmative defenses, answers to complaints.

(a) *Responses not required; when to file voluntary response.* Unless these rules state otherwise, or a party is ordered otherwise, a response to a paper is not required. A voluntary response shall be filed within 10 days after service of the paper.

(b) *Statement of relief requested.* Every paper, except notices of contest, shall contain a short and plain statement of the relief requested and supporting grounds; a request under section 105(b)(2), 30 U.S.C. 815(b)(2), shall be accompanied by a detailed statement giving reasons for relief. A complaint under section 105(c) or 111, 30 U.S.C. 815(c) or 821, shall state the amount of time or the date from which the complainant was idle or out of work, and his regular rate of pay.

(c) *Answer to complaint required.* Within 20 days after service of a complaint under section 105(c) or 111, 30 U.S.C. 815(c) or 821, and within 10 days after service of a request for temporary relief under section 105(b)(2), 30 U.S.C. 815(b)(2), a person against whom the complaint was issued or who opposes the request shall file an answer with the Commission. An allegation of the complaint or request shall be deemed admitted unless it is denied or the answering party states that despite diligent inquiry he lacks sufficient knowledge to enable him to admit or deny the allegation.

(d) *Commerce coverage.* Any order, complaint, citation, application, or other similar paper issued or filed by the Secretary, and any complaint issued or filed by a miner, representative of miners, or applicant for employment is deemed to impliedly allege that the pertinent mine has products that enter commerce, or has operations or products which affect commerce. This implied allegation is admitted unless specifically denied in a voluntary response, answer, or statement of affirmative defense.

(e) *Statement of affirmative defense.* A statement of affirmative defense shall be filed within 15 days of service of the initiating paper or with an answer or voluntary response.

(f) *Reinstatement order proceedings.* (1) Prior to issuing any reinstatement order, the administrative law judge assigned to the matter shall conduct a preliminary proceeding at which any application of the Secretary for a reinstatement order under section 105(c)(2) shall be supported by a showing of (i) jurisdiction, and (ii) the basis of the Secretary's finding that the miner's complaint was not frivolously brought.

(2) If the adminstrative law judge finds that the Secretary has adequately shown jurisdiction and that the miner's complaint is not frivolously brought, the adminsitrative law judge shall immediately order the reinstatement of the miner pending final order on the complaint.

(3) No more than 20 days after issuance of the reinstatment order, a hearing shall be held on any application of an operator for modification or termination of the reinstatement order. At such hearing, the reinstatment order may be modified or terminated if the applicant for modification or termination shows:

(i) There is a substantial likelihood applicant will succeed on the merits; and

(ii) Such relief will not adversely affect the safety and health of miners.

(4) Any hearing under this paragraph shall not be a hearing on the merits of the miner's complaint, nor shall any modification or termination limit the right of a miner to proceed for reinstatement under section 105(c)(3) or the authority of the Secretary to issue a complaint under section 105(c)(2) of the Act.

(5) Any complaint filed by the Secretary under section 105(c) of the Act shall be filed within 90 days of the reinstatment order.

§ 2700.5 Amendments to papers.

(a) *Amendment of some initiating papers as of right.* A party who has filed a complaint under sections 105(c) or 111, 30 U.S.C. 815(c) or 821, a request for temporary relief under section 105(b)(2), 30 U.S.C. 815(b)(2), or an application under section 107(e)(1), 30 U.S.C. 817(e)(1), may amend his complaint, request, or application once as of right before a response is served, or if no response is served no later than issuance of notice of hearing.

(b) *Amendment of responses as of right.* A party who has filed a response to a paper initiating a proceeding may amend his response before the hearing begins once as of right within 5 days after service of his voluntary response, and within 10 days after service of his required response.

(c) *Motion to amend.* A motion to amend a paper, whether made before, during, or after a hearing, shall be granted unless prejudice to an opposing party's presentation of his claim or defense cannot be cured without unreasonably delaying the proceeding.

(d) *Amendments to conform to issues tried.* An issue not raised in the papers but tried by the actual consent of the parties, express or implied, shall be treated as if it has been raised in the papers. The papers may be amended at any time, upon motion of a party, the judge, or the Commission, to reflect or confirm the trial by consent of an issue not raised in the papers. A failure to object to the introduction of evidence relevant only to an issue not so raised may be considered an indication of trial by consent.

(e) *Relation back of amendments.* A claim or defense raised in an amendment, and a claim asserted against a party added by a amendment, relates back to the date of the original paper, if (1) the claim or defense raised in the amendment arose out of the condition, conduct, transaction, or occurrence that was the subject of the original paper, and (2), in the case of an amendment adding a party, the added party has, within the limitation period set by law, received such notice of the claim that the presentation of his defense will not be prejudiced, and the original paper reflected a mistake concerning the identity of the proper party.

(f) *Amendment of notice of contest.* This rule does not authorize amendment of a notice of contest.

**§ 2700.6 Filing of pleadings and other documents.**

(a) *Where to file.* A paper not filed in connection with interlocutory review shall be filed, once a judge has been assigned to the proceeding, with the judge, unless his decision has been issued. In all other circumstances, a paper shall be filed with and addressed to the Executive Director of the Commission at: Federal Mine Safety and Health Review Commission, 1730 K Street NW., Washington, D.C. 20006.

(b) *Necessary information.* The first paper filed by a party shall state his address and business telephone number. A paper shall state the docket number of the case, if one has been assigned.

(c) *Effectiveness of filing.* Filing is effective upon receipt.

(d) *Number of copies.* One copy of a paper shall be filed with the judge. Seven copies of a paper shall be filed with the Commission; but if the filing party is not represented by a lawyer or other representative, one copy shall be filed.

(e) *Certificate.* Every paper filed shall be accompanied by a certificate of service.

**§ 2700.7 Service of papers.**

(a) *Service upon parties.* A copy of a filed paper shall be served upon all parties.

(b) *Service upon nonparties.* A copy of a paper initiating a proceeding, a settlement proposal, and a motion to withdraw either a citation, order, or other request for relief by the Secretary, shall, if filed before a hearing, be served by the filing upon the representatives of affected miners; if there are unrepresented miners, the operator shall serve a copy of the papers by posting it on the bulletin board referred to in section 109(a), 30 U.S.C. 819(a). A posted copy of a paper initiating a proceeding shall be accompanied by a visible notice informing affected miners of their right to participate as parties and that all relevant papers are available for inspection and copying. The notice shall state that a miner may become a party by filing a notice of party status with the Federal Mine Safety and Health Review Commission, 1730 K Street NW., Washington, D.C. 20006. Papers shall remain posted until the hearing begins or until earlier disposition. Proof of posting on the bulletin board shall be filed within 4 working days after posting.

(c) *Service of notice of hearing.* The operator shall serve a copy of the notice of hearing upon the representative of affected miners. If there are unrepresented miners, he shall post a copy of the notice as if it were a paper initiating a proceeding.

(d) *Exclusions from paragraphs (b) and (c).* Paragraphs (b) and (c) do not apply to cases initiated by complaints under sections 105(c) and 111, 30 U.S.C. 815(c) and 821.

(e) *Manner and effectiveness of service.* Unless otherwise ordered, service may be accomplished by first class mail or personal delivery. Service shall be effective upon mailing.

(f) *Service upon representative only.* Service upon a party appearing through a representative shall be made only upon the representative.

**§ 2700.8 Computation of time.**

(a) In computing any period of time prescribed or allowed in these rules, the day from which the designated period begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or Federal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and Federal holidays shall be excluded in the computation.

(b) When service of a paper is by mail, 3 days shall be added to the time allowed by these rules for the filing of a response or other paper.

**Subpart B—Hearings**

**§ 2800.10 Docketing; assignment of judge.**

Upon receipt of a paper initiating a proceeding, including a notice of contest, the Executive Director shall assign a docket number to the proceeding. The docket number shall indicate whether the proceeding must be expedited. The Chairman, or the Chief Administrative Law Judge, if authorized by the Chairman, shall promptly assign an administrative law judge to hear the matter.

**§ 2700.11 Discovery.**

(a) *Exercise of authority.* This rule defines the manner and circumstances in which the authority in section 113(e), 30 U.S.C. 823(e), is to be exercised.

(b) *Discovery limited by judge.* A judge may limit discovery to expedite any proceeding.

(c) *Relevant evidence; privileges.* Only relevant evidence not validly claimed to be privileged may be discovered.

(d) *Names of miner witnesses and informants.* A judge shall not disclose or order a person to disclose to an operator or his agent the name of a miner who is expected by the judge to testify or who a party expects to summon or call as a witness. A judge shall not, except in extraordinary circumstances, disclose or order a person to disclose to an operator or his agent the name of an informat who is a miner.

(e) *Request for admissions.* A party may request admissions of another party. A statement in a request is admitted unless, within 10 days, it is denied, objected to on stated grounds, or the party served states that despite diligent inquiry he lacks sufficient knowledge to enable him to admit or deny. Filed requests and responses shall be admitted into the record without motion by a party but may later be struck as irrelevant or for other reasons.

(f) *Entry upon land.* A judge may order, for good cause shown, a party to permit a party or his agent to enter upon designated land to inspect and gather information.

(g) *Production of documents and objects.* A judge may order, for good cause shown, a party to produce books, papers, documents or objects.

(h) *Deposition and interrogatories.* Depositions may be compelled, and an-

swers to interrogatories may be required, in extraordinary circumstances.

(i) *Subpenas.* The Commission or a judge may issue a subpena to testify or produce materials under section 113(e), 30 U.S.C. 823(e). A certificate of service shall be filed with the issuing person or body. A person served may move to revoke or modify a subpena within 5 days of service or at the hearing, whichever is sooner.

**§ 2700.12 Expedited proceedings.**

(a) Expedited proceedings shall be had if required by the Act, or if ordered by two Commissioners upon their own motion or motion of a party. A motion of a party to expedite proceedings may be served and filed by telegram, or may be read verbatim over the telephone if followed by a written motion served with dispatch.

(b) The Commission or a judge, in expedited proceedings, may waiver or modify any requirements in these rules. The judge shall order daily transcripts of the hearing, and may make other orders necessary to insure expedition. A petition for review of an interlocutory ruling of a judge during expedited proceedings will not be entertained, unless accompanied by a sworn statement that the interlocutory ruling will cause irreparable harm to a person.

(c) A hearing on the merits of the case shall not be scheduled with less than 4 days notice to the parties unless all parties to the proceeding consent to an earlier hearing.

**§ 2700.13 Authority and duty of judges.**

(a) A judge is authorized to: administer oaths and affirmations; require a party to state its position with respect to any issue; regulate the course of the hearing and maintain its decorum; hold conferences for the settlement or simplification of issues; hear reasonably short offers of proof; examine witnesses on his own motion; and take any other action authorized by law.

(b) A judge shall; conduct a fair and impartial hearing; assure that the facts are fully elicited, but without impairment of his impartiality; exclude irrelevant evidence on his own motion; and insure that persons entitled to an opportunity to participate as parties are given the notice required by these rules and the Act.

**§ 2700.14 Decision of the judge.**

On the day of his decision, the judge shall file with the Executive Director, the record, and as many copies of his decision as there are parties plus seven. After receipt of the record, the decision, and the correct number of copies, the Executive Director shall certify the record and promptly issue to each party a copy of the decision. An order approving a settlement proposal is a decision of a judge; the judge shall transmit to the Executive Director as many copies of such an order as there are parties plus three.

**Subpart C—Review by the Commission**

**§ 2700.20 Petitions for discretionary review.**

(a) *Length.* Petitions for discretionary review if more than 10 pages in length shall contain a table of contents and a table of authorities cited.

(b) *Authorities cited.* An unreviewed decision of a judge shall not be precedent binding upon the Commission and is not a principal authority under section 113(d)(2)(A)(iii) of the Act, 30 U.S.C. 823(d)(2)(A)(iii).

(c) *Denial of petition.* A petition not granted is deemed denied.

(d) Statements in opposition to petitions for discretionary review may be filed at the times and places specified in this section for the filing of petitions for discretionary review. Any statement shall contain a concise statement on each portion of the petition to which it is addressed.

**§ 2700.21 Interlocutory review.**

(a) *Petition for interlocutory review.* A party who desires review of an interlocutory ruling of a judge shall file, within 3 days after receipt of the ruling, if written, or within 5 days after notice of the ruling, if oral, seven copies of a petition for interlocutory review. The petition shall be accompanied by supporting documents, a copy of pertinent portions of the record, if available, and a copy of the ruling, if written. A judge shall reduce his ruling to writing upon the request of a party desiring interlocutory review.

(b) *Action upon the petition.* A petition for interlocutory review shall be granted when the judge and two Commissioners, or three Commissioners, certify that the ruling involves a controlling question of law or policy about which there is substantial ground for difference of opinion and that immediate review may materially expedite the proceeding.

(c) *Stays.* The filing or granting of a petition shall not stay the proceeding or the effect of a ruling unless otherwise ordered.

**§ 2700.22 Briefs before the Commission.**

(a) *Time for filing briefs.* A party whose petition for discretionary review has been granted, shall file any brief within 20 days after the granting of the petition. Other parties shall file any briefs within 20 days after the petitioner's brief is served or due, whichever is sooner. If the Commission orders review on its own motion, all parties shall file any briefs they wish considered by the Commission within 20 days of the order. A party whose petition for interlocutory review has been granted, shall file any brief within 15 days after the granting of the petition. Any responsive brief shall be filed within 10 days of service or due date of the petitioner's brief, whichever is sooner.

(b) *Length; table of contents or index.* Except by permission of the Commission, a brief shall have no more than 35 pages of text. Briefs in excess of 15 pages shall include a table of contents or index and a table of authorities cited.

(c) *Late filing; motion for extension of time to file brief.* The Commission may reject a brief not timely filed. A motion for extension of time shall not be granted except in an extraordinary circumstance; the burden of a heavy caseload, or a lack of personnel, does not constitute an extraordinary circumstance.

**§ 2700.23 Review by a panel of Commissioners.**

The Chairman may designate, on behalf of the Commission, three or more Commissioners to serve on a panel. Unless otherwise ordered by the Commission, a panel may exercise any authority of the Commission. A decision of a panel may be reviewed by the full Commission upon its own motion or upon motion of a party.

**§ 2700.24 Oral argument before the Commission.**

The Commission may, in its discretion, grant an opportunity for oral argument.

**Subpart D—Miscellaneous**

**§ 2700.30 Special circumstances; waiver of rules.**

In special circumstances not contemplated by the provisions of these rules, or for good cause shown, the Commission may, upon application by any party, or upon its own motion, waive any rule or make such orders as justice or the administration of the Act requires.

**§ 2700.31 Settlement.**

(a) *Policy.* Settlement is encouraged at all stages of a proceeding including the review stage.

(b) *Requirements.* A settlement proposal shall be consistent with the provisions and purposes of the Act and these rules. It shall include motions which if granted would finally dispose of the controversy, and shall be signed by all parties.

(c) *Service.* Settlement proposals shall be served upon represented and unrepresented, affected miners who are not parties in the manner prescribed by § 2700.7(b).

(d) *Action.* A settlement proposal shall not be approved until 10 days after service upon represented and unrepresented miners who are not parties.

(e) *Motions to withdraw.* A motion to withdraw that is induced by a promise of another party shall be treated by the parties, the judge, and the Commission, as a settlement proposal.

**§ 2700.32 Ex parte communications.**

(a) There shall be no ex parte communication, with respect to the merits of any case not concluded, between the Commission, including any member, officer, or agent of the Commission who is employed in the decisional process, and any of the parties or intervenors.

(b) Any inquiries concerning filing requirements, the status of cases, or docket information shall be directed to the Office of the Executive Director of the Commission at: Federal Mine Safety and Health Review Commission, 1730 K Street NW., Washington, D.C. 20006.

(c) In the event an ex parte communication in violation of this section occurs, the Commission or the judge may make such orders or take such action as fairness requires. Upon notice and hearing, the Commission may take such disciplinary action as is appropriate in the circumstances against any person who knowingly and willfully makes or solicits the making of a prohibited ex parte communication.

(d) All ex parte communications in violation of this section shall be placed on the public record of the proceeding.

**§ 2700.33 Relief from final order.**

(a) Upon motion of a party or the Commission in the case of clerical errors, the Commission may correct clerical errors in a final order. Upon motion of a party and upon such terms as are just, the Commission may relieve a party from a final order for the following reasons: (1) Mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence not discoverable by due diligence; (3) fraud, misrepresentation, or other misconduct of an adverse party; (4) the order is void; (5) the order has been satisfied, released, or discharged, or a prior order upon which it is based has been reversed or otherwise vacated, or should no longer be given prospective effect; or (6) any other reason justifying relief. A party's motion shall be made within a reasonable time, before the filing of the record in a U.S. court of appeals, and, for reasons (1), (2), and (3), not more than 1 year after issuance of the order.

(b) *Exlusion.* This rule does not authorize relief from a final order "not subject to review by any court or agency" within the meaning of sections 105 (a) and (b)(1)(A) of the Act, 30 U.S.C. 815 (a) and (b)(1)(A).

**§ 2700.34 Hearings before the Commission or members thereof.**

Whenever the Commission deems it necessary in order to effectuate the purposes of the Act or to avoid unnecessary costs or delays, it may order that any proceeding which may have been instituted before it or a judge be transferred to and continued before it or any panel of three members of the Commission. The provisions of this part shall, insofar as applicable, govern proceedings before the Commission or any members pursuant to this section, and the powers granted to administrative law judges in such provisions shall, for the purpose of this section, be reserved to and exercised by the Commission or the members thereof who shall preside.

[FR Doc. 78-30777 Filed 10-30-78; 8:45 am]

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[4510-43-M]

## DEPARTMENT OF LABOR

**Mine Safety and Health Administration**

**[30 CFR Part 45]**

**INDEPENDENT CONTRACTORS**

**Advanced Notice of Proposed Rulemaking**

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: The Secretary of Labor is considering a regulation which will set criteria and procedures by which certain independent contractors performing services or construction at mines will be identified as operators by the Mine Safety and Health Administration (MSHA). When identified as operators, independent contractors would generally be held solely responsible for their violations of the Federal Mine Safety and Health Act of 1977 (Act), standards and regulations.

A draft of the independent contractor regulation has been mailed to persons known to be interested. All other interested persons may obtain a copy of the draft by submitting a request to the address provided below.

The Secretary is soliciting all relevant comments on the draft proposed rule. Suggestions detailing alternate procedures for identification of independent contractors as operators are also solicited. Interested persons should submit their comments to the address provided below. The draft of the regulation being considered for proposal may be changed in light of the comments received.

DATES: Comments must be received on or before December 15, 1978.

ADDRESSES: Send comments to the Office of Standards, Regulations and Variances, MSHA, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203.

FOR FURTHER INFORMATION:

Frank A. White, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, VA. 22203, 703-235-1910.

Dated: October 25, 1978.

ECKEHARD MUESSIG,
*Deputy Assistant Secretary for Mine Safety and Health.*

[FR Doc. 78-30773 Filed 10-30-78; 8:45 am]

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[4110-35-M]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

**Health Care Financing Administration**

**[42 CFR Part 405]**

**MEDICARE PROGRAM**

**Cost to Related Organizations; Decision To Develop Regulations**

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Department is proposing a revision of medicare reimbursement regulations applicable to services, facilities, and supplies furnished to a provider of services by an organization related to the provider by common ownership or control. The revision will codify policy presently included in program instructions (Provider Reimbursement Manual HIM-15-1) and clarify existing regulations. This revision supplements the notice of proposed rulemaking published on August 17, 1978 (43 FR 36488), which provides specific rules for reimbursement of services, facilities, and supplies furnished by shared service organizations. The Department has classified this as a policy significant regulation.

FOR FURTHER INFORMATION, CONTACT:

Bruce Oliver, Medicare Bureau, Health Care Financing Administration, Department of Health, Education, and Welfare, Room 440, East High Rise, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-8224

Dated: October 23, 1978.

WILLIAM D. FULLERTON,
*Acting Adminstrator, Health Care Financing Administration.*

[FR Doc. 78-30714 Filed 10-30-78; 8:45 am]

[4110-35-M]

[42 CFR Part 405]

MEDICARE PROGRAM

**Withholding of Payments to Providers of Services and Other Suppliers of Services; Decision To Develop Regulations**

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The regulation would clarify due process procedures that must be followed when payments to providers, physicians, and suppliers of services under the Medicare program (title XVIII of the Social Security Act) are withheld because of suspected fraud or willful misrepresentation. The intent is to assure that due process procedures are adequate and clear. The Department has classified this as a policy significant regulation.

FOR FURTHER INFORMATION, CONTACT:

Anthony Lovecchio, Office of program Integrity, Health Care Financing Administration, Department of Health, Education, and Welfare, Room 532, East High Rise, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-9588.

Dated: October 23, 1978.

WILLIAM D. FULLERTON,
*Acting Administrator, Health Care Financing Administration.*

[FR Doc. 78-30716 Filed 10-30-78; 8:45 am]

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[4110-35-M]

[42 CFR Parts 433, 455]

MEDICAID PROGRAM

**Fraud in the Medical Assistance Program Verification of Services; Decision To Develop Regulations**

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Department is amending regulations to require all States to implement a written verification of services program with medicaid recipients. At present, only States with a medicaid management information system are required to do so. States would be permitted to initiate the program on a sample basis if the sample was sufficient to provide information regarding the extent and types of possible aberrant practices by medicaid providers. The regulations would require that the verification notification summarize the services claimed, request a response, and provide a means for the recipient to answer at no cost. The intent is to improve our capability to detect and deter fraud and abuse. The Department has classified this as a policy significant regulation.

FOR FURTHER INFORMATION, CONTACT:

Irwin Cohen, Office of Program Integrity, Health Care Financing Administration, Department of Health, Education, and Welfare, Room 588, East High Rise, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-5415.

Dated: October 23, 1978.

WILLIAM D. FULLERTON,
*Acting Administrator, Health Care Financing Administration.*

[FR Doc. 78-30717 Filed 10-30-78; 8:45 am]

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[4110-35-M]

[42 CFR Part 455]

MEDICAID PROGRAM

**Procedures for the Recovery of Overpayments, Withholding of Payments When There Is Evidence of Fraud, and the Suspension or Exclusion of Providers Who Defraud or Abuse the Medicaid Program**

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The proposed regulation would set forth State plan requirements for States to establish mechanisms for recovery of overpayments, withholding payments when there is evidence of fraud, and the suspension or exclusion of providers who defraud or abuse the medicaid (title XIX of the Social Security Act) program. The intent is to ensure that States have the authority to take administrative action when there is evidence of provider fraud or abuse. The Department has classified this as a policy significant regulation.

FOR FURTHER INFORMATION, CONTACT:

Irwin Cohen, Office of Program Integrity, Health Care Financing Administration, Department of Health, Education, and Welfare, Room 588, East High Rise, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-5415.

Dated: October 23, 1978.

WILLIAM D. FULLERTON,
*Acting Administrator, Health Care Financing Administration.*

[FR Doc. 78-30715 Filed 10-30-78; 8:45 am]

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[7035-01-M]

## INTERSTATE COMMERCE COMMISSION

[49 CFR PART 1201]

[Docket No. 36988]

UNIFORM SYSTEM OF ACCOUNTS FOR RAILROADS

**Alternative Methods of Accounting for Railroad Track Structures**

AGENCY: Interstate Commerce Commission.

ACTION: Notice of study.

SUMMARY: This notice announces that the Interstate Commerce Commission is beginning a general study considering the adoption of depreciation accounting for railroad track structures. The study will consider the problems associated with any change to depreciation accounting as well as possible improvements to the existing betterment accounting rules.

DATES: Written responses and accompanying data should be filed with the Commission on or before January 2, 1978.

ADDRESSES: Send written responses to: Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Bryan Brown, Jr., phone 202-275-7448.

SUPPLEMENTARY INFORMATION: The Interstate Commerce Commission is reexamining its accounting rules for railroad track property. To aid this effort, the Commission requests comments from the public on any matter relevant to this subject. Several areas of specific interest to the Commission are outlined below.

The Commission is reexamining the current use of retirement-replacement-betterment accounting (betterment accounting) in light of (1) the April 30, 1976 petition by the Department of Transportation to consider revision of the accounting for existing railroad track structures, and (2) the adoption of depreciation accounting for track structures by five railroads in reports to the Securities and Exchange Commission (SEC) and to the public. The Commission investigated the issue of betterment versus depreciation accounting some 20 years ago and reaffirmed the appropriateness of betterment accounting. However, the Commission believes the railroad industry environment has so changed over the years because of increased Federal subsidization, large scale abandonments, and rehabilitation projects

that a reexamination of this issue is warranted.

The Bureau of Accounts conducted an informal conference on February 15, 1978 and February 16, 1978 in Docket No. 36557, as an initial step in reopening the subject of depreciation versus betterment accounting for railroad track structures. No resolution of the problems associated with implementing depreciation accounting which reduce the reliability of the financial information was reached at the informal conference. Consequently, we seek to address the issues through publication of this advance notice of proposed rulemaking.

Theoretical arguments relevant to betterment verus depreciation accounting have been set forth in previous investigations without resolution. We believe any final decision can not be based on the theoretical arguments alone. The theoretical arguments are important and will be considered when a final decision is made. However, this study will seek to (1) address the implemention problems associated with depreciation accounting for railroad track structures, (2) address the issue of distortion of the income statement associated with charging massive rehabilitation expenditures of operating expense in the same year they are incurred, (3) consider solutions to the problem of accounting for impairments in economic value of a railroad line segment, and (4) the possible impact on the railroad industry's after tax cash flow.

SUBJECTS ON WHICH PUBLIC COMMENT IS SPECIFICALLY REQUESTED

1-1. Is it necessary to develop a uniform methodology in applying depreciation accounting to railroad track structures?

1-2. Is development of a standard definition for unit of property, which distinguishes capital expenditures from operating expenditures, feasible? If so, how should it be developed?

1-3. To distinguish between capital expenditures and operating expenditures, is routine or "spot" maintenance versus replacement or "programmed" maintenance a more effective criteria than using standard units of property criteria? If so, how should spot maintenance and programmed maintenance be defined?

a. What labor costs should be capitalized? Direct labor? Indirect labor?

b. Should overhead costs be capitalized? If so, how much and on what basis should these costs be allocated?

c. How should relaying of rail from one category of track to another be accounted for?

1 4. Should an estimate of service life apply to the entire track structure or its individual components?

a. Is it necessary or practical to apply separate depreciation rates to the same type of track component when made of different materials (e.g., concrete ties versus wooden ties)?

b. Should the volume of traffic moving over the tracks or the grade and curvature of the track result in different depreciation rates for a track component?

c. What method of life estimation is most appropriate under the circumstances (e.g., turnover method, simulated plant record method)?

d. Should the Commission consider adopting a straight-line method on a basis other than years (e.g., on a use basis) and if so, what should that basis be?

e. Should rail in place be depreciated in light of its high salvage value in comparison to its cost?

1-5. If ratable depreciation were required, can or should property accounts be restated to retroactively adopt depreciation accounting? If so, how should the beginning balance of accumulated depreciation be established? Also, should net worth be increased to reflect this new basis?

1-6. What would be the cost to implement depreciation accounting? Costs would include additional time and money spent for labor costs, revisions to the existing internal reporting system, additional data processing requirements, as well as possible anticipated increases in Federal, State, and local taxes.

2. Should massive track rehabilitation expenditures be capitalized as an alternative to expensing such costs (and possibly distorting the current period's financial statements) in the current period?

a. Under what circumstances would this accounting be appropriate?

b. How can or does a railroad differentiate between "normal" track maintenance, track rehabilitation and track improvement?

c. What problems, if any, can be seen in implementing this accounting?

3. Is accounting recognition of impairment in economic value of a railroad line segment necessary? If so, how should it be reported?

a. What criteria should be used to determine when impairment has occurred?

b. What are the problems in adopting such a procedure?

4. What would be the impact on after tax cash flow for either railroads individually or collectively?

Decided October 18, 1978.

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

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

[FR Doc. 78-30776 Filed 10-30-78; 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.

[3410-11-M]

## DEPARTMENT OF AGRICULTURE

### Forest Service

### GUADALUPE ESCARPMENT WILDERNESS PROPOSAL

### Public Hearing

Notice is hereby given that public hearings will be held at the time and locations listed below on a proposal for the designation of the Guadalupe Escarpment Wilderness Area, comprised of approximately 21,000 acres within the Lincoln National Forest and 1,800 acres managed by the Bureau of Land Management in Eddy County, State of New Mexico:

December 7, 1978; Albuquerque, N. Mex., at White Winrock Hotel from 1 to 5 p.m. and 7 to 10 p.m.
December 9, 1978; Carlsbad, N. Mex., at La Caverna Hotel from 1 to 5 p.m.
December 11, 1978; El Paso, Tex., at Central Inn from 1 to 5 p.m. and 7 to 10 p.m.

A wilderness proposal and draft environmental statement on the proposal may be obtained from the Forest Supervisor, Lincoln National Forest, Federal Building, 11th and New York, Alamogordo, N. Mex., 88310.

Individuals and organizations may express their views by appearing at this hearing or by submitting written comments for inclusion in the official record to the Regional Forester, U.S. Forest Service, 517 Gold Avenue, SW., Albuquerque, N. Mex. 87102, before January 15, 1979. Those persons wishing to present oral testimony at the hearing should notify the Regional Forester, 517 Gold Avenue, SW., Albuquerque, N. Mex. 87102, prior to November 27, 1978.

Dated: October 24, 1978.

THOMAS C. NELSON,
*Acting for Chief, Forest Service.*

[FR Doc. 78-30711 Filed 10-30-78; 8:45 am]

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[6320-01-M]

## CIVIL AERONAUTICS BOARD

### UNUSED AUTHORITY PROCEEDINGS

### GAO Clearance

AGENCY: Civil Aeronautics Board.

ACTION: Notice of GAO clearance for unused authority proceedings.

SUMMARY: The requirement for information specified in 14 CFR 302.1803, 1805, 1806, 1809, and 1910 (PR-180, 43 FR 49529, October 24, 1978) has not yet been cleared by the U.S. General Accounting Office (GAO) as required by the Federal Reports Act, as amended, 44 U.S.C. 3512 (Supp. 5, 1975). The submission is being reviewed by GAO under emergency clearance procedures, but processing of the applications will not begin until GAO has determined that the information required meets the requirements of the Federal Reports Act. The order in which documents have been or will be filed before GAO clearance, and the order in which they will be processed after clearance, are not affected by the clearance.

DATE: Issued under delegated authority on October 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard B. Dyson, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5442.

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc 78-30740 Filed 10-30-78; 8:45 am]

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[3510-25-M]

## DEPARTMENT OF COMMERCE

### Industry and Trade Administration

### COLUMBIA UNIVERSITY, ET AL.

### Applications for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before November 20, 1978.

Regulations (15 CFR 301.9), issued under the cited act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 79-00012. Applicant: Columbia University, Department of Chemistry, Box 610 Havemeyer Hall, New York, N.Y. 10027. Article: Excimer Laser, Model EMG 500. Manufacturer: Lambda Physik, West Germany. Intended use of article: The article will be used to provide an intense source of ultraviolet coherent laser radiation in photochemical research. Principally, the article will be used to elucidate the kinetics of various reactions of organic molecules. It will also be used to study isotopic effects in chemical reactions. In addition, the article will be used by several graduate and post-doctoral students doing research and at the same time learning how to apply laser techniques to their research. Application received by Commissioner of Customs: October 12, 1978.

Docket No. 79-00013. Applicant: Veterans Administration Medical Center, Iowa City, Iowa 52240. Article: Hampel Micoperfusion Pump, Type III 2-50 nl/mn. Manufacturer: Wolfgang, Hampel, West Germany. Intended use of article: The article is intended to be used in a study designed to isolate the macula densa from the glomerular and perfuse the macula densa with varying concentrations of choloride at normal tubular flow rates. The effects of this perfusion the pre and post glomerular vascular resistances will then be evaluated with micropuncture techniques. Application received by Commissioner of Customs: October 12, 1978.

Docket No. 79-00015. Applicant: University of California Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, N. Mex. 87545. Article: $CO_2$ Double Discharge Amplifier Kit. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used in a prototype front-end system consisting of all of the parts necessary for one of the six 225-joule beams. This prototype system will be used as a proof of principle of the concepts and techniques to be used in the Antares laser

system. Among the things to be tested are: the on-axis Cassegrain optical system to be used to extract energy most efficiently from the preamplifier and driver; to measure the beam quality obtainable in a system like this; to evaluate effects of parasitic oscillation and retropulse damage, and, to establish confidence that the system will deliver the required energy. Application received by Commissioner of Customs: October 12, 1978.

Docket No. 79-00018. Applicant: University of New Orleans, Department of Chemistry, Lakefront Campus, New Orleans, LA. 70122. Article: High Resolution Fourier Transformation Multi-Nuclear Magnetic Resonance Spectrometer System, Model FX-90Q and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used by a wide variety of chemists to study a wide variety of materials and phenomena including: Investigation of Zinc Binding in Biological Important Molecules and Investigation of Cobalt (II) Oxygen Carriers. Application received by Commissioner of Customs: October 12, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Fee Educatonal and Scientific Materials.)

RICHARD M. SEPPA,
*Director, Statutory Import Programs Staff.*

[FR Doc. 78-30696 Filed 10-30-78; 8:45 am]

[3510-25-M]

## CORNELL UNIVERSITY, ITHACA, N.Y., ET AL.

### Consolidated Decision on Applications for Duty-Free Entry of Accessories for Foreign Instruments

The following is a consolidated decision on applications for duty-free entry of accessories for foreign instruments pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00274. Applicant: Cornell University, Department of Chemistry, Baker Laboratory, Ithaca, N.Y. 14853. Article: LKB 14800-1 CryoKit and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for preparing thin sections of (a) intestinal mucosa of human, rat, rabbit, and chick species; (b) developing teeth of young rodent; (c) adeno carcinomas and sarcomas from humans and rodents; (d) long bones of rodents including organ cultured explants; (e) mimosa leaves. These preparations will be studied in the ion microscope, and transmission and scanning electron microscopes with particular attention being given to the existence and location of diffusable ions ($Na^+$, $K^+$, $Mg^{++}$, $Mn^{++}$ $Cl^-$, $P^-$). The general goal of the investigation is to further elucidate the specific location and the nature of the cellular involvement of diffusable ions in biological material. Application received by Commissioner of Customs: June 13, 1978. Advice submitted by the Department of Health, Education, and Welfare on: September 26, 1978.

Docket No. 78-00285. Applicant: Mayo Clinic, 200 First Street SW., Rochester, Minn. 55901. Article: Goniometer Stage, Pole Pieces and Edax System for EM 300 Electron Microscope. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is an accessory to an electron microscope which will be used for studies of nerve embedded into epoxy from experimental animals suffering from lead, arsenic, and thallium neuropathies. The cellular and subcellular distribution of the heavy metals will be investigated to determine the mechanism by which nerve fibers are damaged in these neuropathies. Application received by Commissioner of Customs: June 28, 1978. Advice submitted by the Department of Health, Education, and Welfare on: September 26, 1978.

Docket No. 78-00293. Applicant: Bureau of Biologics, Food and Drug Administration, Building 29, Room 514, 8800 Rockville Pike, Bethesda, Md. 20014. Article: H-5010 Scanning Attachment for Electron Microscope. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is an accessory to an electron miroscope which is being used in conducting ultrastructural studies pertinent to control and research activities concerned with biological products including viral, rickettsial and bacterial vaccines, allergenic products, blood and blood fractions, and diagnostic reagents. Application received by Commissioner of Customs: June 26, 1978. Advice submitted by the Department of Health, Education, and Welfare on: September 26, 1978.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States.

Reasons: The applications relate to compatible accessories for instruments that have been previously imported for the use of the applicant institutions. The articles are being manufactured by the manufacturers which produced the instruments with which they are intended to be used. We are advised by the Department of Health, Education, and Welfare in the respectively cited memoranda that the accessories are pertinent to the applicant's intended uses and that it knows of no comparable domestic articles.

The Department of Commerce knows of no similar accessories manufactured in the United States which are interchangeable with or can be readily adapted to the instruments with which the foreign articles are intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
*Director, Statutory Import Programs Staff.*

[FR Doc. 78-30695 Filed 10-30-78; 8:45 am]

[3510-25-M]

## DEPARTMENT OF AGRICULTURE—BELTSVILLE

### Decision on application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00299. Applicant: U.S. Department of Agriculture, Science and Education Administration, FR, Room 205, Building 004, ARC-West Beltsville, Md. 20705. Article: LKB 2128-010 UM Ultrotome IV Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies to be conducted on the pathological anatomy of higher plant cell interactions with virus, fungus, and bacterial pathogens; fungus-virus interactions; and virus-insect cell interactions. Studies will include investigations of the structural formation of viruses and virus-induced products of infection at the ultrastructural level. Chemical composition of diseased tissues is studied by histochemical and cytochemical methods in observations of thick and ul-

trathin sections. The objectives of these studies are to investigate pathogen-host interactions both structurally and chemically as a basis for developing improved methods of disease control with an increased understanding of host cell modifications and pathogen development in the processes of disease development.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a cutting speed range of 0.1 to 50 millimeters/second (mm/sec). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. We are advised by the Department of Health, Education, and Welfare in its memorandum dated September 26, 1978, that: (1) Cutting speeds in the excess of 4 mm/sec. are pertinent to the applicant's research studies and (2) the domestic instrument does not provide the pertinent feature. We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
*Director Statutory Import Programs Staff.*

[FR Doc. 78-30694 Filed 10-30-78; 8:45 am]

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[3510-25-M]

## NATIONAL RADIO ASTRONOMY OBSERVATORY—TUCSON

### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00278. Applicant: National Radio Astronomy Observatory Associated Universities, Inc., 2010 North Forbes Boulevard, Suite 100, Tucson, Ariz. 85705. Article: Klystron, Model VRB2113A30. Manufacturer: Varian Associates of Canada Ltd., Canada. Intended use of article: The article is intended to be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver used in conjunction with a microwave antenna to measure the intensity, polarization, frequency, and direction of cosmic radiation.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a 105 to 111 gigahertz frequency range. The National Bureau of Standards (NBS) advises in its memorandum dated September 11, 1978 that: (1) The capability of the article described above is pertinent to the applicant's research purposes and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
*Director, Statutory Import Programs Staff.*

[FR Doc. 78-30697 Filed 10-30-78; 8:45 am]

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[3510-25-M]

## PRINCETON UNIVERSITY

### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00198. Applicant: Princeton University, P.O. Box 33, Princeton, N.J. 08540. Article: Differential Scanning Calorimeter (DSC) and Accessories. Manufacturer: Setaram, France. Intended use of article: The article is intended to be used to study the pyrolyses/steam gasification of all forms of biomass in a pressurized steam atmosphere. Heats of reaction and rates of gasification will be determined. Gaseous product composition and rates of species formation will also be measured.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article can use pressurized steam up to 1,000 pounds per square inch. The National Bureau of Standards advises in its memorandum dated September 22, 1978, that: (1) The capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
*Director, Statutory Import Programs Staff.*

[FR Doc. 78-30698 Filed 10-30-78; 8:45 am]

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[3510-25-M]

## UNIVERSITY OF CALIFORNIA-LOS ANGELES

### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of

Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00306. Applicant: University of California, Los Angeles, School of Engineering and Applied Science, 405 Hilgard Avenue, Los Angeles, Calif. 90024. Article: Lumonics TEA 600A, $CO_2$ Laser. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used for far-infrared lasers development, a program which consists of using $CO_2$ lasers to optically pump molecular gases such as methyl fluoride, deuterium oxide and obtain laser action around 5 mm. These far-infrared lasers are to be used for Takomak plasmas diagnostics. This part of a line of research in an attempt to find an alternative to oil and other fossil fuels as a source of electrical power.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a pulse length of 100 n sec. (.0000001 sec.). The National Bureau of Standards (NBS) advises in its memorandum dated September 19, 1978 that: (1) The capability of the article described above is pertinent to the applicant's research purposes and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
*Director, Statutory Import Programs Staff.*

[FR Doc. 78-30699 Filed 10-30-78; 8:45 am]

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[3510-25-M]

## UNIVERSITY OF CALIFORNIA-SAN DIEGO, SCRIPPS INSTITUTE OF OCEANOGRAPHY

### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00288. Applicant: University of California, San Diego, Scripps Institute of Oceanography, Deep Sea Drilling Project A-031, La Jolla, Calif. 92093. Article: ROCK-EVAL Source Rock Analyzer, IFP-FINA Process and Spare Parts. Manufacturer: Technip Geoproduction, France. Intended use of article: The article is intended to be used to determine the genetic potential of sampled rocks to produce hydrocarbons thereby providing a measure useful for safety considerations which are primary in those drilling operation areas which are deemed to have a geologic setting conducive to hydrocarbon generation and/or accumulation.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides real time analysis. The National Bureau of Standards advises in its memorandum dated September 27, 1978 that: (1) The capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
*Director, Statutory Import Programs Staff.*

[FR Doc. 78-30700 Filed 10-30-78; 8:45 am]

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[3510-25-M]

## UNIVERSITY OF CALIFORNIA-SANTA CRUZ

### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00120. Applicant: University of California, Purchasing Department, 1156 High Street, Santa Cruz, Calif. 95064. Article: Scintillation Plastic (Rohaglas 1921) and Accessories. Manufacturer: ROHM GmbH, West Germany. Intended use of article: The foreign article is intended to be used to study low grade scintillator strips which will locate the center of proton-initiated electromagnetic showers to measure some basic scattering amplitudes and determine the change of sub-constitutes of matter.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the combination of the best possible attenuation length (about 3 meters) and highest light output (about 20 percent normal scintillation). The National Bureau of Standards advises in its memorandum dated September 7, 1978, that: (1) The capability of the foreign article described above is pertinent to the applicant's intended purpose, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
*Director, Statutory Import Program Staff.*

[FR Doc. 78-30701 Filed 10-30-78; 8:45 am]

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[3510-25-M]

## UNIVERSITY OF CHICAGO, ARGONNE NATIONAL LABORATORY

### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 78-00307. Applicant: University of Chicago, Operator of Argonne National Labortory, 9700 South Cass Avenue, Argonne, Ill. 60439. Article: No. 512 Eulerian Cradle (Huber), with offset Phi circle, and accessory. Manufacturer: Robert Huber, Dissrakpionspechnick, West Germany. Intended use of article: The article is intended to be used for measurement of Bragg intensities during studies of single crystal inorganic and organic materials, e.g., platinocyanide complexes, TCNQ derivatives, etc.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactued in the United States.

Reasons: The foreign article can be used at liquid Helium temperatures using a two refrigeration unit. The National Bureau of Standards advises in its memorandum dated September 8, 1978, that: (1) The capability of the foreign article described above is pertinent to the applicant's intended purpose, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
*Director, Statutory Import Programs Staff.*

[FR Doc. 78-30702 Filed 10-30-78; 8:45 am]

[3510-25-M]

## UNIVERSITY OF MASSACHUSETTS-AMHERST

### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientifc article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00291. Applicant: University of Massachusetts, Department of Polymer Science and Engineering, Amherst, Mass. 01003. Article: High Pressure DTA Instrument. Manufacturer: Rigaku-Denki Co., Japan. Intended use of article: The article is intended to be used for the investigation of the thermal properties including transition temperatures and heats; heat capacities and transitional heat capacity changes of plymeric or plastic materials, crystalline or amorphorous. Experiments to be conducted will consist of measurements of the effect of pressure on glass transition and fusion temperatures.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a pressure range from 0-7000 kilograms per cubic centimeter. The National Bureau of Standards advises in its memorandum dated September 13, 1978 that: (1) The capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
*Director, Statutory Import Programs Staff.*

[FR Doc. 78-30703 Filed 10-30-78; 8:45 am]

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[3510-25-M]

## UNIVERSITY OF ROCHESTER

### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00163. Applicant: University of Rochester, 250 East River Road, Rochester, N.Y. 14623. Article: 2 (two) Imacon 675 Ultrafast streak cameras and accessories. Manufacturer: Hadland Photonics Ltd., United Kingdom. Intended use of article: The article is intended to be used in studies of the feasibility of heating targets with a pulsed high power laser to produce thermonuclear reactions to convert the laser photons to electrons and then sweep the accelerated electrons across a phosphor, transforming temporal to spatial variations. Using the known sweep rate, the length of the streaked laser output can be converted to time history and pulse widths.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, could have been made available to the applicant without excessive delay within the meaning of subsection 301.11(c) of the regulations at the time the foreign article was ordered (January 21, 1977).

Reasons: Excessive delivery time is described in subsection 301.11(c) of the regulations as follows:

*Excessive delivery time.* Duty-free entry of the article shall be considered justified without regard to whether there is being manufactured in the United States an instrument, apparatus, or accessory of equivalent scientific value for the purposes described in response to question 7 of the application form, if the delay in obtaining such domestic instrument, apparatus, or accessory (as indicated by the difference be-

tween the delivery times quoted by domestic manufacturer and foreign manufacturer) will seriously impair the accomplishment of the purposes. In determining whether the difference in delivery times is excessive, the Deputy Assistant Secretary shall take into account the relevancy of the applicant's program to other research programs with respect timing, the applicant's need to have such instrument, apparatus, or accessory available at the scheduled time for the course(s) in which the article is intended to be used, and other relevant circumstances.

The applicant issued a purchase order, No. B26599C dated January 21, 1977, for the foreign article which required delivery of the first camera on May 30, 1977 and the second camera on June 30, 1977 after receipt of order (ARO). The National Bureau of Standards (NBS) advises in its memorandum dated August 24, 1978, that an equivalent domestic camera was demonstrated to the applicant by General Engineering and Applied Research Inc., Palo Alto, Calif. (GEAR) in June 1977, but that this camera was not demonstrated as available at the time the foreign article was ordered. On September 24, 1976, GEAR indicated to the applicant (in a request for quote relating to a prior purchase), that it could not predict a viable delivery schedule for its streak cameras. GEAR wrote to NBS on October 4, 1977 (after the foreign article was ordered), and, among other things, stated on page 3, "Regarding delivery, we have *tried* to maintain a 4-month ARO for the Pico-V and a 6-month ARO for the Pico-X (emphasis added)." The Department concludes that GEAR, as late as October 1977, could not be certain a fulfilling a contract with specific delivery times.

The applicant identified important projects (requiring useable date by middle 1977), which would be seriously impaired by the delay in receiving the equivalent domestic cameras. NBS advises in its memorandum dated above that the difference in delivery between the domestic instrument and the foreign article is pertinent because any delay of his proposed use would seriously impair his program.

Accordingly, we find that the combination of uncertain domestic availability in January 1977 and the difference in committment to prompt delivery between the domestic and foreign manufacturers amounts to "excessive delivery" within the meaning of subsection 301.11(c) as delay in delivery would seriously impair the timely accomplishment of the applicant's purposes at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
*Director, Statutory Import Programs Staff.*

[FR Doc. 78-30704 Filed 10-30-78; 8:45 am]

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[3510-25-M]

## UNIVERSITY OF TENNESSEE ET AL.

### Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00362. Applicant: University of Tennessee, College of Veterinary Medicine, P.O. Box 1071, Knoxville, Tenn. 37901. Article: Electron Microscope, Model 201C and Watt Haskris Water Chiller with accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used in conducting the following experiments: (1) Hereditary muscular dystrophy—trace the sequential changes in effective muscles to determine the effect of age on the lesions from prenatal to adult life. (2) The retinas of dogs under anesthesia are exposed to various intensities of light and the retinas examined by electron microscopy for extent, rate and type of retinal degenerative change. (3) Animals with experimental myocardial ischemia are treated with lidocaine and the extent of the myocardial degeneration and necrosis is compared with that of controls. (4) Specimens of argentaffin cells will be obtained from different species of animals for anatomical characterization. Article ordered: July 1, 1978.

Docket No. 78-00364. Applicant: Ohio Agricultural Research and Development Center, Madison Hill, Wooster, Ohio 44691. Article: Electron Microscope, Model EM 400 and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for research purposes on the following: (1) Virus diseases of the following: Corn, soybeans, berries, grasses, ornamentals, swine, cattle, and animal cell culture. (2) Bacterial DNA characterization. (3) Rumen bacteria morphology. (4) Nematode ultrastructure and morphology. (5) PBB-PCB toxicity in cattle. (6) Receptor morphology of insect antennae. (7) Mammillary development in cattle. (8) Viral serology (plant and animal). (9) Leaf surface bacterial relationships. (10) Muscle fiber degeneration (poultry and animals). (11) General animal pathology. (12) Cellular level effects of pollution and biological toxins. Article ordered: June 17, 1978.

Docket No. 78-00370. Applicant: The Regents of the University of California, Riverside, Materiel Management Department, Riverside, Calif. 92521. Article: Electron Microscope, Model EM 400 with ±60° Tilt Goniometer and Accessories. Manufacturer: Philips Electronics Insturments NVD, The Netherlands. The article is intended to be used for research in plant cell biology, as well as for other investigations on cell ultrastructure, development, and function. In particular, the article will be used for examinations of thin sections of tissue and isolated material, negatively stained and shadowed-preparations, and freeze-fractured and freeze-etched material. Three-dimensional determination of cell, organelle, and membrane organization will also be done, which includes spatial mapping of structural features of steriological determinations of their interrelationships. Determinations of structural relations integrated in series from the tissue through the cell to the ultrastructural level will be done. With the features of scanning electron microscopy and elemental analysis, which can be easily added to this instrument, identifications of particular atomic elements and the determination of their localization, distribution, and relative quantities within tissues and cells will be investigated. In addition, the article will be used in the course, Biology 211, to teach students the principles of specimen preparation and electron optics, as well as how to use the electron microscope. Article ordered: July 10, 1978.

Docket No. 78-00374. Applicant: Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minn. 55440. Article: Electron Microscope, Model H-500-3 and accessories. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article is intended to be used for studies of asbestos and other mineral fibrous particles. Experiments will be conducted for enumeration and identification of fibrous mineral particulates in environmental samples, differentiation of structure between true asbestos, and mechanically derived microfibers and

identification of various microparticles in the occupational setting to determine exposure levels of the people of the state. This information will be used to determine the health significance of these exposures. Article ordered: June 9, 1978.

Docket No. 78-00375. Applicant: The Johns Hopkins University, Charles and 34th Streets, Baltimore, Md. 21218. Article: Electron Microscope, Model EM 10A and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to study the structure of cells, tissues, cell organelles, macromolecules, macromolecular assemblies, and viruses in order to learn of the molecular architecture of biological specimens relating to their function. In addition, the article will be used in a course entitled "Optical Methods in Biology" and in the students' thesis research. Article ordered: June 30, 1978.

Docket No. 78-00379. Applicant: The University of Alabama, Department of Biology, P.O. Box 1927, University, Ala. 35486. Article: Electron microscope, model EM 10A complete with accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of cell division, protozoan development, cytological localization of enzymes in hepatomas, virion morphology and nucleic acid structure, bacterial cell wall structure, striation spacing in fatigued metal, and crystallite sizing and topography. The proposed research will include the following: (1) A study of the comparative cytology and evolutionary affinities of the coccoid, zoospore-producing green algae; (2) Ultrastructure of the Cytoplasmic region containing the cytopharyngeal pouch in *Tetrahymena vorax;* (3) Ultrastructure of the attachment organelle in Oxymonad Flagellates from the Termite Reticulitermes flavipes; (4) Development of the Cytopharyngeal pouch in *Tetrahymena vorax;* (5) Cytochemical localization of Isozymes of aldehyde dehydrogenase in chemically reduced rat hepatomas; (6) Characterization of transducing phages for *Pseudomonas acidovorans;* (7) Cell wall ultrastructure of *Staphylococcus staphylolyticus;* (8) Fatigue crack growth studies; and (9) Crystallite size and surface topography studies of supported metal catalysis by electron microscopy. In addition, the article will be used in the course introduction to electron microscopy to familiarize the student with as many aspects of electron microscopy as possible, especially those which deal with the actual operation of the microscope. Application received by Commissioner of Customs: August 22, 1978.

Docket No. 78-00380. Applicant: Texas Research Institute of Mental Sciences, Department of Gerontology, Texas Medical Center, 1300 Moursund Avenue, Houston, Tex. 77030. Article: Electron microscope, model EM 10A and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to study a variety of human and animal tissues including brain, liver, kidney, heart, and skeletal muscle. Subcellular fractions prepared from brain homogenates will also be examined. Subcellular processes associated with aging in the brain and other organs of both human and animal origins will be investigated. Also, studies will be conducted to further basic knowledge of molecular pharmnacology and long-term drug effects on the subcellular organization of susceptible target tissues such as the brain and other vital organs of the body. Article ordered: July 31, 1978.

Docket No. 78-00386. Applicant: University of Kansas Medical Center, College of Health Sciences and Hospital, 39th and Rainbow Boulevard, Kansas City, Kans. 66103. Article: Electron Microscope, Model JEM-100S and accessories. Manufacturer: JEOL, Ltd., Japan. Intended use of article: The article is intended to be used for the study of ultrastructure of biological materials from all areas with emphasis on the study of tumor viruses and cells. Experiments involving characterization of tumor cells in vitro will be conducted to perfect these techniques so that new information may be obtained regarding the transformation of normal to malignant cells at the ultrastructural level. The article will also be used for technical, faculty and graduate student instruction in ultra technique in courses in Ultrastructural Histology. Application received by Commissioner of Customs: August 24, 1978.

Docket No. 78-00393. Applicant: Ohio State University, Botany Department, 1735 Neil Avenue, Columbus, Ohio 43210. Article: Electron Microscope, Model H-300 and accessories. Manufacturer: Hitachi (Perkin-Elmer), Japan. Intended use of article: The article is intended to be used to support the following research project: (1) An ultrastructural analysis of Paniceae (Gramineae), (2) membrane ultrastructure in response to TIBA and $Ca^{2+}$, (3) ultrastructural studies of the green algae, (4) Gametophyte development in ferns, (5) ultrastructural studies of aquatic fungi, and (6) electron microscopy of carboniferous pollen. The article will also be used in the course Electron Microscopy for Botanists, 693 to train students in electron microscopy techniques. Article ordered: July 21, 1978.

*Comments:* No Comments have been received with respect to any of the foregoing applications.

*Decision:* Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered.

*Reasons:* Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
*Director, Statutory Import Programs Staff.*

[FR Doc. 79-30705 Filed 10-30-78; 8:45 am]

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[3510-25-M]

## UNIVERSITY OF TEXAS MEDICAL SCHOOL—HOUSTON ET AL.

### Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before November 20, 1978.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30

a.m. and 5 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 79-00014. Applicant: University of Texas Medical School at Houston, Department of Pathology, P.O. Box 20708, Houston, Tex. 77025. Article: Scanning Electron Microscope, Model JSM-35U and accessories. Manufacturer: JEOL, Ltd., Japan. Intended use of article: The article is intended to be used to examine a variety of specimens from patients with diseases for diagnostic and investigational purposes and for studies of various experimental models of human diseases as a means toward a better understanding of etiology, pathogenesis and control. These studies include: (1) Diagnostic studies of human renal and hepatic biopsies. (2) Diagnostic studies of human lung tissue and of experimental animal lung tissue. (3) Diagnostic studies of human blood and bone marrow specimens. (4) Studies of human tissue upon removal in surgery and freezing in cold stage accessory using low accelerating voltage to reduce speciment damage. (5) Studies of lung inclusions using X-ray analyzer for elemental analysis of trace elements contained in said inclusions. (6) Studies of brain and other nervous tissue in normal and diseased states. The article will also be used in training programs for medical and graduate students in electron microscopy and the use of it in biomedical studies and research. Undergraduates will also be trained in its use as a basis for technical careers and for further training and research in the Graduate School of Biomedical Sciences. Application received by Commissioner of Customs: October 12, 1978.

Docket No. 79-00017. Applicant: University of Chicago Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, Ill. 60439. Article: High Temperature TG DTA Thermal Analyzer and Accessories. Manufacturer: Rigaku Corp., Japan. Intended use of article: The article is intended to be used for studying the processes of separating actinide elements (thorium, uranium, plutonium) from each other using metals and molten salts. Specific experiments include: (1) The establishment of phase diagrams (thorium/cadmium and thorium/cadmium/magnesium); (2) Measurement of heats of transition (thorium alloys); (3) Measurement of the losses of volatile components (cadmium/magnesium); and (4) Identification of intermetallic compounds. Application received by Commissioner of Customs: October 12, 1978.

Docket No. 79-00019. Applicant: Stanford University, 851 Welch Road, Palo Alto, Calif. 94304. Article: Transmission Electron Microscope, Model H-300 and accessories. Manufacturer: Hitachi-Perkin-Elmer, Japan. Intended use of article: The article is intended to be used extensively to study pathological tissue at a molecular and cellular level. The principal areas of research will include the following: (1) Study of renal tissue from kidney biopsies to determine the degree of immunological injury to the basement membrane of the glomeruli. (2) Research of lymphomas and Hodgkin's Disease in which a new thrust is being made to demonstrate surface antigens on tumor cells. (3) Advanced research on tissue obtained by endomycardial biopsy from humans to determine whether viruses are the cause of myocarditis and cardiomyopathies. (4) Research to try to understand the mechanism of anticancer drug on heart muscle so that larger doses of the drug can be given to cure cancer without also causing heart disease. In addition, the article will be used for training surgical pathology trainees, and medical students in the surgical pathology rotations as well as training in electron microscopy—an essential skill for modern Pathologists. The article will also be used for instructional purposes for two courses: Advanced Analytical Chemistry and Physical Chemistry Laboratory. Application received by Commissioner of Customs: October 16, 1978.

Docket No. 79-00020. Applicant: California Institute of Technology, 1201 E., California Street, Pasadena, Calif. 91125. Article: Gas Chromatograph/Mass Spectrometer, Model MS-25 and accessories. Manufacturer: Kratos, Inc., AEI Scientific Instruments, United Kingdom. Intended use of article: The article is intended to be used for studies of small organic molecules (especially strained ring systems), heterocycles, larger intermediates formed in the attempted total synthesis of prostaglandins, neurotoxins, anti-biotics and other natural products, deuterated organic molecules, organophosphorus compounds, organometallic compounds of early transition metals, oxygen-carrying metal complexes, and various other organic and inorganic compounds. In addition, the products of the hydropyrolysis of coal and lignin will be studied; these are expected to range from CO and ethylene through benzene to compounds with molecular weights in the range 300-1500 with structures resembling that of the parent coal. Varied experiments will be conducted involving many different objectives, of which the following are representative: (a) Studies of intramolecular energy flow and utilization in large molecules under collisionless conditions, and development of schemes for deuterium isotope separation. (b) Devising systems for the selective and sensitive detection of organophosphorus compounds using chemical ionication mass spectrometry. (c) The development of catalysts for the conversion of synthesis gas ($CO+H_2$) to methane and higher alkanes by reduction with electron-deficient metallocenes. (d) Studies of selective isotopic enrichment by infrared-induced rearrangement of chemically identical but isotopically different molecules, as applied to isotope separation. (e) Studies of thermal reactions of high energy organic compounds which result in electronically excited states of product molecules, in order to determine the mechanisms of decomposition. (f) The production of 1,1-dialkyldiazenes (aminonitrenes or N-nitrenes) which are assumed to be intermediates in several chemical reactions. Application received by Commissioner of Customs: October 16, 1978.

Docket No. 79-00021. Applicant: Columbia University, Nevis Laboratories, 136 South Broadway, Irvington, N.Y. 10533. Article: Lead Glass Blocks (130 pcs.) Manufacturer: O'Hara Optical Glass Manufactuiring Co., Ltd., Japan. Intended use of article: The article is intended to be used in elementary Particle Physics experiments in which the lead glass will be mated to photomultiplier tubes and associated electronics. The assembly will be used to detect very high energy electrons and protons which deposit all their energy in the lead glass. Application received by Commissioner of Customs: October 16, 1978.

Docket No. 79-00022. Applicant: Mount Sinai School of Medicine of the City University of New York, One Gustave Levy Place, New York, N.Y. 10029. Article: Circular Diochroism Automatic Recording Spectropolarimeter, Model J-500A and accessories. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended use of article: The article is intended to be used for studies of synthetic polypetides and nucleic acids. Experiments will be conducted to obtain circular dichroism spectra of the molecules and molecular complexes at various temperatures and concentrations. The objectives of these experiments are: (i) To develop quantitative methods of assessing the structure of proteins in solution; (ii) To study subtle changes of the environment of aromatic residues; (iii) To study protein subunit complexes and protein complexes with polysacharides and nucleic acids; and (iv) To compare predicted and experimental structures. Application received by Commissioner of Customs: October 16, 1978.

Docket No. 79-00023. Applicant: University of Maryland, College Park, Md. 20742. Article: Rheovibron Conversion Kit. Manufacturer: Toyo Baldwin Co., Ltd., Japan. Intended use of article:

The article is intended to be used in experiments involving the preparation of polymeric blends in a Brabender blender followed by the preparation of a film of the material by heating the blend under pressure in a laboratory press. After various thermal treatments as well as some structural measurements by other techniques the film is inserted directly into the sample chamber of the Rheovibron. The objectives of this investigation are to study molecular and phase interaction in polymer blends and to determine the compatibility of specific blends of hompolymers and copolymers produced from them. Application received by Commissioner of Customs: October 16, 1978.

Docket No. 79-00025. Applicant: The Johns Hopkins University School of Medicine, 720 Rutland Avenue, Baltimore, Md. 21205. Article: LKB 2088 Ultrotome V Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Indended use of article: The article is intended to be used for investigations which include ultrastructural studies on normal and pathologic animal tissues and cultured cells, developmental studies, cyto and histochemical studies, comparative neuroanatomy subcellular changes in cells induced by changes is their biochemical and physical environments, and tracing neuronal pathways, to further basic knowledge and gain an understanding of pathophysiology and treatment of neurological and psychic disorders. Application received by Commissioner of Customs: October 17, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
*Director, Statutory Import Programs Staff.*

[FR Doc. 78-30706 Filed 10-30-78; 8:45 am]

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[3510-12-M]

**National Oceanic and Atmospheric Administration**

**SEA GRANT REVIEW PANEL**

**Meeting**

The Sea Grant Review Panel will meet on November 8 and 9, 1978, from 8:30 a.m. to 4:30 p.m. on November 8 and from 9 a.m. to 3:30 p.m. on November 9, in the President's Conference Room, University of North Carolina General Administration Building, Chapel Hill, N.C.

The Panel was established in December 1976 under section 209 of the National Sea Grant Program Improvement Act (Pub. L. 94-461), and advises the Secretary of Commerce with respect to:

a. Applications or proposals for, and performance under, grants and contracts awarded under sections 205 and 206 of the act;

b. The Sea Grant Fellowship Program, established under section 208 of the act;

c. The designation and operation of Sea Grant Colleges and Sea Grant Regional Consortia, (which are provided for in Section 207 of the Act) and the operation of Sea Grant programs;

d. The formulation and application of the planning guidelines and priorities established by the Secretary under section 204(2) of the act and applied by the Director in accordance with section 204(c)(1); and

e. Such other matters as the Secretary refers to the Panel for review and advice.

The Panel's meeting agenda is as follows:

*November 8, 1978* (8:30 a.m. to 4:30 p.m.)

8:30 a.m.. Preliminary remarks and discussion of agenda.
8:45 a.m.. A. Presentation by University of North Carolina.
11 a.m..... B. Institutional and coherent area program discussions:
University of Georgia
University of Minnesota
University of Hawaii
University of Alaska
Virginia Institute of Marine Sciences
State University of New York/Cornell
University of Maine/University of New Hampshire
Mississippi-Alabama Sea Grant Consortium
University of Maryland
University of North Carolina
University of Washington
New Jersey Marine Sciences Consortium
State University System of Florida
C. Sea Grant College Candidates Discussion.
The following are eligible to be considered on the basis of 3-year performance as institutional programs:
University of Georgia
University of Southern California
4:30 p.m. Recess.

*November 9, 1978* (9 a.m. to 3:30 p.m.)

9 a.m..... Discussion of budget.
Discussion of progress with national and international projects.
Discussion of the fellowships program.
Discussion of minorities' increased participation in Sea Grant.
Discussion with Sea Grant directors.
3:30 p.m. Adjourn.

All agenda items will be open to public attendance. Approximately 10 seats will be available to the public on a first-come, first-served basis. If time permits before the scheduled adjournment, the Chairman will solicit oral comments by the attendees. Written statements may be submitted at any time before or after the meeting.

Minutes of the meeting will be available 30 days thereafter upon written request addressed to the National Sea Grant Program, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

For further information, contact Mr. Arthur G. Alexiou, Executive Secretary, Sea Grant Review Panel, at the above address. Telephone: 202-634-4019.

Dated: October 25, 1978.

T. P. GLEITER,
*Assistant Administrator for Administration, National Oceanic and Atmospheric Administration.*

[FR Doc. 78-30689 Filed 10-30-78; 8:45 am]

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[3510-22-M]

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**MARINE MAMMALS**

**Modification of Permit**

Notice is hereby given that pursuant to the provisions of §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), and § 222.25 of the regulations governing endangered species permits (50 CFR Part 222), Permit No. 223 issued to Dr. Louis Herman, Marine Mammal Laboratory, University of Hawaii, 1129 Ala Moana, Kewalo Basin, Honolulu, Hawaii 96814, on March 9, 1978 (43 FR 11729), is modified in the following manner:

Section B-1 has been changed to read, "Harassment is defined for the purposes of this section as alteration of an animal's behavior caused by the presence of an observer within the limits of the observational methods as described in section 5(a) of the Holder's application except that the minimum altitude of 500 feet for aerial observations will be maintained."

This modification is effective on October 31, 1978.

The permit as modified, and documentation pertaining to the modification are available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street Terminal Island, Calif. 90731.

Dated: October 20, 1978.

WINFRED H. MEIBOHM,
*Associate Director, National Marine Fisheries Service.*

FR Doc. 78-30785 Filed 10-30-78; 8:45 am]

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[3510-04-M]

**National Technical Information Service**

**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.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for $4 ($8 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

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 AIR FORCE, AF/JACP, 1900 Half Street, SW., Washington, D.C. 20324.

Patent Application 887,910: Long-Time Constant Clutter Tracker for Radar System, filed March 17, 1978.

Patent Application 888,797: Hot Wall Trunnion with Pressure Seal, filed March 21, 1978.

Patent Application 891,800: Gas Bearing Surface Coating, filed March 30, 1978.

Patent Application 891,873: Electrically Conductive Bonding Strap for Connecting Movable Parts, filed March 30, 1978.

Patent Application 891,876: Portable Optical Fiber Coupling Device, filed March 30, 1978.

Patent Application 893,868: Method and Apparatus for Adjusting and Locking a Linear Actuator, filed April 6, 1978.

Patent Application 893,869: Digital Eddy Current Inspection System, filed April 6, 1978.

Patent Application 896,832: Launch Lug Retractor Assembly, filed April 17, 1978.

Patent Application 896,859: Gas Flow Control System for a Turboshaft Engine, filed April 17, 1978.

Patent Application 896,861: Improved Carbon/Carbon Composite for Re-Entry Vehicle Applications, filed April 17, 1978.

Patent Application 898,048: Shift Mechanism for Aircraft Control System, filed April 20, 1978.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Ser. Div., Federal Building, Agricultural Research Service, Hyattsville, Md. 20782.

Patent 4,071,501: Water Soluble Adduct of Hydroxymethyl Phosphorous Compound and Ammonia or Amine Compound and Method of Preparation, filed January 14, 1976, patented January 31, 1978; not available NTIS.

U.S. DEPARTMENT OF COMMERCE, National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161.

Patent Application 897,818: Differential Doppler Velocity Sensor, filed April 19, 1978.

U.S. DEPARTMENT OF ENERGY, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent 3,969,209: Automatic Electrochemical Ambient Air Monitor for Chloride and Chlorine, filed July 8, 1975, patented July 13, 1976; not available NTIS.

Patent 4,032,407: Tapered Bed Bioreactor, filed February 24, 1976, patented June 28, 1977; not available NTIS.

Patent 4,043,936: Biological Denitrification of High Concentration Nitrate Waste, filed February 24, 1976, patented August 23, 1977; not available NTIS.

Patent 4,046,593: Method for Collecting Spores from a Mold, filed June 17, 1976, patented September 6, 1977; not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014.

Patent Application 866,907: Anticancer and Antiviral Activity of 9-B-D-Arabinofuranosyl-2-Fluoroadenine, filed January 4, 1978.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets, NW., Washington, D.C. 20240.

Patent application 884,324: Process for the Preparation of Rare-Earth/Silicon Alloys, filed March 7, 1978.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent Application 868,157: Time Delay Computer Using Fuze Doppler for Air-To-Air Missiles, filed January 9, 1978.

Patent Application 890,099: Attitude Selective Aircrew Escape Control, filed March 27, 1978.

Patent Application 892,054: Microwave Radiometric Attitude Reference System, filed March 21, 1978.

Patent Application 896,062: Multimode Electrooptic Waveguide Switch, filed April 13, 1978.

Patent Application 897,237: Method and Apparatus for Measuring Adhesion of Particulate Materials, filed April 17, 1978.

Patent Application 899,194: Elevation Sampling Terrain Probe, filed April 24, 1978.

Patent Application 899,935: Multi-Refractory Films for Gallium Arsenide Devices, filed April 25, 1978.

Patent 3,994,752: Annealing Treatment for Controlling Warhead Fragmentation Size Distribution, filed October 23, 1973, patented November 30, 1976; not available NTIS.

Patent 4,018,676: Removal of Explosive Materials from Water by Chemical Interaction on Strongly Basic ton Exchange Resins, filed January 15, 1976, patented April 19, 1977; not available NTIS.

Patent 4,028,701: Quasi-Corner Reflectors for Electromagnetic Radiation, filed April 5, 1976, patented June 7, 1977; not available NTIS.

Patent 4,032,919: Device for Secant Correction of Azimuth Data in Tracking Radars, filed August 11, 1976, patented June 28, 1977; not available NTIS.

Patent 4,044,599: Test System for Evaluation of Armors Using Duplicate Fragments, filed March 1, 1976, patented August 30, 1977; not available NTIS.

Patent 4,051,414: Missile Adaptation Kit Assembly, filed December 28, 1964, patented September 27, 1977; not available NTIS.

Patent 4,058,275: Low Frequency Passive Guidance Method, filed December 28, 1970, patented November 15, 1977; not available NTIS.

Patent 4,062,709: Inhibited Fluorocarbon Pocket Propellant, filed September 25, 1968, patented December 13, 1977; not available NTIS.

Patent 4,067,013: Automatic Thresholding and Reference Circuit, filed November 12, 1976, patented January 3, 1978; not available NTIS.

Patent 4,070,573: Wide Angle Laser Seeker, filed October 21, 1976, patented January 24, 1978; not available NTIS.

Patent 4,073,985: Composite Dome, filed July 14, 1976, patented February 14, 1978; not available NTIS.

Patent 4,074,628: FAX Canister with a Bottom Burster Charge and Dispersion Control Ring, filed June 21, 1966, patented February 21, 1978; not available NTIS.

Patent 4,076,772: Large, Nonplanar Poly(Methyl Methacrylate) Pre-Holographic Element, filed March 29, 1976, patented February 28, 1978; not available NTIS.

Patent 4,078,495: Control After Burnout for Reaction Steered Missiles, filed August 15, 1974, patented March 14, 1978; not available NTIS.

Patent 4,079,082: Lasing Dyes Derived from Ter-and Quaterphenyl, filed April 28, 1975, patented March 14, 1978; not available NTIS.

Patent 4,081,784: Omnidirectional Monitor Buoy, filed October 1, 1976, patented March 28, 1978; not available NTIS.

[FR Doc. 78-30692 Filed 10-30-78; 8:45 am]

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[3510-04-M]

## GOVERNMENT-OWNED INVENTIONS

### Availability for Licensing

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Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161, for $4 ($8 outside North American Continent). Requests for copies of patent applications must include the patent application number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims

and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

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 AIR FORCE AF/JACP,1900 Half Street SW., Washington, D.C. 20324

Patent 4,079,594: Fusible Heat Sink for a Cryogenic Refrigerator; filed January 12, 1977, patented March 21, 1978; not available NTIS.

Patent 4,081,136: Dual Manifold High Performance Throttleable Injector; filed January 21, 1977, patented March 28, 1978; not available NTIS.

Patent 4,081,137: Finned Surface Cooled Nozzle; filed January 5, 1977, patented March 28, 1978; not available NTIS.

Patent 4,081,157: Aircraft Conveyor Load Redistribution System; filed April 11, 1977, patented March 28, 1978; not available NTIS.

Patent 4,081,177: Break-Away Outrigger; filed March 10, 1977, patented March 28, 1978; not available NTIS.

Patent 4,081,744: Resistance Bridge Transducer Conditioning Circuit; filed November 10, 1976, patented March 28, 1978; not available NTIS.

Patent 4,081,785: Dual Class Amphibious Target Discriminator; filed February 13, 1974, patented March 28, 1978; not available NTIS.

Patent 4,085,444: Random Action Event Switching Method and Apparatus for a Multiple Input Data Processing System; filed April 21, 1976, patented April 18, 1978; not available NTIS.

Patent 4,085,582: Wall and Nozzle Assembly for Colloidal Core Reactor; filed November 4, 1976, patented April 25, 1978; not available NTIS.

Patent 4,085,584: Barrier System for Dual-Pulse Rocket Motor; filed November 5, 1976, patented April 25, 1978; not available NTIS.

Patent 4,085,678: Kinetic Energy, Impact-Separated, Follow-Through Ungula Penetrator; filed April 25, 1977, patented April 25, 1978; not available NTIS.

Patent 4,085,679: Fuze for Explosive Magnetohydrodynamic Generator; filed December 23, 1976, patented April 25, 1978; not available NTIS.

Patent 4,086,590: Method and Apparatus for Improving the Slowly Moving Target Detection Capability of an AMTI Synthetic Aperture Radar; filed January 21, 1977, patented April 25, 1978; not available NTIS.

Patent 4,086,657: Five-Stage Four-Bit Complex Multiplier; filed August 18, 1976, patented April 25, 1978; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Service Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782

Patent application 869,891: Process for Increasing Oleoresin Synthesis in Pinus Species; filed January 16, 1978.

Patent application 908,602: Corn Kernel Snack Food; filed May 23, 1978.

Patent application 910,152: A Naturally Occurring Colorant for Food and Beverages; filed May 26, 1978.

U.S. DEPARTMENT OF COMMERCE, National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161.

Patent application 848,041: High Speed, Wide Dynamic Range Analog-to-Digital Conversion; filed November 3, 1977.

U.S. DEPARTMENT OF ENERGY, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent application 738,982: Ultrasonic Technique for Characterizing Skin Burns; filed November 4, 1976.

Patent application 755,100: Agent and Method for the Early Detection of Pregnancy; filed December 28, 1976.

Patent application 763,166: Multiple-Image Oscilloscope Camera; filed January 27, 1977.

Patent application 763,436: High-Resolution Radiography by Means of a Hodoscope, filed January 27, 1977.

Patent 3,979,295: Folded Membrane Dialyzer with Mechanically Sealed Edges; filed April 9, 1975, patented September 7, 1976; not available NTIS.

Patent 3,983,007: System for Sampling and Monitoring Microscopic Organisms and Substances; filed September 23, 1975, patented September 28, 1976; not available NTIS.

Patent 4,016,290: Method of Encapsulating Polyaminopolycarboxylic Acid Chelating Agents in Liposomes; filed November 10, 1975, patented April 5, 1977; not available NTIS.

Patent 4,016,886: Method for Localizing Heating in Tumor Tissue; filed November 26, 1974, patented April 12, 1977; not available NTIS.

Patent 4,019,079; Gas Injected Vacuum Switch; filed May 7, 1976, patented April 19, 1977; not available NTIS.

Patent 4,027,165: Ionization Detection System for Aerosols; filed February 17, 1976, patented May 31, 1977; not available NTIS.

Patent 4,027,239: Current Level Detector; filed November 25, 1975, patented May 31, 1977; not available NTIS.

Patent 4,048,325: Low Toxicity Method of Inhibiting Sickling of Sickle Erythrocytes; filed January 5, 1976, patented September 13, 1977; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217

Patent Application 861,911: Cutting Apparatus and Vertical Drive Mechanism Therefor; filed December 19, 1977.

Patent Application 866,666: Weld Current Decay Device; filed January 3, 1978.

Patent Application 877,200: Pressure Biased Shuttle Valve; filed February 13, 1978.

Patent Application 878,556: Ship Escape and Survival System; filed February 17, 1978.

Patent Application 882,724: Vertically Integrated Circuits; filed March 2, 1978.

Patent Application 883,430: Method for Determining Antenna Near-Fields from Measurements on a Spherical Surface; filed March 3, 1978.

Patent Application 883,557: Electro-Mechanical Low Backlash Cable Connector; filed March 6, 1978.

Patent Application 889,797: High-Power Microwaves from a Non-Isochronous Reflecting Electron System (NIRES); filed March 22, 1978.

Patent Application 893,548: VLF Loop Array Antenna; filed April 5, 1978.

Patent 3,877,287: Low Flow Gas or Liquid Calibrator; filed August 9, 1973, patented April 15, 1975; not available NTIS.

Patent 4,050,070: Programmable Microwave Modulator; filed June 1, 1976, patented September 20, 1977; not available NTIS.

Patent 4,053,680: Process for Bonding Polymers; filed December 4, 1975, patented October 11, 1977; not available NTIS.

Patent 4,056,746: Counterrotation Electric Motor; filed October 20, 1975, patented November 1, 1977; not available NTIS.

Patent 4,066,833: 2,3,7,8-Tetraazaspiro(4.4) Nonane, 2,3,7,8-Tetraazaspiro-(4.4)Nona-2,7-diene and Derivatives; filed November 22, 1976, patented January 3, 1978; not available NTIS.

Patent 4,070,094: Optical Waveguide Interferometer Modulator-Switch; filed August 25, 1975, patented January 24, 1978; not available NTIS.

Patent 4,070,101: Narrowband Wide Field of View Optical Filter; filed September 2, 1976, patented January 24, 1978; not available NTIS.

Patent 4,072,956: Multifrequency Array Using Common Phasors; filed May 17, 1976, patented February 7, 1978; not available NTIS.

Patent 4,073,010: Correlation Methods and Apparatus Utilizing Mellin Transforms; filed July 23, 1976, patented February 7, 1978; not available NTIS.

Patent 4,074,267: Device for Numerically Displaying VOR Bearing; filed May 17, 1976, patented February 14, 1978; not available NTIS.

Patent 4,075,319: Low Leaching Antifouling Organometallic Polyvinyls; filed June 24, 1976, patented Febuary 21, 1978; not available NTIS.

Patent 4,075,385: Anti-Reflective Coating for High Energy Optical Components; filed April 1, 1977, patented February 21, 1978; not available NTIS.

Patent 4,075,583: Low Loss Tuneable Filter; filed May 24, 1976, patented February 21, 1978; not available NTIS.

Patent 4,075,608: Multiple-Channel Data Switch; filed January 19, 1976, patented February 21, 1978; not available NTIS.

Patent 4,075,703: Recursive Filter Mean-Level Detector; filed November 1, 1976, patented February 21, 1978; not available NTIS.

Patent 4,076,381: On Line Electro-Optic Modulator; filed November 1, 1976, patented February 28, 1978; not available NTIS.

Patent 4,076,393: Thermal Stress-Relieving Coupling Member and Support; filed December 15, 1975, patented February 28, 1978; not available NTIS.

Patent 4,078,186: Magnetically Tuned, Surface Acoustic Wave Device; filed October 21, 1976, patented March 7, 1978; not available NTIS.

Patent 4,078,214: Microwave Crossover Switch; filed October 22, 1976, patented March 7, 1978; not available NTIS.

Patent 4,078,217: Microwave Isolation Switch; filed October 22, 1976, patented March 7, 1978; not available NTIS.

Patent 4,081,251: Process to Remove Iron Sulfide from Coal to Reduce Pollution; filed October 1, 1976, patented March 28, 1978; not available NTIS.

Patent 4,082,423: Fiber Optics Cable Strengthening Method and Means; filed August 19, 1976, patented April 4, 1978; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 860,532: Soil Activated Trap Door Dibble; filed December 14, 1977.

[FR Doc. 78-30693 Filed 10-30-78; 8:45 am]

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[3510-25-M]

## COMMITTEE FOR IMPLEMENTATION OF TEXTILE AGREEMENTS

### CERTAIN COTTON APPAREL PRODUCTS FROM THE FEDERATIVE REPUBLIC OF BRAZIL

#### Additional Import Controls

OCTOBER 24, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling cotton apparel from Brazil in category 359 at a level of 152,174 pounds during the agreement year which began on April 1, 1978 and extends through March 31, 1979.

(A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408)).

SUMMARY: Under the terms of paragraph 16 of the Bilateral Cotton Textile Agreement of April 22, 1976, as amended, between the Governments of the United States and the Federative Republic of Brazil, the Government of the United States has decided to control imports of cotton textile products in category 359, produced or manufactured in Brazil and exported to the United States during the 12-month period which began on April 1, 1978.

EFFECTIVE DATE: October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION: On July 12, 1978, there was published in the FEDERAL REGISTER (43 FR 29975) a letter dated July 7, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels or restraint under the new textile category system for certain specified categories of cotton textiles and cotton textile products, produced or manufactured in Brazil, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the 12-month period which began on April 1, 1978 and extends through March 31, 1979. The agreement also establishes consultation levels for categories, like category 359, which are not subject to specific limits. In accordance with the terms of the bilateral agreement, the U.S. Government has decided to control imports in category 359 at the specified consultation level of 700,000 square yards equivalent (152,174 pounds) for the 12-month period which began on April 1, 1978. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that imports in this category be limited to the designated level of restraint. The level has not been adjusted to reflect any imports during the period which began on April 1, 1978. Adjustments will be made to account for imports of 143,042 pounds during the period beginning on April 1, 1978 and extending through August 31, 1978.

ROBERT E. SHEPHERD,
*Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.*

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

OCTOBER 24, 1978

COMMISSIONER OF CUSTOMS,
*Department of the Treasury,*
*Washington, D.C. 20229*

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive issued to you on July 7, 1978, by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton textiles and cotton textile products produced or manufactured in Brazil.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton Textile Agreement of April 22, 1976, as amended, between the Governments of the United States and the Federative Republic of Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on October 30, 1978, and for the 12-month period beginning on April 1, 1978, and extending through March 31, 1979, entry into the United States for consumption, and withdrawal from warehouse for consumption, of cotton textile products in Category 359, produced or manufactured in Brazil, in excess of 152,174 pounds.[1]

Entries of cotton textile products in Category 359, produced or manufactured in Brazil and exported to the United States before April 1, 1978, shall not be subject to this directive.

Cotton textile products in Category 359 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the categories in terms of TSUSA numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1977 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773) and September 5, 1978 (43 FR 39408).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Federative Republic of Brazil and with respect to imports of cotton textile products from Brazil have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEREDAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
*Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.*

[FR Doc. 78-30741 Filed 10-30-78; 8:45 am]

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[3510-25-M]

### ADJUSTING IMPORT LEVELS FOR CERTAIN COTTON APPAREL PRODUCTS FROM THE POLISH PEOPLE'S REPUBLIC

OCTOBER 27, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: (1) Amending the levels of restraint established for imports of certain men's and boys' cotton knit shirts, and other cotton apparel in Categories 338 and 359 from Poland under the terms of an amendment to the bilateral textile agreement.

(2) Controlling imports of cotton coats in Category 334 for the agreement year which began on January 1, 1978, at an increased level. (A detailed description of the textile categories in terms of TSUSA numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended

[1] The level of restraint has not been adjusted to account for any imports after March 31, 1978. During the period beginning on April 1, 1978, and extending through August 31, 1978, 143,042 pounds have been imported.

on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408).)

SUMMARY: The Governments of the United States and the Polish People's Republic have exchanged letters dated October 19 and 20, 1978, amending the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of January 9 and 12, 1978, among other things, to increase the levels of restraint for cotton textile products in Categories 334 and 359 and to decrease the level of restraint for Category 338, produced or manufactured in Poland and exported to the United States during the 12-month period which began on January 1, 1978.

EFFECTIVE DATE: November 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Jane C. Bonds, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION: On March 22, 1978, there was published in the FEDERAL REGISTER (43 FR 11845) a letter dated March 17, 1978, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, establishing specific levels of restraint for certain cotton, wool, and man-made fiber textile products from Poland, including Categories 338 and 359, during the 12-month period which began on January 1, 1978, pursuant to the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of January 9 and 12, 1978, between the Governments of the United States and the Polish People's Republic. The agreement also establishes consultation levels for catergories, such as Category 334, which are not subject to specific ceilings. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to amend the previously established levels of restraint for Categories 338 and 359 and also to control imports of cotton textile products in Category 334 at the designated level of restraint for the agreement year which began on January 1, 1978, in accordance with the amended bilateral agreement.

EDWARD GOTTFRIED,
*Acting Chairman, Committee for the Implementation of Textile Agreements.*

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

OCTOBER 27, 1978.

COMMISSIONER OF CUSTOMS,
*Department of the Treasury,*
*Washington, D.C. 20229*

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool, and Man-made Fiber Textile Agreement of January 9 and 12, 1978, between the Governments of the United States and the Polish People's Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to amend, effective on November 1, 1978, the levels of restraint established in the directive of March 17, 1978, for Categories 338 and 359 as follows:

*Category and Amended 12-Month Level of Restraint* [1]

338—441,389 dozen, of which not more than 204,028 dozen [2] shall be in TSUSA 380.0651 and 380.0652.
359—600,000 pounds.

You are further directed, effective on November 1, 1978, to prohibit entry of cotton textile products in Category 334, produced or manufactured in Poland and exported to the United States during the 12-month period which began on Janurary 1, 1978, in excess of the following level of restraint:

*Category and Amended 12-Month Level of Restraint* [1]

334—151,937 dozen, of which not more than 16,949 dozen shall be in all TSUSA numbers in the category except TSUSA 380.0611.

Cotton textile products in Category 334 that have been exported to the United States before the effective date of this directive shall not be denied entry under this directive.

Cotton textile products in Category 334 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the categories in terms of TSUSA numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408).

The actions taken with respect to the Government of the Polish People's Republic and will respect to imports of cotton textile products from Poland have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

EDWARD GOTTFRIED,
*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 78-30844 Filed 10-30-78; 8:45 am]

[1] The levels of restraint have not been adjusted to account for any imports after December 31, 1977.

[3810-71-M]

## DEPARTMENT OF DEFENSE

### Department of the Navy

### TECHNOLOGY SUB-PANEL OF THE CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

#### Closed Meeting; Correction

In FR Doc. 78-29138 appearing at page 47605 in the FEDERAL REGISTER of October 16, 1978, the date of the closed meeting of the Technology Sub-Panel of the Chief of Naval Operations Executive Panel Advisory Committee is corrected to November 15-16, 1978, vice October 31-November 1, 1978. Accordingly, in the seventh line of the notice the date is corrected to November 15-16, 1978; in the eighth line the date is corrected to November 15; and in the eleventh line the date is corrected to November 16.

Dated: October 26, 1978.

P. B. WALKER,
*Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).*

[FR Doc. 78-30731 Filed 10-30-78; 8:45 am]

[3810-70-M]

### Office of the Secretary

### DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Scientific Advisory Committee will be held as follows: Tuesday, December 5, 1978, Pomponio Plaza, Rosslyn, Va.

The entire meeting, commencing at 0900 hours, is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a study on the growth and the potential implications of Soviet technology.

Dated: October 25, 1978.

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

[FR Doc. 78-30681 Filed 10-30-78; 8:45 am]

[3128-01-M]

## DEPARTMENT OF ENERGY

### VOLUNTRARY AGREEMENT AND PLAN OF ACTION TO IMPLEMENT THE INTERNATIONAL ENERGY PROGRAM

#### Meetings

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94-163), notice is hereby provided of the following meetings:

I. A joint meeting of Subcommittees A and C of the Industry Advisory Board to the International Energy Agency (IEA) will be held on November 8, 1978, at the offices of Texaco Inc., 2000 Westchester Avenue, White Plains, N.Y., beginning at 10 a.m. The agenda is as follows:

1. Opening remarks.
2. Framework for antitrust clearances of oil company activities in an emergency.

II. A meeting of Subcommittee A of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held at the offices of Texaco Inc., 2000 Westchester Avenue, White Plains, N.Y. on November 8, 1978, and at the offices of Exxon Corp., 1251 Avenue of the Americas, New York, N.Y., on November 9, 1978. The meeting will begin upon adjournment of the joint meeting of IAB Subcommittees A and C which is being held at the offices of Texaco at White Plains on November 8, and will be continued on November 9, at the offices of Exxon at New York. The agenda is as follows:

1. Opening remarks.
2. Follow-up work on framework for antitrust clearances of oil company activities in an emergency.
3. Computer logging of voluntary offers.
4. Considerations to be included in the design of future tests.
5. Questionnaire A and B reporting instructions.
6. Consumer stocks and reporting under IEA procedures.
7. Review Industry Supply Advisory Group (ISAG) paper on tonnage considerations in a crisis.
8. Emergency management manual revisions.
9. Secretariat report on harmonization of IEA/EEC emergency data calculations and procedures.
10. Future work program.

III. A meeting of Subcommittee C of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on November 8, 1978, at the offices of Texaco, Inc., 2000 Westchester Avenue, White Plains, N.Y., following adjournment of the joint meeting of IAB Subcommittees A and C which is being held at the offices of Texaco at White Plains on November 8. The agenda is as follows:

1. Opening remarks, including a review of developments since the last meeting.
2. Results of joint meeting with Subcommittee A.
3. Settlement of disputes.
4. Pricing in an emergency.
5. Extraordinary and additional costs.
6. Future work of Subcommittee C.

IV. A meeting of the Industry Advisory Board to the International Energy Agency (IEA) will be held on November 10, 1978, at the offices of Mobil Oil Corp., 150 East 42d Street, New York, N.Y., beginning at 9:30 a.m. The agenda is as follows:

1. Opening remarks by the Chairman including:
   A. Communications to and from the IEA.
   B. Report on Standing Group on Emergency Questions (SEQ) meeting of October 4, 1978.
2. Matters arising from the record note of IAB meeting on September 14, 1978.
3. Position of Reporting Companies under:
   A. EEC Competition regulations.
   B. U.S. Voluntary Agreement.
4. Report of Subcommittee C including:
   A. Opening remarks, including a review of developments since the last meeting.
   B. Results of joint meeting with Subcommittee A.
   C. Settlement of disputes.
   D. Pricing in an emergency.
   E. Extraordinary and additional costs.
   F. Future work of Subcommitted C.
5. Report of Subcommittee A including:
   A. Framework for antitrust clearances of oil companies' activities in an emergency.
   B. AST-2 follow-up activities.
   C. Consumer stocks and reporting under IEA procedures.
   D. Future work program.
6. Report of ISAG Manager including:
   A. ISAG/Secretariat operations manual.
   B. Tonnage analyses and forecasts.
   C. Reorganization of ISAG; continuity; training.
   D. Future work program.
7. Selection of new IAB Chairman and ISAG Manager.
8. Future work program for the IAB.
9. Dates and venues of future meetings of IAB and Subcommittees.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public.

Dated: October 25,1978.

ROBERT C. GOODWIN, Jr.,
*Assistant General counsel for International Trade and Emergency Preparedness.*

[FR Doc. 78-30640 Filed 10-30-78; 8:45 am]

[6740-02-M]

### Federal Energy Regulatory Commission

[Docket No. RI78-21]

### BRADEN-DEEM, INC.

### Order Granting Petition for Special Relief and Permitting Intervention

OCTOBER 23, 1978.

On December 7, 1977 Braden-Deem, Inc. (Braden Deem) filed a petition for special relief pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76) for the sale of natural gas[1] to Panhandle Eastern Pipe Line Co. (Panhandle Eastern) from the White No. 1 Well, Robbins No. 1 Well and Barnes No. 1 Well in the Carver-Robbins Gas Field, Pratt County, Kans. Subsequently, Braden Deem filed and amended petition for special relief on March 21, 1978, and a second amended petition on March 28, 1978.

Braden Deem, an independent small producer, was issued a small producer certificate in Docket No. CS72—0151 on January 31, 1972. Braden Deem is currently receiving 35 cents per Mcf for the sale of this Gas.

Notice of Braden Deem's petition for special relief was issued by the Commission on March 7, 1978; notice of Braden Deem's second amended petition was issued on May 11, 1978. Both notices were published in the FEDERAL REGISTER. Panhandle Eastern Pipe Line Co. field a timely petition to intervene in the original petition for special relief.

In their second amended petition for special relief Braden Deem reguests a rate of $1.10 per Mcf for the sale of this gas.[2] Braden Deem states that it will be necessary every three to 5 years to pull and repair bottom hole pumps, repair pumping units, overhaul the pumping unit engines, overhaul the compressors and compressor engines, and treat the formation with a calcium carbonate scale inhibitor to prevent the deposition of scale on bottom hole pumps. Bradem Deem states that it is not economical to continue producing gas from the subject wells at the current rate. Branden Deem filed with its petition for special relief executed amendments dated November 3 and 4, 1977 to its contract with Panhandle Eastern dated October 26, 1960, in which Panhandle Eastern agreed to pay the price for this gas authorized by the FERC.

[1] Braden Deem owns a 93.75 percent working interest in these wells; M. L. Sloan owns the remaining 6.25 percent working interest.

[2] In its original petition Braden Deem requested a rate of 83 cents per Mcf at 14.65 psia plus annual escalations of 14 cents per Mcf for the sale of this gas. In their first amended petition for special relief, Braden Deem requested a price of 97 cents per Mcf plus annual escalations of 14 cents per Mcf.

Braden Deem is not proposing to make any additional investment in these wells to recover the remaining gas. The petition does not meet the criteria for special relief set forth in § 2.76 of the Commission's regulations. Therefore, the petition will be considered as one seeking a rate in excess of the adjusted national rate pursuant to § 2.56(b)h of the Commission's regulations. The rate must be calculated on an "out of pocket" expense basis.

Based on data filed by Braden Deem, Staff has determined that the estimated production expenses over the remaning life of the project will be $241,082. Staff estimates that 218,813 Mcf of reserves attributable to the net working interest of Braden Deem remains to be recovered. Staff's cost study, using these expenses and reserves, indicates that a total rate of $1.10 per Mcf at 14.65 psia is required to recoup all out of pocket expenses associated with continuing production.[3]

Based on the record in this case, including Staff's cost analysis, the Commission concludes that the requested rate is cost supported and that it is in the public interest to grant relief.

The Commission finds. The petition for special relief by Braden Deem should be approved.

The Commission orders. (A) The petition for special relief filed by Braden Deem, as amended, is hereby granted;

(B) Braden Deem is authorized to collect a rate of $1.10 per Mcf at 14.65 psia for the sale of natural gas from the Barnes No. 1 Well, the White No. 1 Well and the Robbins No. 1 Well in the Carver-Robbins Gas Field, Pratt County, Kansas to Panhandle Eastern Pipe Line Co. effective as of the date of the Commission order subject to the condition set forth in Paragraph (C) below;

(C) Braden Deem must file a Notice of Independent Producer Rate Change reflecting the above authorized rate within 30 days of the date of the order herein.

(D) Panhandle Eastern 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 to intervene; *And provided, further,* That the admission of Panhandle Eastern in the manner provided shall not be construed as recognition by the Commission that it might be aggrieved because of any orders entered in this proceeding, and Panhandle Eastern agrees to accept the record as it now stands.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[3] See Appendix A.

APPENDIX A.—*Braden-Deem, Inc., Docket No. RI78-21, Barnes No. 1, White No. 1 and Robbins No. Wells, Carver-Robbins Gas Field, Pratt County, Kans.*

[Out-of-Pocket Unit Cost of Gas]

| Line No. and item (a) | Barnes No. 1 (b) | White No. 1 (c) | Robbins No. 1 (d) | Total (e) |
|---|---|---|---|---|
| 1. Net working interest volumes: | | | | |
| 2. Gas—Mcf at 14.65 psia | [1] 57,304 | [2] 85,630 | [3] 75,879 | 218,813 |
| 3. Liquids—Bbl | | | [4] 212 | 212 |
| 4. Cost of production: | | | | |
| 5. Production expenses | [5] $67,515 | [6] $91,306 | [7] $83,905 | $242,726 |
| 6. Less cost allocated to liquid | | | [8] (1,863) | (1,863) |
| 7. Regulatory expense [9] | 57 | 86 | 76 | 219 |
| 8. Total cost of production | 67,572 | 91,392 | 82,118 | 241,082 |
| 9. Unit cost of gas (per Mcf): | | | | |
| 10. Cost of production [10] | | | | 1.10 |
| 11. Production tax | | | | 0 |
| 12. Total unit cost | | | | 1.10 |

[1] 74,846 Mcf times 0.765625 net working interest.
[2] 105,391 Mcf times 0.8125 net working interest.
[3] 95,690 Mcf times 0.79296875 net working interest.
[4] 267 Bbl times 0.79296875 net working interest.
[5] Based on a base year estimate of $6,251 escalated 5 pct/yr for the first 5 yr of an 8.9167-yr productive life.
[6] Based on a base year estimate of $6,892 escalated 5 pct/yr for the first 5 yr of a 10.8333-yr productive life.
[7] Based on a base year estimate of $7,201 escalated 5 pct/yr for the first 5 yr of an 9.5833-yr productive life.
[8] Line 5 of column (d) times line 4 of sheet 2.
[9] Line 2 times 0.1 cent per Mcf per opinion No. 749.
[10] Line 8 of column (e) divided by line 2 of column (e).

BRADEN-DEEM, INC. DOCKET NO. RI78-21 BARNES NO. 1, WHITE NO. 1 AND ROBBINS NO. 1 WELLS CARVER-ROBBINS GAS FIELD, PRATT COUNTY, KANSAS

*Allocation of Costs (Modified Btu Method per Opinion No. 749)*

| Line No. and Item (a) | Robbins well amount (b) |
|---|---|
| 1. Gas—MMBtu [1] | 76,258 |
| 2. Liquids—MMBtu [2] | 1,732 |
| 3. Total—MMBtu | 77,990 |
| 4. Percentage allocated to liquid [3] | 2.22 |

[1] 212 Bbls. times 5.448 MMBtu/Bbl. times 1.5 modifier.
[3] Line 2 divided by Line 3.

[FR Doc. 78-30663 Filed 10-30-78; 8:45 am]

[6560-01-M]

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 9982]

### AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHOD DESIGNATIONS

**Bendix Model 8303 $SO_2$ Analyzer; Meloy Model NA530R $NO_2$ Analyzer; Meloy Model SA285E $SO_2$ Analyzer**

Notice is hereby given that EPA, in accordance with 40 CFR Part 53 (40 FR 7044, 41 FR 11252, 41 FR 52694), has designated two additional equivalent methods for the measurement of ambient concentrations of sulfur dioxide ($SO_2$) and one additional reference method for the measurement of ambient concentrations of nitrogen dioxide ($NO_2$). All three methods are automated methods (analyzers). The first and third are equivalent methods for $SO_2$ which employ the "flame photometric detection (FPD)" measurement principle. The other method is a reference method for $NO_2$, which uses the gas phase chemiluminescence measurement principle specified for $NO_2$ reference methods by Appendix F of 40 CFR Part 50 (as amended on December 1, 1976—41 FR 52688). The methods are as follows:

EQSA-1078-030, "Bendix Model 8303 Sulfur Analyzer," operated on either the 0-0.5 ppm range or the 0-1.0 ppm range.

This method is available from the Bendix Corp., Environmental and Process Instruments Division, Post Office Box 831, Lewisburg, W.Va., 24901. A notice of receipt of application for this method appeared in the FEDERAL REGISTER, Volume 42, December 7, 1977, page 61894 (43 FR 61894).

RFNA-1078-031, "Meloy Model NA530R Nitrogen Oxides Analyzer,"

operated on the following ranges and time constant switch positions:

| *Range, ppm* | *Time constant setting* |
|---|---|
| 0-0.1* | 4 |
| 0-0.25* | 3 or 4 |
| 0-0.5 | 2, 3, or 4 |
| 0-1.0 | 2, 3, or 4 |

Operation of the analyzer requires an external vacuum pump, either Meloy Option N-10 or an equivalent pump capable of maintaining a vacuum of 200 torr (22 inches mercury vacuum) or better at the pump connection at the specified sample and ozone-air flowrates of 1200 and 200 $cm^3$/min, respectively. The analyzer may be operated at temperatures between 10° and 40° C and at line voltages between 105 and 130 volts, with or without any of the following options:

| | |
|---|---|
| N-1A | Automatic zero and span |
| N-2 | Vacuum gauge |
| N-4 | Digital panel meter |
| N-6 | Remote control for zero and span |
| N-6B | Remote zero/span control and status (pulse) |
| N-6C | Remote zero/span control and status (timer) |
| N-9 | Manual zero/span |
| N-10 | Vacuum pump assembly (see alternate requirement above) |
| N-14B | Line transmitter |
| N-18 | Rack mount conversion |
| N-18A | Rack mount conversion |

This method is available from Meloy Laboratories, Inc., 6715 Electronic Drive, Springfield, VA 22151. A notice of receipt of application for this method appeared in the FEDERAL REGISTER, Volume 43, February 23, 1978, page 7473 (43 FR 7473).

EQSA-1078-032, Meloy "Model SA285E Sulfur Dioxide Analyzer," operated on the following ranges and time constant switch positions:

| *Range, ppb* | *Time constant setting* |
|---|---|
| 0-50* | 1 or 10 |
| 0-100* | 1 or 10 |
| 0-500 | off, 1 or 10 |
| 0-1000 | off, 1 or 10 |

The analyzer may be operated at temperatures between 10° and 40° C and at line voltages between 105 and 130 volts, with or without any of the following options:

| | |
|---|---|
| S-5 | Teflon coated block |
| S-14B | Line transmitter board |
| S-18 | Rack mount conversion |
| S-18A | Rack mount conversion |
| S-21 | Front panel digital meter |
| S-22 | Remote zero/span control and status (timer) |
| S-22A | Remote zero/span control |
| S-22B | Remote zero/span control and status (pulse) |
| S-23 | Auto zero adjust |
| S-23A | Auto/manual zero adjust |
| S-25 | Press to read |
| S-26 | Manual zero and span |
| S-27 | Auto manual zero/span |
| S-28 | Auto range and status |
| S-30 | Auto reignite |
| S-32 | Remote range control and status |
| S-35 | Front panel digital meter with BCD output |
| S-37 | Temperature status lights |
| S-38 | Sampling mode status |

This method is also available from Moloy Laboratories, Inc., 6715 Electronic Drive, Springfield, Va., 22151. A notice of receipt of application for this method appeared in the FEDERAL REGISTER, Volume 43, July 31, 1978, page 33311 (43 FR 33311).

*NOTE—With respect to the two Meloy analyzers, models NA530R (RFNA-1078-031) and SA285E (EQSA-1078-032), users should be aware that designation of ranges less than 0.5 ppm (500 ppb) are based on meeting the same absolute performance specifications required for the 0-0.5 ppm (0-500 ppb) range. EPA is considering—but has not yet established—proportionately more restrictive performance specifications applicable to ranges less than 0-0.5 ppm (500 ppb). Thus, designation of these lower ranges does not guarantee commensurably better performance than that obtained on the 0-0.5 ppm. (0-500 ppb) range.

A test analyzer representative of each of these methods has been tested by the respective applicant, in accordance with the test procedures specified in 40 CFR Part 53 as amended on December 1, 1976 (41 FR 52694). After reviewing the results of these tests and other information submitted by the respective applicants, EPA has determined, in accordance with Part 53, that these methods should be designated as either reference or equivalent methods as appropriate. The information submitted by the applicants will be kept on file at the address shown below and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As reference or equivalent methods, these methods are acceptable for use by States and other control agencies for purposes of § 51.17 (a) of 40 CFR Part 51 ("Requirements for Preparation, Adoption, and Submittal of Implementation Plans") as amended on February 18, 1975 (40 FR 7042). For such use, each method must be used in strict accordance with the operation or instruction manual provided with the method and subject to any limitations (e.g., operating range) specified in the applicable designation (see descriptions of the methods above). Vendor modifications of a designated method used for purposes of § 51.17(a) are permitted only with prior approval of EPA, as provided in Part 53. Provisions concerning modification of such methods by users are specified under § 51.17(a)(f) (41 FR 11255).

In general, designation applies to any analyzer which is identical to the analyzer described in the designation. In many cases, similar analyzers manufactured prior to the designation may be upgraded (e.g., by minor modification or by substitution of a new operation or instruction manual) so as to be identical to the designated method and thus achieve designated status at modest cost. The manufacturer should be consulted to determine the feasibility of such upgrading.

Part 53 requires that sellers of designated methods comply with certain conditions. The conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in Table B-1 of Part 53 for at least 1 year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with Part 53.

(5) If such an analyzer has one or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been included in the reference or equivalent method designation.

(6) An applicant who offers analyzers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers and to notify them within 30 days if a reference or equivalent method designation applicable to the analyzer has been canceled or if adjustment of the analyzers is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representations), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified or until he has applied for and received notice of a new reference or equivalent method determination for the analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated noncompliance with any of these conditions should be reported to: Director, Environmental Monitoring and Support Laboratory, Department E (MD-77), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

Designation of these reference and equivalent methods will provide assistance to the States in establishing and

operating their air quality surveillance systems under 40 CFR 51.17(a). Additional information concerning this action may be obtained by writing to the address given above.

Dated: October 25, 1978.

STEPHEN J. GAGE,
*Assistant Administrator for Research and Development.*

[FR Doc. 78-30636 Filed 10-30-78; 8:45 am]

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[6560-01-M]

[FRL 997-5]

### ECOLOGY COMMITTEE OF THE SCIENCE ADVISORY BOARD

#### Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the Ecology Committee of the Science Advisory Board will be held beginning at 9:00 a.m. on November 20 and 21, 1978 in the Administrator's Conference Room (room 1112A), Crystal Mall, building 2, 1921 Jefferson Davis Highway, Arlington, Va.

This is the 18th meeting of the Ecology Committeee. The agenda includes a report on Science Advisory Board Activities; commentary on the report, "Mitigation Feasibility for the Keypone-Contaminated Hopewell/James River Areas", briefing relative to review of water quality criteria; report and discussion on EPA's Anticipatory Research Program and other selected programs in the Office of Research and Development; review of Ecology Committee activities and discussion of topics of current and future interest to the Committee.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Dr. J. Frances Allen, Executive Secretary, Ecology Committee, 703-557-7720, by close of business November 15, 1978.

Dated: October 24, 1978.

RICHARD M. DOWD,
*Staff Director Science Advisory Board.*

[FR Doc. 78-30635 Filed 10-30-78; 8:45 am]

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[6712-01-M]

## FEDERAL COMMUNICATIONS COMMISSION

### EX PARTE PRESENTATIONS IN INFORMAL RULEMAKINGS

OCTOBER 25, 1978.

The following is a list of *ex parte* presentations made during the week of October 16, 1978 in connection with informal rulemaking proceedings now pending at the Commission. Summaries of these presentations are available in the appropriate docket and in a separate "Ex Parte Notebook," both in the Commission's Public Reference Room (Room 239). The Public Reference Room is open Monday through Friday, 8 a.m. to 5:30 p.m. The duplicating contractor, Downtown Copy Center, 1114 21st Street NW., Washington, D.C. 20037, 202-452-1422, will provide, for a fee, copies of ex parte material. Responses will be accepted if made in accordance with the procedures outlined in the Commission's Notice of Inquiry in General Docket No. 78-167 (FCC 78-405), released June 14, 1978 (43 FR 27868), as amended by the Order and Further Notice of Inquiry (FCC 78-517) released July 18, 1978 (43 FR 32832.)

Docket No. 21116—Prohibit the marketing of external of external radio frequency amplifiers. Presentation to Commissioner Brown by Lawrence A. Rogers, Attorney at Law, Oct. 16, 1978.

Docket No. 21117—Type acceptance of equipment marketed in the Amateur Radio Service.

For additional information, call Joyce Butler at 632-7535.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
*Secretary.*

[FR Doc. 78-30733 Filed 10-30-78; 8:45 am]

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[6705-01-M]

## FARM CREDIT ADMINISTRATION

### SEMIANNUAL AGENDA OF REGULATIONS

Pursuant to section 2 of Executive Order 12044, the Farm Credit Administration has established the following agenda of significant regulations which it will have under development and review during the period of November 1, 1978, through March 30, 1979.

#### SIGNIFICANT REGULATIONS UNDER DEVELOPMENT

12 CFR 612.2030—Nepotism. This regulation prohibits nepotism in the employment practices of the banks and associations of the Farm Credit System. The Farm Credit Administration is considering amending this regulation pursuant to 12 U.S.C. 2243 and 2252 to (1) more clearly describe the employment relationships which are prohibited, (2) remove from coverage certain relationships which are so remote that it can reasonably be assumed that they do not influence the employment practices of the institutions, and (3) prohibit the employment of relatives in certain positions which are not now coverd by the regulation.

12 CFR 614.4334—Banks for Cooperatives. This regulation governs the manner in which a bank for cooperatives may offer participations in loans to other banks for cooperatives and financial institutions. Currently, Farm Credit Administration approval is required only for the form of the participation agreement used. In order to preclude the possibility that supplemental arrangements may be used to circumvent other requirements of the regulations, the Farm Credit Administration is considering amending this regulation pursuant to 12 U.S.C. 2243 and 2252 to require its approval of any supplemental agreements and modifications which directly afffect such things as capitalization, interest, and loss-sharing.

Neither of the proposed amendments to the above regulations will result in (a) an annual effect upon the economy of $100 million or more, or (b) a major increase in costs or prices for individual industries, levels or government, or geographic regions. Therefore, a regulatory analysis of the type required by section 3 of Executive Order 12044 will not be prepared for these proposals.

#### SIGNIFICANT REGULATIONS SELECTED FOR REVIEW

12 CFR 615.5210—Annual Budget and Projections (net worth objectives). This regulation sets out requirements for budget and long range financial and operating projections of the banks and associations of the Farm Credit System.

12 CFR 618.8300—618.8350—Release of Information. These regulations govern the release of information concerning borrowers by officials of the Farm Credit institutions.

12 CFR 618.8430—Internal Controls. This regulation provides for the establishment of internal control policies to, among other things, effectively control and account for all funds, property, and other assets of the Farm Credit banks and associations.

#### STATUS OF REGULATIONS PREVIOUSLY SELECTED FOR REVIEW

On May 22, 1978, the Farm Credit Administration published in the FEDERAL REGISTER (43 FR 21985) a list of significant regulations which it selected for its initial review. The current status of those regulations is as follows:

12 CFR 612.2030—Nepotism. The Farm Credit Administration has under consideration an amendment to this regulation. See Significant Regulations under Development above. The proposed amendment has been submitted to the Farm Credit banks for comment.

12 CFR 614.4260 (c)—Banks for Cooperatives (season loans to finance commodities). On June 27, 1978, the Farm Credit Administration published in

the FEDERAL REGISTER (43 FR 27732) a final rule which amended this regulation to conform to a revised list of commodities authorized for price support programs under regulations of the Commodity Credit Corporation.

12 CFR 615.5120 (a)—Purchase Eligibility Requirements (farm credit investment funds). On October 16, 1978, the Farm Credit Administration published in the FEDERAL REGISTER (43 FR 47489) a final rule amending this regulation to clarify that Farm Credit Administration employees may not purchase these bonds.

12 CFR 615.5330 (a)—Banks for Co<operatives (surplus). On August 15, 1978, the Farm Credit Administration published in the FEDERAL REGISTER (43 FR 36052) a final rule amending this regulation to permit a bank for cooperatives to maintain in surplus an amount less than 25 percent of its outstanding capital stock when approved by the Farm Credit Administration.

For further information concerning any item of this agenda contact:

Mr. Lee R. Brobst, Acting Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza East, SW., Washington, D.C. 20578, 202-755-8927.

C. T. FREDRICKSON,
*Acting Governor,*
*Farm Credit Administration.*

[FR Doc. 78-30774 Filed 10-30-78; 8:45 am]

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[6715-01-M]

## FEDERAL ELECTION COMMISSION

[Notice 1978-8]

### OPINION AND REGULATION INDEX

A new cumulative Index to Advisory Opinions and Opinions of Counsel (discontinued in April 1976) issued by the Federal Election Commission is now available for purchase in the Public Records Division of the Commission. The updated index includes a subject index and U.S. Code section index covering opinions issued from the establishment of the Federal Election Commission in April 1975 through August 1978, as well as an F.E.C. Regulation index covering 1977 and 1978 opinions.

Purchase price of the new index is $4.20 to cover duplication costs, payable in advance. Checks should be made payable to: United States Treasurer. Person to contact: Mr. Craig Brightup, Public Records Division, Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463. Telephone: 202-523-4181.

Dated: October 25, 1978.

JOAN D. AIKENS,
*Chairman for the*
*Federal Election Commission.*

[FR Doc. 78-30732 Filed 10-30-78; 8:45 am]

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[6325-01-M]

## FEDERAL PREVAILING RATE ADVISORY COMMITTEE

### CANCELLATION OF MEETING

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice was published in 43 FR 48015 on October 18, 1978, that meetings of the Federal Prevailing Rate Advisory Committee will be held on November 2, November 9, and November 30, 1978. Notice is hereby given that the meeting scheduled for November 2, 1978, has been canceled.

JEROME H. ROSS,
*Chairman, Federal Prevailing*
*Rate Advisory Committee.*

OCTOBER 27, 1978.

[FR Doc. 78-30859 Filed 10-30-78; 8:45 am]

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[6210-01-M]

## FEDERAL RESERVE SYSTEM

### ALMA BANCSHARES, INC.

#### Formation of Bank Holding Co.

Alma Bancshares, Inc., Alma, Kans., 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 80 percent or more of the voting shares of First National Bank in Alma, Kans. 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 Kansas City. 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 24, 1978.

Board of Governors of the Federal Reserve System, October 24, 1978.

GRIFFITH L. GARWOOD,
*Deputy Secretary*
*of the Board.*

[FR Doc. 78-30710 Filed 10-30-78; 8:45 am]

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[6210-01-M]

### CHARTER 95 CORP.

#### Formation of Bank Holding Co.

Charter 95 Corp., Hudson, Wis., 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 95 percent or more of the voting shares of The First National Bank of Hudson, Hudson, Wis. 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 Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 20, 1978.

Board of Governors of the Federal Reserve System, October 24, 1978.

GRIFFITH L. GARWOOD,
*Deputy Secretary*
*of the Board.*

[FR Doc. 78-30708 Filed 10-30-78; 8:45 am]

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[6210-01-M]

### FIRST DANVERS CORP.

#### Formation of Bank Holding Co.

First Danvers Corporation, Bloomington, Ill., 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 The First National Bank of Danvers, Danvers, Ill. 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 Chicago. Any person wishing to comment on the applicaton should submit views in writing to the Reserve Bank, to be received not later than November 20, 1978.

Board of Governors of the Federal Reserve System, October 24, 1978.

GRIFFITH L. GARWOOD,
*Duputy Secretary*
*of the Board.*

[FR Doc. 78-30707 Filed 10-30-78; 8:45 am]

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[6210-01-M]

### JADAM ENTERPRISES, INC.

#### Formation of Bank Holding Co.

Jadam Enterprises, Inc., Harlan, Iowa, has applied for the Board's ap-

proval 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 94 percent of the voting shares of Farmers Savings Bank, Irwin, Iowa. 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 Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 20, 1978.

Board of Governors of the Federal Reserve System, October 24, 1978.

GRIFFITH L. GARWOOD,
*Deputy Secretary of the Board.*

FR Doc. 78-30709 Filed 10-30-78; 8:45 am]

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[6750-01-M]

## FEDERAL TRADE COMMISSION

### PREEMPTIVE EFFECT OF SECTION 111(c)(1) OF MAGNUSON-MOSS WARRANTY ACT

#### Wisconsin Mobile Home Warranty Law

AGENCY: Federal Trade Commission.

ACTION: Response to request for opinion.

SUMMARY: Published below is a letter with an analysis which responds to a request of the Wisconsin Attorney General for Commission interpretation of section 111(c)(1) of the Magnuson-Moss Warranty Act and its preemptive effect on Wisconsin's Mobile Home Warranty Law. The Commission has determined that several State requirements are rendered inapplicable to warranties complying with Federal law by section 111(c)(1).

FOR FURTHER INFORMATION CONTACT:

Rachel Miller, Attorney, Division of Product Reliabiity, 202-523-0425, or Charles Taylor, Attorney, Division of Product Reliability, 202-523-3660, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: The letter and analysis follow.

Hon. Bronson C. La Follette
Attorney General
State of Wisconsin
Department of Justice
Madison, Wis. 53702

Dear Attorney General La Follette:

By letter dated February 22, 1978, you requested an opinion on whether any of the provisions of Wisconsin's mobile home warranty law and regulations (§ 218.14 Wis. Stats. and IND 14.50 Wis Admin. Code) are subject to or preempted by section 111(c)(1) of the Magnuson-Moss Warranty Act, 15 U.S.C. 2311(c)(1). At the request of the staff, Assistant Attorney General James Jeffries supplemented your request by filing on March 16, 1978, an informal interpretation of the effect of the Wisconsin law. This letter is in reply to your request for a Commission opinion in this matter.

The Commission has concluded that the following two requirements of the Wisconsin law, and the related provisions of the regulations of the Wisconsin Department of Industry, Labor, and Human Relations, submitted with your request are affected by operation of section 111(c)(1) of the Warranty Act:

(1) Disclosure in the written warranty of the address where notice of problems is to be given. Section 218.14(1)(c)(I), Wis. Stats. IND 14.50(2)(c).

(2) Disclosure in the written warranty of the fact that unsuccessful repair is a breach of warranty, and that the consumer's right to proper repair continues regardless of whether the warranty period has expired. Section 218.14 (1)(c)(2), Wis. Stats.

These requirements are inapplicable to warranties which meet Federal requirements by operation of section 111(c)(1) of the Warranty Act.

Paragraph (2) of section 111(c) of the Warranty Act provides a procedure whereby States may petition the Commission for permission to enforce a State requirement which would otherwise be rendered inapplicable to written warranties complying with Federal standards by operation of paragraph (1) of section 111(c). Upon application of an appropriate State agency the Commission is required to intitate a rulemaking proceeding under section 109 of the Warranty Act to determine if such State requirement affords greater protection to consumers than Federal requirements and does not unduly burden interstate commerce. If the Commission makes such a finding, the State requirement will be applicable to written warranties for so long as the State effectively administers and enforces such provision.

A copy of the Commission's analysis of the effect of the Warranty Act on the Wisconsin State law provisions is enclosed. If upon consideration of this matter you desire the public rulemaking proceeding described above, for consideration of the preservation of the two affected statutory provisions, you should submit an application pursuant to section 111(c)(2) of the Warranty Act to the Secretary of the Commission.

You are invited to contact Rachel Miller, Attorney, Division of Product Reliability, 202-523-1753, or Charles Taylor, Attorney, Division of Product Reliability, 202-523-3660, Federal Trade Commission, Washington, D.C. 20580, should you have any questions concerning this matter.

By direction of the Commission.

[Signed]

CAROL M. THOMAS,
*Secretary.*

Enclosure.

ANALYSIS OF SECTION 111 OF MAGNUSON-MOSS WARRANTY ACT AND APPLICABILITY TO WISCONSIN MOBILE HOME WARRANTY LAWS

Section 111(c)(1)[1] of the Magnuson-Moss Warranty Act ("the Warranty Act") provides that certain types of State warranty requirements are inapplicable to written warranties complying with the Warranty Act. Section 111(c)(2)[2] provides that an appropriate State agency may apply to the Comission for an exemption of any State warranty requirement from the preemptive effect of paragraph (1) of that section. Such an exception may be granted if after public hearings the Commission determines that the requirement meets the criteria set out in paragraph (2).

The Attorney General requests a Commission interpretation of paragraph (1) of section 111(c) and an opinion stating which provisions of Wisconsin's mobile home warranty requirements are affected by that paragraph. He has not requested exemption of any such affected requirements as provided in paragraph (2) of section 111(c); therefore the rulemaking procedure specified in the Act for exemption applications is not applicable in this instance. The Attorney General may choose later to request or not to request an exemption under the procedure of paragraph (2) for any provisions of Wisconsin law which the Commission determines are affected by section 111(c)(1) of the Warranty Act.

This analysis builds on the findings made by the Commission in the California determination,[3] which first considered the effect of the Magnuson-Moss Warranty Act on State warranty requirements. In general, the protections of the Warranty Act are in addition to, rather than in lieu of, warranty rights and remedies under State law.[4] Only a very narrow class of State requirements are "preempted" (that

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[1] Section 111(c)(1). "Except as provided in subsection (b) and in paragraph (2) of this subsection, a State requirement—(A) which relates to labeling or disclosure with respect to written warranties or performance thereunder; (B) which is within the scope of an applicable requirement of sections 102, 103, and 104 (and rules implementing such sections), and (C) which is not identical to a requirement of section 102, 103, or 104 (or a rule thereunder), shall not be applicable to written warranties complying with such sections (or rules thereunder)."

[2] Section 111(c)(2). "If, upon application of an appropriate State agency, the Commission determines (pursuant to rules issued in accordance with section 109) that any requirement of such State covering any transacton to which this title applies (A) affords protection to consumers greater than the requirements of this title and (B) does not unduly burden interstate commerce, then such State requirement shall be applicable (notwithstanding the provisions of paragraph (1) of this subsection) to the extent specified in such determination for so long as the State administers and enforces effectively any such greater requirement."

[3] Commission's Determination of Applicaton of State of California, 42 FR 54004, Oct. 4, 1977 (hereinafter "California").

[4] Section 111(b)(1). "Nothing in this title shall invalidate or restrict any right or remedy of any consumer under State law or and other Federal law."

is, made inapplicable to warranties complying with the Federal requirements).

The Commission has already made clear that, while allowing the use of uniform warranty documents is a goal of section 111, this goal is subordinate to that of permitting States to fashion their own scheme or warranty rights and remedies which may be more protective than the minimum level of protection of the Federal Act. Only State requirements which have certain specific characteristics are affected by the Federal Act. Those characteristics are: that the requirement does not create a right or remedy for consumers;[5] that it relates to written warranty labeling or disclosure;[6] that it is within the scope of a requirement of sections 102, 103, or 104 of the Warranty Act, or rules under one of these sections;[7] and that is not identical to that requirement.[8] Only if a State requirement has all these characteristics is it "preempted," or rendered inapplicable to warranties complying with Federal law, under section 111 of the Act.[9]

Thus, a State provision which merely creates consumer rights or remedies, without providing for disclosure of them,[10] would be entirely unaffected by the Warranty Act; that is, it would not be subject to "preemption." A provision which both creates a consumer right or remedy, and provides for its disclosure to consumers,[11] must be considered in two stages. The underlying right would continue to be effective in spite of any similarity with or difference from the Federal Act, since section 111(b) specifically preserves such rights and remedies. On the other hand, the method of disclosure of that right provided for in the State law must be considered as to whether it has the final two characteristics. If it does, then the method of disclosure in the State law is "preempted," though the underlying consumer right remains in effect. The Commission adopted this interpretation of section 111 in the course of its California determination because it is the only interpretation which gives meaning to both paragraphs (b) and (c) of that section and is consistent with the Act's legislative history.

In the California determination, the Commission defined the scope of its rule on disclosure of warranty terms, 16 CFR Part 701, to include any requirement that information appear in the warranty document itself.[12] The scope of the Federal labeling requirements, while discussed in the California determination, is not at issue in this analysis of Wisconsin law.

The California determination did not explicitly discuss the meaning of the last characteristic, that the State provision be "not identical to" a Federal disclosure or labeling requirement, although this was implicit in a number of determinations concerning mobile home requirements.[13] Its precise meaning is particularly important where, as here, a State law mandates the giving of a written warranty with certain specified terms.

The Commission interprets "identical to" to mean "having the same effect as" or "resulting in the same disclosure as." If the item of information required by the State to be disclosed in the written warranty would also be disclosed under a Federal disclosure provision, the State requirement is "identical to" the Federal requirement for purposes of section 111. It is not essential that the State provision contain the same words as the Federal provision, or incorporate the Federal provision by reference.

The Commission's rule on warranty disclosure [14] requires that up to 10 enumerated elements of a warranty be disclosed. Usually the manufacturer is free to choose the terms of a written warranty. However, when State law mandates that the written warranty contain certain terms, those mandated terms become terms of the warranty and thus must be disclosed under the Commission's rule. For example, when a State mandates a written warranty with a 1-year duration,[15] that duration must be disclosed under the Commission's rule. Since the 1-year duration of the warranty would have to be disclosed under both State and Federal law, the two requirements are "identical" requirements for purposes of section 111(c)(1).

On the other hand, if the mandatory provision which the State requires to be disclosed is one which the Federal rule does not require to be disclosed, such as a telephone number for giving notice of defects under the warranty,[16] then the State disclosure requirement is not identical to the Federal requirement. Thus if the State law requires disclosure of a term which is not 1 of the 10 elements enumerated in the Commission's rule, then the provision is rendered inapplicable to warranties complying with the Federal rule.

APPLICABILITY TO WISCONSIN MOBILE HOME WARRANTY LAWS

The following paragraphs discuss the specific provisions of the Wisconsin mobile home law [17] and whether or not each is made inapplicable by section 111(c)(1) to warranties complying with the Federal Act, and why. In each case, only the disclosure or labeling aspect is discussed; the underlying rights created by State law cannot in any case be invalidated or restricted by the Federal Act by virtue of section 111(b)(1).

SECTION 218.14(1)

*Requires giving buyers a written warranty with certain mandatory terms on mobile homes.* The requirement of disclosure of the existence of the warranty is not within the scope of the Federal disclosure rule, which merely establishes what must be disclosed in the warranty once the initial decision to issue a written warranty is decided.

*Requires the mandatory 1-year duration to be disclosed.* This provision requires the same information to be disclosed as 16 CFR 701.3(a)(4), that is, the duration of the written warranty. Thus it does not meet the "not identical" condition of section 111(c)(1)(C). The State requirement, therefore is not "preempted" or rendered inapplicable to warranties complying with Federal requirements. (Note that the mandatory 1-year duration itself is a consumer right which is preserved by section 111(b)(1).)

SECTION 218.14(1)(a)

*Establishes the characteristics or properties which are covered by the mandatory warranty, specifically, that it meet certain standards.* This provision requires the same disclosure in the warranty as 16 CFR 701.3(a)(2), "[a] clear description and identification of * * * characteristics, * * * or properties covered by * * * the warranty." It therefore is not affected by section 111(c)(1) of the Warranty Act.

SECTION 218.14(1)(b)

*Establishes the characteristics or properties of the product which are covered by the warranty, specifically, that the product be defect-free and habitable.* Like paragraph (a), this provision requires the same disclosure as 16 CFR 701.3(a)(2), and is therefore not affected by section 111(c)(1) of the Warranty Act.

*Defines "reasonable care and maintenance."* By letter of March 16, 1978,

[5] Section 111(b)(1).
[6] Section 111(c)(1)(A).
[7] Section 111(c)(1)(B).
[8] Section 111(c)(1)(C).
[9] *See* California, Section II.
[10] For example, the UCC implied warranty of merchantability.
[11] For example, the requirement that repairs under California's statutory mobile home warranty be performed at the site of the mobile home.
[12] California, p. 54005.
[13] See Staff's Analysis, California Initial Notice, 41 FR 28361, at 28366, and text accompanying n. 27 (July 9, 1976).
[14] 16 CFR 701.3(a), 701.4.
[15] See, e.g., California Civil Code § 1797.3(b).
[16] See, e.g., California Civil Code § 1797.3(d). Note that this provision, otherwise preempted, was preserved under the Commission rulemaking procedures of sec. 111(c)(2).
[17] Sec. 218.14, Wis. Stats; Ind. 14.50 and 14.56 Wis. Admin. Code.

Mr. James D. Jeffries, Assistant Attorney General of Wisconsin, informed the staff informally that this definition need not appear in the written warranty document. Under this analysis it is not a disclosure or labeling requirement and is unaffected by section 111(c)(1) of the Warranty Act.

SECTION 218.14(1)(c)(1)

*Defines who is responsible under the warranty.* This provision requires a disclosure included in those of 16 CFR 701.3(a)(5), that is, identification of the warrantor in the warranty; therefore this requirement is not affected by section 111(c)(1) of the Warranty Act.

*Requires disclosure of the warranty duration.* Like section 218.14(1), this requirement is not affected by section 111(c)(1) of the Warranty Act.

*Requires disclosure of the time within which the consumer must give notice of problems.* This requires a disclosurre included in those required by 16 CFR 701.3(a)(5), that is, disclosure of what the consumer must do to get warranty service, and therefore is not affected by section 111(c)(1) of the Warranty Act.

*Requires disclosure of the address where notice is to be given.* This requirement is within the scope of 16 CFR 701.3(a)(5), but not identical to it. The Federal provision permits warrantors to include in the warranty a toll-free telephone number where warranty information may be obtained or where notice of defects may be given in addition to or instead of an address. Since the address is not required under Federal law if such a telephone number is given, this provision of Wisconsin law will not apply to warranties which meet the requirements of Federal law, by operation of section 111(c)(1) of the Warranty Act. The State of Wisconsin may file an application for preservation of this provision under the savings provision of section 111(c)(2) of the Warranty Act.

*Requires disclosure that repairs will be made within 30 days of notice of the problem.* This provision requires a disclosure included in those required by 16 CFR 701.3(a)(3). The latter provision requires a statement of what the warrantor undertakes to do under the warranty. Although usually a warrantor is not required to commit itself to performing within a set time, where by law or by choice the warrantor is commited to a certain time for repairs, that time becomes part of its undertaking to be disclosed under the Federal requirement. Therefore the State requirement is not affected by section 111(c)(1) of the Warranty Act.

*Requires disclosure that repairs will be performed at the mobile home site.* Like the previous requirement, this provision requires a disclosure also required by 16 CFR 701.3(a)(5).

*Requires that manufacturers reimburse dealers for warranty repairs.* Assistant Attorney General Jeffries has advised that this provision need not be disclosed in the warranty. Therefore, it is not a disclosure or labeling provision and thus is unaffected by section 111(c)(1) of the Warranty Act.

SECTION 218.14(1)(c)(2)

*Requires disclosure of the fact that an unsuccessful repair is a breach of warranty, and that the consumer's right to proper repair continues regardless of whether the waranty period has expired.* This disclosure requirement is not identical to any requirement of the Federal Act, and therefore it does not apply to warranties which meet the requirements of the Warranty Act. The substantive right created by this provision remains in effect; it is merely the requirement that the right be disclosed in the written warranty which is made inapplicable. The State of Wisconsin may file an application for preservation of this provision under the savings provision of section 111(c)(2).

SECTION 218.14(1)(d)

*Requires disclosure of manadatory extension of the warranty for the amount of time the home is uninhabitable.* This provision requires a disclosure included among those required by 16 CFR 701.3(a)(4), the measurement of warranty duration. This provision and section 218.14(1) establish that the mandatory duration of the warranty is 1 year's time during which the home is habitable. The provisions require further that this duration be disclosed; such a disclosure requirement is thus identical to the Federal requirement that the duration of a warranty be disclosed.

The other provisions of the Wisconsin law do not contain any requirements relating to disclosure or labeling, and are therefore unaffected by section 111(c)(1) of the Federal Act.

The following paragraphs discuss the effect of the Warranty on those Wisconsin administrative regulations [18] concerning mobile homes which differ from the Wisconsin mobile home law.

IND 14.50(2)(a)(1)

*Requires disclosure of the fact that alterations not approved by the regulating agency can affect the continued validity of the warranty.* This provision is a statement of parts, characteristics, components, and properties which are excluded from the warranty, which must be disclosed under 16 CFR 701.3(a)(2). The State requirement is therefore within the scope of the Federal provision but identical to it, and so is not affected by section 111(c)(1) of the Warranty Act.

IND 14.50(2)(a)(1)a

*Requires disclosure of the fact that such alterations are not covered by the mandatory warranty.* This also requires disclosures which 16 CFR § 701.3(a)(2) would require, and is not affected by section 111(c)(1) of the Warranty Act.

IND 14.50(2)(a)(1)b

*Gives a definition of "alteration."* In the above-mentioned letter of March 16, 1978, Mr. Jeffries stated that the regulation requires this definition to appear in the warranty document. This is merely a detailed description of those characteristics, etc., which are excluded from the warranty, and is not affected by section 111(c)(1) of the Warranty Act.

IND 14.50(2)(g)

*Requires disclosure of the date of delivery of the home, on which date the warranty begins.* This requires the same disclosures as 16 CFR 701.3(a)(4) requires, that is, disclosure of the date of commencement of the warranty if other than the date of purchase. Therefore the provision is not affected by section 111(c)(1) of the Warranty Act.

The other provisions of the regulation, IND 14.50 and 14.56, either do not concern labeling or disclosure, or are the same as those of the mobile home law and are affected as discussed above.

In summary, the following requirements of the Wisconsin mobile home law and regulations are rendered inapplicable to warranties which comply with the federal warranty requirements, by operation of section 111(c)(1) of the Warranty Act:

(1) Disclosure in the written warranty of the address where notice of problems is to be given. Section 218.14(1)(c)(1), Wis. Stats; IND 14.50(2)(c).

(2) Disclosure in the written warranty of the fact that unsuccessful repair is a breach of warranty, and that the consumer's right to proper repair continues regardless of whether the warranty period has expired. Section 218.14(1)(c)(2), Wis. Stats.

The other disclosure requirements of the law and regulations, as well as their substantive rights and remedies, are unaffected by section 111(c) of the Magnuson-Moss Act.

Wisconsin may apply to the Commission, under the procedure in section 111(c)(2), for preservation of either or both of the affected requirements. Those requirements will be preserved which the Commission finds, after a rulemaking proceeding under section

[18] IND 14.50, Wis. Admin. Code.

109 of the act, afford protection to consumers greater than the requirements of the Warranty Act, and do not unduly burden interstate commerce.

By direction of the Commission dated September 28, 1978.

CAROL M. THOMAS,
*Secretary.*

[FR Doc. 78-30772 Filed 10-30-78; 8:45 am]

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[4110-03-M]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### SELECT COMMITTEE ON GRAS SUBSTANCES

### Request for Nominations

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the opportunity for interested parties to nominate qualified scientists, particularly those versed in nutritional biochemistry, to serve on the Select Committee on GRAS Substances, which is expanding to 11 members. The Select Committee evaluates available information on the safety of food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction.

DATE: Nominations by November 30, 1978.

ADDRESS: Nominations to Dr. Kenneth A. Fisher, Director, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, Md. 20014.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Food and Drug Administration is conducting a study of food ingredients classified as GRAS or subject to a prior sanction. As part of this review, the available information relating to the safety of each such ingredient is being evaluated by a Select Committee on GRAS Substances selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology under a contract with FDA.

The Select Committee is considering biological information on GRAS Substances provided by a series of scientific literature reviews of experimental studies published from 1920 to 1978, and additional recent toxicological screening tests on certain of the substances and on human exposure from current levels of addition to foods and food consumption patterns obtained from a recent survey by the National Academy of Sciences. The Select Committee currently consists of the following individuals:

1. Joseph F. Borzelleca, Ph. D., Professor of Pharmacology, Medical College of Virginia, Health Sciences Division, Virginia Commonwealth University, Richmond, Va. 23298.

2. Harry G. Day, Sc. D., Professor Emeritus of Chemistry, Indiana University, Bloomington, Ind. 47401.

3. Samuel J. Fomon, M.D., Professor of Pediatrics, College of Medicine, University of Iowa, Iowa City, Iowa 52242.

4. Bert N. La Du, Jr., M.D., Ph. D., Professor and Chairman, Department of Pharmacology, University of Michigan Medical School, Medical Sciences, Room 6322, Ann Arbor, Mich. 48104.

5. John R. McCoy, V.M.D., Professor of Comparative Pathology, New Jersey College of Medicine and Dentistry, Rutgers Medical School, Box 101, Piscataway, N.J. 08854.

6. Gabriel L. Plaa, Ph. D., Professor and Chairman, Department of Pharamacology, Faculty of Medicine, University of Montreal, Case postale 6128, Montreal 101, Quebec, Canada.

7. Michael B. Shimkin, M.D., Professor of Community Medicine and Oncology, Department of Community Medicine, School of Medicine, University of California, San Diego, La Jolla, Calif. 92093.

8. Ralph G. H. Siu, Ph. D., Consultant, 4428 Albemarle Street NW., Washington, D.C. 20016.

9. John L. Wood, Ph. D., Distinguished Service Professor, Department of Biochemistry, University of Tennessee Medical Units, 894 Union Street, Room 210, Memphis, Tenn. 38101.

10. George W. Irving, Jr., Ph. D., Chairman, Life Sciences Research Office, Federation of American Societies for Experimental Biology, Bethesda, Md. 20014.

The Life Sciences Research Office plans to increase the size of the Select Committee working on this project to 11 members. Accordingly, notice is hereby provided for all interested parties to nominate additional qualified scientists, particularly those versed in nutritional biochemistry, to serve on the Select Committee. Nominations are invited from individuals and from consumer, industry, and professional organizations, and should be sent to Dr. Kenneth D. Fisher, Director, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, Md. 20014.

Nominations must state that the person nominated is aware of the nomination, is interested in becoming involved in this effort, and appears to be free of conflict of interest. A complete curriculum vitae must be enclosed with each nomination. Nominations should be received by November 30, 1978.

Dated: October 26, 1978.

JOSEPH P. HILE,
*Associate Commissioner for Regulatory Affairs.*

[FR Doc. 78-30664 Filed 10-30-78; 8:45 am]

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[4110-03-M]

[Docket No. 78N-0368]

### IMPROVING FDA REGULATIONS

### Operation Common Sense Recodification Plan

AGENCY: Food and Drug Administration.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of its plan for reviewing and revising existing regulations under the Department of Health, Education, and Welfare's (HEW's) Operation Common Sense.

FOR FURTHER INFORMATION CONTACT:

Ronald J. Wylie, Compliance Regulations Policy Staff (HFC-10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: In September 1977, anticipating the President's Executive Order No. 12044 on improving Government regulations, HEW initiated Operation Common Sense—a comprehensive program to simplify, shorten, and expedite the Department's regulations development process.

Notices published in the FEDERAL REGISTER to date that concern HEW's efforts to improve its regulations are as follows:

November 18, 1977, 42 FR 59555, Operation Common Sense.
March 24, 1978, 42 FR 12661, E.O. 12044.
May 30, 1978, 43 FR 23119, HEW response to Executive Order.

As part of Operation Common Sense, HEW has undertaken a 5-year program of reviewing and revising, as appropriate, all of its existing regulations.

The objectives of this program are:

1. To eliminate regulations that are unnecessary, outdated, or ineffectual;

2. To rewrite regulations so that they are as straightforward, understandable, and clear as possible;

3. To remove unproductive, burdensome requirements;

4. To revise regulations on the basis of experience since their issuance; and

5. To better organize and consolidate regulations.

To implement this program for its own regulations, FDA has prepared an Operation Common Sense Recodification Plan (1978-82). This plan covers all FDA regulations and presents the agency's projected schedule for reviewing them.

The opertation Common Sense Recodification Plan is available for public examination in, and copies may be obtained through, the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 25, 1978.

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

[FR Doc. 78-30637 Filed 10-30-78; 8:45 am]

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[4110-83-M]

**Health Resources Administration**

**HEALTH CAREERS OPPORTUNITY PROGRAM**

**Grant Application Announcement**

The office of Health Resources Opportunity, Health Resources Administration, announces that applications for fiscal year 1979 health careers opportunity program grants are now being accepted under the authority of section 787 of the Public Health Service Act, as amended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484). Based on projected requirements for currently active projects requiring continued support, and estimated $1,870,000 will be available for competitive awards in fiscal year 1979.

Section 787 authorizes the Secretary to make grants to public or nonprofit private health or educational entities for the purpose of assisting individuals from disadvantaged backgrounds to undertake education to enter a health profession. The proposed fiscal year 1979 program funding preference for the health careers opportunity program will be for admissions/retention projects in medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, public health and other health professions, e.g., health care administration, and health planning.

Questions regarding the programmatic aspects of these grants should be directed to:

Director, Division of Program Coordination, Office of Health Resources Opportunity, Health Resources Administration, Center Building, Room 10-50, 3700 East-West Highway, Hyattsville, Md. 20782, phone 301-436-7230

All fiscal year 1979 applications must be submitted to the Grants Management Officer, Bureau of Health Manpower, Postmarked on or before January 5, 1979. In addition, requests for application packets and questions regarding grants management policy should be directed to:

Grants Management Officer (HCOP), Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Md. 20782, phone 301-436-6564.

Dated: October 19, 1978.

HENRY A. FOLEY,
*Administrator, Health Resources Administration.*

[FR Doc. 78-30643 Filed 10-30-78; 8:45 am]

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[4110-83-M]

**START-UP ASSISTANCE**

**Application Announcement for Grants**

The Bureau of Health Manpower, Health Resources Administration, announces that applications for fiscal year 1979 grants for start-up assistance are now being accepted under the authority of section 788(a) of the Public Health Service Act, as amended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484).

Section 788(a) authorizes discretionary project grants to new schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry. A new school is eligible for a grant the year before it enrolls students and the first, second, and third years in which it has students enrolled.

The deadline for receipt of applications is November 20, 1978.

Questions concerning this grant program should be directed to:

Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-47, 3700 East-West Highway, Hyattsville, Md. 20782, phone 301-436-6564.

Dated: October 19, 1978.

HENRY A. FOLEY,
*Administrator, Health Resources Administration.*

[FR Doc. 78-30642 Filed 10-30-78; 8:45 am]

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[4110-08-M]

**National Institutes of Health**

**REPORT OF BIOASSAY OF 2,3,5,6-TETRACHLORO-4-NITROANISOLE FOR POSSIBLE CARCINOGENICITY**

**Availability**

2,3,5,6 - Tetrachloro - 4 - nitroanisole (CAS 2438-88-2) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

*Summary.* A bioassay for possible carcinogenicity of 2,3,5,6-Tetrachloro-4-nitroanisole was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an agricultural fungicide and acaricide. 2,3,5,6-Tetrachloro-4-nitroanisole was administered in the feed, at either of two concentrations, to groups of male and female animals of each species.

Under the conditions of this bioassay, dietary administration of 2,3,5,6-Tetrachloro-4-nitroanisole was not carcinogenic to male or female Fischer 344 rats or B6C3F1 mice of either sex.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: October 17, 1978.

DONALD S. FREDRICKSON,
*Director, National Institutes of Health.*

[FR Doc. 78-30058 Filed 10-30-78; 8:45 am]

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[4110-08-M]

**REPORT ON BIOASSAY OF ANILINE HYDROCHLORIDE FOR POSSIBLE CARCINOGENICITY**

**Availability**

Aniline hydrochloride (CAS 142-04-1) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

*Summary.* A bioassay of aniline hydrochloride for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an intermediate in the manufacture of dyes. Aniline hydrochloride was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species,

with the exception of 49 female mice in the high dose group.

Under the conditions of this bioassay, dietary administration of aniline hydrochloride was carcinogenic to male and female Fischer 344 rats, inducing hemangiosarcomas and a combination of fibrosarcomas and sarcomas NOS of the spleen and a combination of fibrosarcomas and sarcomas NOS of multiple body organs. There was no evidence of compound-induced carcinogenicity in B6C3F1 mice of either sex.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: October 17, 1978.

DONALD S. FREDRICKSON,
*Director, National Institutes of Health.*

[FR Doc. 78-30059 Filed 10-30-78; 8:45 am]

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[4110-08-M]

**REPORT ON BIOASSAY OF PIVALOLACTONE FOR POSSIBLE CARCINOGENICITY**

**Availability**

Pivalolactone (CAS 1955-45-9) has been tested for cancer-causing activity with rats and mice in the bioassay program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

*Summary:* The bioassay of pivalolactone for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an intermediate in the production of polymers. Pivalolactone in water was administered by gavage, at either of two dosages, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, pivalolactone was found to be carcinogenic to both male and female Fischer 344 rats, producing squamous-cell carcinomas and squamous-cell papillomas of the forestomach. This study provided no evidence for the carcinogenicity of pivalolactone in B6C3F1 mice of either sex.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014

Dated: October 17, 1978.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

DONALD S. FREDRICKSON,
*Director, National Institutes of Health.*

[FR Doc. 78-30060 Filed 10-30-78; 8:45 am]

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[4110-08-M]

**REPORT ON BIOASSAY OF 5-NITROACENAPHTHENE FOR POSSIBLE CARCINOGENICITY**

**Availability**

5-Nitroacenaphthene (CAS 602-87-9) has been tested for cancercausing activity with rats and mice in the bioassay program, Divison of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

*Summary:* A bioassay of 5-nitroacenaphthene for possible caricinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use for research purposes. 5-Nitroacenapthene was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, 5-nitroacenaphthene was carcinogenic to Fischer 344 rats, causing increased incidences of malignant tumors of the ear canal and lung in both sexes, and of the clitoral gland and mammary gland in females. 5-Nitroacenaphthene was also carcinogenic to female but not male B6C3F1 mice, causing carcinomas of the liver and ovarian tumors.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

Dated: October 17, 1978.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

DONALD S. FREDRICKSON,
*Director, National Institutes of Health.*

[FR Doc. 78-30061 Filed 10-30-78; 8:45 am]

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[4110-08-M]

**National Institutes of Health**

**NATIONAL CANCER INSTITUTE ADVISORY COMMITTEES**

**Open Meetings**

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be entirely open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014, unless otherwise stated.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014 301-496-5708 will furnish summaries of the meetings and rosters of committee members upon request.

Other information pertaining to the meeting can be obtained from the Executive Secretary indicated.

Name of Committee: President's Cancer Panel.
Dates: December 12, 1978; 9:30 a.m. to adjournment.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To hear reports on activities of the President's Cancer Panel and the National Cancer Program.
Executive Secretary: Dr. Richard A. Tjalma. Address: Building 31, Room 11A46, National Institutes of Health. Phone: 301-496-5854.

Name of Committee: Chemical Selection Subgroup of the Clearinghouse on Environmental Carcinogens.
Dates: December 12, 1978; 9 a.m. to adjournment.
Place: Building 31C, Conference Room 10, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To consider chemicals for bioassay and other matters relevant to chemical selection.
Executive Secretary: Dr. James M. Sontag. Address: Building 31, Room 3A16, National Institutes of Health. Phone: 301-496-5108.

Name of Committee: Data Evaluation/Risk Assessment Subgroup of the Clearinghouse on Environmental Carcinogens.
Dates: December 13, 1978; 9 a.m. to adjournment.
Place: Building 31C, Conference Room 10, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To review available for bioassay reports and other matters relevant to data evaluation and risk assessment.
Executive Secretary: Dr. James M. Sontag. Address: Building 31, Room 3A16, National Institutes of Health. Phone: 301-496-5108.

Date: October 23, 1978.

SUZANNE L. FREMEAU,
*Committee Management Officer, National Institutes of Health.*

[FR Doc. 78-30656 Filed 10-31-78; 8:45 am]

[4110-08-M]

DIVISION OF CANCER TREATMENT, NATIONAL CANCER INSTITUTE

Meeting

Notice is hereby given of the Cooperative Group Chairmen Meeting of the Clinical Investigations Branch, Division of Cancer Treatment, National Cancer Institute, December 11, 1978, Building 31, C Wing, Conference Room 8, Bethesda, Md. 20014.

This meeting will be open to the public from 1 p.m. to adjournment to discuss and review cooperative group clinical, operational, and procedural activities. Attendance by the public will be limited to space available.

For additional information, please contact Dr. Raymond B. Weiss, Chief, Clinical Investigations Branch, Division of Cancer Treatment, National Cancer Institute, National Institutes of Health, Room 8C03, Landow Building, Bethesda, Md. 20014.

Dated: October 23, 1978.

SUZANNE L. FREMEAU,
*Committee Management Officer,*
*National Institutes of Health.*

[FR Doc. 78-30655 Filed 10-30-78; 8:45 am]

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[4110-08-M]

GENERAL CLINICAL RESEARCH CENTERS COMMITTEE, DIVISION OF RESEARCH RESOURCES

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the General Clinical Research Centers Committee, Division of Research Resources, on December 7 and 8, 1978, in Conference Room 8, Building 31-C, National Institutes of Health, Bethesda, Md. 20014.

The meeting will be open to the public on December 7, 1978, from 9 a.m. to 11 a.m., to discuss administrative matters. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 7 from 11 a.m. to 5 p.m., and on December 8 from 9 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commerical property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Room 5B13, Building 31, Bethesda, Md., 20014, telephone 301-496-5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Ephraim Y. Levin, Executive Secretary of the General Clinical Research Centers Committee, Room 5B51, Building 31, National Institutes of Health, Bethesda, Md. 20014, telephone 301-496-6595, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.333, National Institutes of Health.)

Dated: October 25, 1978.

SUZANNE L. FREMEAU,
*Committee Management Officer,*
*National Institutes of Health.,*

[FR Doc. 78-30653 Filed 10-30-78; 8:45 am]

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[4110-08-M]

MENTAL RETARDATION RESEARCH COMMITTEE, NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Mental Retardation Research Committee, National Institute of Child Health and Human Development, on December 11-13, 1978, in the Landow Building, Room A, first floor, 7910 Woodmont Avenue, Bethesda, Md.

This meeting will be open to the public on December 11 from 9 a.m. to 11 a.m. to discuss items relative to the Committee's activities including announcements by the Chief of the Mental Retardation and Developmental Disabilities Branch and the Executive Secretary of the Committee.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 11 from 11 a.m. to adjournment on December 13 for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Building 31, Room 2A-04, National Institutes of Health, Bethesda, Md., Area Code 301, 496-1848, will provide a summary of the meeting and roster of committee members. Dr. Stanley L. Slater, Executive Secretary, Mental Retardation Research Committee, NICHD, Landow Building, Room 7C16, National Institutes of Health, Bethesda, Md., Area Code 301, 496-1696, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.865, National Institutes of Health.)

Dated: October 25, 1978.

SUZANNE L. FREMEAU,
*Committee Management Officer,*
*National Institutes of Health.*

[FR Doc. 78-30654 Filed 10-30-78; 8:45 am]

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[4110-08-M]

NATIONAL ARTHRITIS ADVISORY BOARD, NATIONAL INSTITUTE OF ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Arthritis Advisory Board on December 7, 1978, 9 a.m. to 5 p.m., at the Sheraton National, Columbia Pike and Washington Boulevard, Arlington, Va., to discuss the Board's activities and to continue its evaluation of the implementation of the long-range plan to combat arthritis. Exact room location will be announced later. The meeting will be open to the public. Attendance is limited to space available.

Further information may be obtained from Mr. William Plunkett, Executive Secretary, National Arthritis Advisory Board, Room 620, Federal Building, 7550 Wisconsin Avenue, Bethesda, Md., telephone 301-496-1991. Mr. James N. Fordham, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Md. 20014, 301-496-3583, will provide summaries of the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.846, National Institutes of Health.)

Date: October 23, 1978.

SUZANNE L. FREMEAU,
*Committee Management Officer,*
*National Institutes of Health.*

[FR Doc. 78-30652 Filed 10-30-78; 8:45 am]

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[4110-08-M]

NATIONAL CANCER ADVISORY BOARD, PRESIDENT'S CANCER PANEL

Meeting Changes

Notice is hereby given of a change of dates and agenda items of the National Cancer Advisory Board and the President's Cancer Panel meeting, National Cancer Institute, November 20-21, 1978, Building 31C, Conference Room 6, Bethesda, Md. 20014, which was published in the FEDERAL REGISTER on October 13, 1978 (43 FR 47288).

This meeting will be held 1 day only, on November 20, 1978, from 9 a.m. to adjournment. Agenda items include an overview of NCI programs and a review of the Division of Cancer

Treatment Program, NCI, during the morning session, and reports of activities of the President's Cancer Panel and the Director, National Cancer Program, NCI, during the afternoon session. The entire meeting will be open to the public. Attendance will be limited to space available.

For further information, please contact Dr. Thomas J. King, Director, Division of Cancer Research Resources and Centers, Building 31, Room 10A03, National Institutes of Health, Bethesda, Md. 20014, 401-496-5147.

Date: October 23, 1978.

SUZANNE L. FREMEAU,
*Committee Management Officer, National Institutes of Health.*

[FR Doc. 78-30651 Filed 10-30-78; 8:45 am]

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[4110-08]

**TRANSPLANTATION BIOLOGY AND IMMUNOLOGY COMMITTEE, NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES**

**Meeting**

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Transplantation Biology and Immunology Committee, National Institute of Allergy and Infectious Diseases on November 16, 1978, at the National Institutes of Health, Westwood Building, Conference Room 740, Bethesda, Md.

This meeting will be open to the public from 9 a.m. until 12 noon on November 16 to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting of the Committee will be closed to the public from 12 noon to adjournment on November 16 for the review, discussion, and evaluation of individual grant applications and contract proposals. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, Building 31, Room 7A32, National Institutes of Health, Bethesda, Md. 20014, telephone 301-496-5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. Harley G. Sheffield, Executive Secretary, Transplantation Biology and Immunology Committee, NIAID, NIH, Westwood Building, Room 706, telephone 301-496-7465 will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.855, National Institutes of Health.)

Dated: October 25, 1978.

SUZANNE L. FREMEAU,
*Committee Management Officer, National Institutes of Health.*

[FR Doc. 78-30650 Filed 10-30-78; 8:45 am]

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[4310-84-M]

## DEPARTMENT OF THE INTERIOR

**Bureau of Land Management**

**CALIFORNIA DESERT CONSERVATION AREA ADVISORY COMMITTEE**

**Meeting**

Notice is hereby given in accordance with Public Laws 92-463 and 94-579 that the California Desert Conservation Area Advisory Committee to the Bureau of Land Management, U.S. Department of the Interior, will meet November 30, December 1 and 2, 1978, in Riverside, Calif. The committee will hear staff and subcommittee reports, followed by public forums using a seminar format to consider the following resources and activities in the California Desert Conservation Area: Soil, air, and water resources; botanical resources; animal resources; scientific research and educational use of the area; livestock grazing; human impacts on desert resources; recovery or rehabilitation of desert resources.

The meetings will be held at Raincross Square, 3443 Orange Street, Riverside, Calif. 92501. Meetings will begin at 7 p.m., Thursday, November 30; 8 a.m., Friday, December 1; and 8 a.m., Saturday, December 2. The subcommittee on interim management will meet at 3 p.m., Thursday, November 30, 1978, in the same location, to review actions currently pending before the Bureau. All meetings of the committee and subcommittees will be open to the public and attendance is invited. Time will be provided at the conclusion of the seminars on Saturday afternoon, December 2, for brief statements by members of the public relative to topics under discussion by the committee.

Anyone wishing to submit a written statement or make an oral statement at the meeting should notify the Chairman, California Desert Conservation Area Advisory Committee, c/o Director, Desert Planning Staff, Bureau of Land Management, 3610 Central Avenue, Suite 402, Riverside, Calif. 92506, in advance of the meeting. Further information, including the meeting agenda, may be obtained from that address or State Director, Bureau of Land Management, 2800 Cottage Way, Room E-2841, Sacramento, Calif. 95825.

Dated: October 20, 1978.

ED HASTEY,
*State Director.*

[FR Doc. 78-30722 Filed 10-30-78; 8:45 am]

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[4310-84-M]

[M 41268]

**MONTANA**

**Application**

*Correction*

In FR Doc. 78-22409 appearing in the issue of Friday, August 11, 1978 on page 35751, the last line of the land description now reading "Sec. 18, Lots 9, 10, SE¼SW¼" should be corrected to read, "Sec. 19, Lots 9, 10, SE¼SW¼".

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[4310-31-M]

**Geological Survey**

**CONDA, IDAHO**

**Known Geothermal Resources Area**

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, the following described lands are hereby defined as a known geothermal resources area effective January 1, 1978:

(12) IDAHO

CONDA KNOWN GEOTHERMAL RESOURCES AREA, BOISE MERIDIAN, IDAHO

T. 8 S., R. 37 E.
sec. 1, 2, 11, 12—All.

The area described aggregates 2,566.24 acres, more or less.

Dated: August 29, 1978.

WRIGHT C. SHELDON,
*Acting Conservation Manager, Western Region.*

[FR Doc 78-30723 Filed 10-30-78; 8:45 am]

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[4310-03-M]

**Heritage Conservation and Recreation Service**

**NATIONAL REGISTER OF HISTORIC PLACES**

**Notification of Pending Nominations**

Nominations for the following properties being considered for listing in the National Register were received by

the Heritage Conservation and Recreation Service before October 20, 1978. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by November 13, 1978.

WILLIAM J. MURTAGH,
*Keeper of the National Register.*

**CALIFORNIA**

*Los Angeles County*

Los Angeles, *Spring Street Financial District*, 354-704 S. Spring St.

**CONNECTICUT**

*New London County*

New London, *Downtown New London Historic District*, roughly bounded by Captain's Walk, Bank, Tilley and Washington Sts.

**ILLINOIS**

*Adams County*

Quincy, *Villa de Kathrine*, 532 S. 3rd St.

**IOWA**

*Union County*

Creston, *U.S. Post Office*, Maple St.

**MARYLAND**

*Charles County*

Faulkner vicinity, *Mount Air*, W of Faulkner.

*Prince George's County*

Cheverly, *Mount Hope*, 1 Cheverly Circle.

**MONTANA**

*Liberty County*

Chester vicinity, *Rinehart-Leavitt Archeological Site.*

*Toole County*

Ledger vicinity, *Bootlegger Archeological Site.*

**NEVADA**

*Douglas County*

Minden, *Minden Flour Milling Company*, 6th St. and U.S. 395.

**NEW JERSEY**

*Union County*

Scotch Plains, *Scotch Plains School*, Park Ave.

**NEW MEXICO**

*Grant County*

Gila, *L.C. Ranch Headquarters*, off U.S. 260.

**NEW YORK**

*Albany County*

Albany, *Center Square/Hudson-Park Historic District*, roughly bounded by Park Ave., State, Lark and S. Swan Sts.

*Columbia County*

Clermont, Rinebeck, Red Hook, and Hyde Park, *Sixteen Mile District*, 16 mi. along Hudson River.

*Oswego County*

Pulaski vicinity, *Selkirk Lighthouse*, W. of Pulaski on Lake Rd.

*Rensselaer County*

Castleton-on-Hudson vicinity, *Staats, Joachim, House and Gerrit Staats Ruin*, N. of Castleton-on-Hudson on Staats Rd.

**NORTH CAROLINA**

*Forsyth County*

Winston-Salem, *South Trade Street Houses*, 434, 440, and 448 S. Trade St.

**OREGON**

*Douglas County*

Drain, *Drain, Charles D., Jr., House*, 100 E. Main St.

*Wasco County*

The Dalles, *Dalles Carnegie Library*, E. 4th and Washington Sts.
The Dalles, *Dalles Civic Auditorium*, E. 4th and Federal Sts.

*Yamhill County*

Dayton, *Hibbert, William, House*, 426 5th St.

**SOUTH CAROLINA**

*Charleston County*

Charleston, *Presqu'ile*, 2 Amherst St.

*Hampton County*

Hampton, *Hampton County Courthouse*, U.S. 278.

*Spartanburg County*

Spartanburg vicinity, *Nazareth Presbyterian Church*, SW. of Spartanburg off SC 296.

*Sumter County*

Sumter vicinity, *Rip Raps Plantation*, E. of Sumter on SC 378.

**TEXAS**

*Culberson County*

Van Horn, *First Presbyterian Church*, Fannin and 3rd Sts.

*Harris County*

Houston, *South Texas National Bank*, 215 Main St.

*Washington County*

Brenham, *Main Building, Blinn College*, 804 College Ave.

**UTAH**

*Salt Lake County*

Salt Lake City, *Fifth Ward Meetinghouse*, 740 S. 300 West.

*Utah County*

American Fork, *Smith, Warren B., House*, 589 E. Main St.

[FR Doc. 78-30372 Filed 10-30-78; 8:45 am]

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[4510-26-10]

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

### CALIFORNIA STATE STANDARDS

### Approval; California Plan

1. BACKGROUND

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health, (hereinafter called Regional Administrator, OSHA) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On May 1, 1973, notice was published in the FEDERAL REGISTER (38 FR 10717), of the approval of the California plan and the adoption of Subpart K to Part 1952 containing the decision.

The California plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. State standards have been revised in accordance with Part 1953 to meet the requirement of adopting Federal Standard revisions and State initiated changes. Accordingly, California has revised these standards and promulgated them in accordance with applicable State procedures. By letter dated July 15, 1977, from Steven A. Jablonsky, Program Manager, California Occupational Safety and Health Administration to Gabriel J. Gillotti, Regional Administrator, OSHA, and incorporated as part of the plan, the State submitted proof documents concerning standards equivalent to Federal amendments to Flammable and Combustible Liquids standards of 29 CFR 1910.106(a)(35), (1910.106(g)(3)(iv)(*a*) and (*b*), 1910.106(g)(3)(vi)(*a*), the storage and handling of Liquefied Petroleum Gases standard of 29 CFR 1910.110(b)(8)(ii), 1910.110(b)(14)(i), 1910.110(b)(14) (xiv) and (xv), 1910.110(e)(3)(ii), Powered Industrial Trucks standard of 29 CFR 1910.178(f)(1) and State initiated change to California General Industry Safety Orders Section 3203. Federal standards that were deleted but which

California did not delete are the Sanitation standard of 29 CFR 1910.141(d)(2)(i), the Material Handling and Storage standard of 29 CFR 1910.184(f)(6) and the Toxic and Hazardous Substance standard of 29 CFR 1910.1005 with the deletion of the laboratory activities of §§ 1910.1003, 1910.1004 and 1910.1006 through 1910.1016. These standards, which are contained in Title 8, Chapter 4 of the California Administrative Code were promulgated by the State after public hearings between the dates of January 1, 1977 and June 30, 1977.

2. DECISION

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards. The detailed standards comparison is available at the locations specified below.

3. LOCATION OF SUPPLEMENT FOR INSPECTION AND COPYING

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, OSHA, 450 Golden Gate Avenue, Room 9470, San Francisco, Calif. 94102 and California Occupational Safety and Health Administration, Room 3052, 455 Golden Gate Avenue, San Francisco, Calif. 94102; and the Technical Data Center, Room N2439R, 3d and Constitution Avenue NW., Washington D.C. 20210.

4. PUBLIC PARTICIPATION

Under § 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the California plan as a proposed change and making the OSHA Regional Administrator's approval effective upon publication for the following reason.

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective October 31, 1978.

(Sec. 18, Pub. L. 91-956, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at San Francisco, Calif., this 26th day of July 1978.

GABRIEL J. GILLOTTI,
*Regional Administrator, OSHA.*

[FR Doc. 78-30759 Filed 10-30-78; 8:45 am]

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[4510-26-M]

[V-78-9]

## GERALD D. HINES INTERESTS

### Application for Variance

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of application for variance.

SUMMARY: This notice announces the application of Gerald D. Hines Interests for a variance from the standard prescribed in 29 CFR 1910.66(b)(3), concerning power platforms for exterior building maintenance—design requirements.

DATES: The last date for interested persons to submit comments is November 30, 1978. The last date for affected employers and employees to request a hearing on the application is November 30, 1978.

ADDRESSES: Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue NW., Room N3668, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, Office of Variance Determination, at the above address. Telephone: 202-523-7121, or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 555 Griffin Square Building, Room 602, Dallas, Tex. 75202.

U.S. Department of Labor, Occupational Safety and Health Administration, 1100 No. 505 NASA Road I, Houston, Tex. 77058.

NOTICE OF APPLICATION

Notice is hereby given that Gerald D. Hines Interests, 2100 Post Oak Tower, Houston, Tex. 77056, has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11, for a variance from the standards prescribed in 29 CFR 1910.66(b)(3) powered platforms for exterior maintenance—design requirements.

The address of the place of employment that will be affected by the application is as follows: Block 259 Development, 1100 Louisiana Street, Houston, Tex. 77002.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by § 1910.66(b)(3), which states that all new powered platforms for exterior building maintenance shall meet the requirements for Part II and III of ANSI A120.1-1970. The ANSI standard requires that the design of the building or structure face in conjunction with the design of the building contact member on the working platforms shall provide continuous contact of the working platform with the building or structure in order to absorb wind forces and horizontal components of dead and live loads on the working platform.

The face of the building shall be provided with continuous T-rails, indented mullions, or equivalent guides which will positively engage building contact members on the working platform. On buildings where the working platform has a rise of less than 130 feet, guides providing positive engagement are not required.

The applicant contends that its design does not allow for continuous vertical mullions and, therefore, does not provide continuous T-rails or indented mullions required by ANSI A120.1-1970.

The applicant proposes to use an intermittent tie-in system using cable restraints at every third floor to restrict the horizontal movement, and to require that powered platforms used on the building be equipped with building face rollers. The applicant contends that this would provide a cable restraint device at a maximum vertical distance of 40-foot intervals in the areas served. The applicant states that the tie-in device would consist of an insert anchored to the concrete building column and projecting out to the face of granite cladding. A quick release pin will be used to attach the cable restraints to the anchor device. The applicant contends that the lower wing of the building is less than 130 feet high and, therefore, does not require the guides.

The applicant also contends that its alternative method of securing the powered platforms, as described above, is as safe and healthful as the requirements of the standard from which a variance is sought.

Signed at Washington, D.C. this 25th day of October 1978.

EULA BINGHAM,
*Assistant Secretary of Labor.*

[FR Doc. 78-30761 Filed 10-30-78; 8:45 am]

[4510-26-M]

[V-78-10]

## RESEARCH-COTTRELL, INC.

### Application for Variance and Interim Order

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTIONS: (1) Notice of application for variance and interim order; (2) denial of interim order.

SUMMARY: This notice announces the application of Research-Cottrell, Inc. for a variance and interim order from the standard prescribed in 29 CFR 1926.451(a) (1), (4), (5), and (10) concerning scaffolding—general requirements.

It also announces the denial of the request for an interim order to provide relief until a decision is rendered on the application for variance.

DATES: The last date for interested persons to submit comments is November 30, 1978. The last date for affected employers and employees to request a hearing on the application is November 30, 1978.

ADDRESSES: Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue NW., Room N-3668, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, Office of Variance Determination, at the above address, telephone: 202-523-7121, or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, Gateway Building—Suite 2100, 3535 Market Street, Philadelphia, Pa. 19104.

U.S. Department of Labor, Occupational Safety and Health Administration, Progress Plaza, 49 North Progress Avenue, Harrisburg, Pa. 17109.

U.S. Department of Labor, Occupational Safety and Health Administration, Charleston National Plaza, Room 1726, 700 Virginia Street, Charleston, W.Va. 25301.

U.S. Department of Labor, Occupational Safety and Health Administration, 1375 Peachtree Street NE., Suite 587, Atlanta, Ga. 30309.

U.S. Department of Labor, Occupational Safety and Health Administration, Todd Mall, 2047 Canyon Road, Birmingham, Ala. 35216.

U.S. Department of Labor, Occupational Safety and Health Administration, 32nd Floor, Room 3263, 230 South Dearborn Street, Chicago, Ill. 60604.

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Office Building, Room 847, 1240 East Ninth Street, Cleveland, Ohio 44199.

U.S. Department of Labor, Occupational Safety and Health Administration, 1515 Broadway (1 Astor Plaza), Room 3445,) New York, NY., 10036.

U.S. Department of Labor, Occupational Safety and Health Administration, Building T3, Belle Mead GSA Depot, Belle Mead, N.J. 08502.

### I. Notice of Application

Notice is hereby given that Research-Cottrell, Inc., P.O. Box 750, Bound Brook, N.J. 08805, has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655), and 29 CFR 1905.11 for a variance, and interim order pending a decision on the application for variance, from the standards prescribed in 29 CFR 1926.451(a) (1), (4), (5) and (10)

The addresses of the places of employment that will be affected by the application are as follows:

Susquehanna Power Station, Berwick, Pa.

Pleasants Power Station, Willow Island, W. Va.

Belefonte Power Station, Hollowood, Ala.

Perry Power Station, Perry, Ohio

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by § 1926.451(a) (1), (4), (5), and (10) which sets general scaffolding requirements concerning toeboards, guardrail support spacing, and the maximum permissible spans for scaffold planks, respectively.

The applicant states that its Cooling Tower Division constructs reinforced concrete hyperbolic cooling towers currently ranging in sizes up to 450 feet in diameter and 560 feet in height. The unique shape of the thin-walled shell, called a veil, creates a constantly varying diameter in relation to height. The applicant contends that its veil scaffolds are multitiered scaffolds (usually four working levels), with the top level being the major work platform and the three lower levels being used for light auxiliary work. The top working levels are four planks wide, and the lower levels are two planks wide. The lower levels are hung from the underside of the top level by means of 2-inch by 3/16-inch carbon steel straps. The applicant further contends that there are a few variations of design and operation between different veil scaffolds at the different worksites, but basically they are similar in nature.

The applicant states that the veil scaffolds, installed completely around the veil, on both faces of the forms, must be capable of contracting and then expanding during the course of construction of the veil. Typical movement would be from an original circumference of 1,100 feet in to 645 feet, and then out to 785 feet during construction of the veil.

The applicant states that the scaffolds and the forms are independently supported from one main support system. It also alleges that the forms and the scaffolds are not, and cannot be, connected to each other in any manner because they must move independently of each other. The scaffolds are hydraulically jacked approximately 5 feet, once each day, in slightly over 4-inch increments.

The applicant contends that its main support system consists of independent pairs of nearly vertical aluminum beams bolted together radially through the previously placed concrete. The forms are primarily secured in the web areas of the beams, and the scaffolds are primarily secured to the outside faces of the flanges of the beams by a dog-and-ratchet system. The number of beam-pair supports required for a particular cooling tower is a function of the design requirements for the structure. The number of beam-pair supports does not change during construction of a veil. The contraction and expansion of the scaffolding is accomplished by varying the distances between support points. The applicant contends that the guardrails, midrails, and scaffold plank arrangements have been designed to safely adjust to the changes in circumference.

The applicant states that it is providng a place of emploment as safe and healthful as § 1926.451(a)(4), which requires the use of toeboards on scaffolding more than 10 feet above the ground.

The applicant states that past attempts at toeboard installation have been unsatisfactory and have created additional hazards to the employees walking and working on the veil scaffolds. The applicant contends that it

has not been able to develop a safe method of installing toeboards on the veil scaffolds that will: Serve the intended purpose for toeboards; be able to contract and expand; be able to be kept out of the walk and work areas on the scaffolds; and, be able to be kept tight against the scaffold planks.

The applicant states that because it has been unable to install a toeboard system to serve as "a barrier secured along the sides and ends of a platform to guard against the falling of material" (§ 1926.452(b)(31)), it has taken the following precautions to help prevent the falling of material, and to help prevent any material that might fall from striking anyone below:

(1) Limit the amount of loose material, such as reinforcing rods, on the scaffold to a 1-day supply.

(2) Tie loose material, such as buckets and wedges, to the scaffold or to the support beams so they cannot be accidentally knocked off.

(3) Use trash drums on the scaffolds for the proper disposal of trash and scrap thus preventing the loose waste from being kicked off the scaffolds.

(4) Completely enclose the exterior faces of the scaffolds with safety nets (6x6x½ nylon mesh) from the top guardrail on the top scaffold down to and completely under the botton level of scaffold.

(5) Instruct the employees working on the scaffolds of the necessity for helping prevent any material from falling.

(6) Prohibit work directly below the veil scaffolds while overhead work is being done. The one exception to this is covered in Item 10.

(7) Provide access between the ground and the viel scaffolds by means of a temporary stairtower on the outside face of the veil. Cover the exterior sides of the stairtower with chickenwire to help prevent material from falling.

(8) Install warning barricades and overhead work signs around the exterior face of the base of the structure to warn employees and other people of the overhead work.

(9) Install a covered walkway at the base of the structure to allow safe passage for employees who must pass under the work areas.

(10) Use one-lift mobile scaffolds with scaffold planks secured on the top of the scaffold, to provide overhead protection for the one to two employees who must work under the veil scaffolds while checking the alignment of the forms.

(11) Maintain a lifting area for materials in the center of the base slab (floor) and thus away from the overhead work. Material is lifted diagonally upward from the center of the base slab to the work areas on the scaffolds. The material is lifted by means of wire rope cables operated from base mounted drum hoists.

(12) Cover the base-mounted drum hoist locations with timber sheds, and locate them in the least susceptible locations within the structure.

(13) Instruct the drum hoist operators in the safest routes of travel to and from their operating locations.

(14) Install specific roadways in the base slab area for trucks delivering material to the central lift area, and post warning signs stating that pedestrians are to use the covered walkway.

(15) Conduct weekly safety training meetings for all employees to instruct and remind everyone of the proper safety methods, and to discuss any apparent hazards noticed on the worksite.

In addition to the above, the applicant proposes to install snow fence baricades and overhead work signs around the base of the structure, both on the inside and the outside of the structure, to warn employees and other people of the overhead work. The intent of the snow fence barricade is to serve as an "engineering control", a "physical barrier", against unintentional entrance into the area under the overhead work.

The applicant further proposes to install these snow fence barricades with the top of the fence approximately 4 feet high. It contends anchoring of the fence will depend on general conditions. Metal fence posts will be used if they can be driven into the ground.

Where ground conditions will not accept driven posts, concrete blocks will be used as anchors. In areas where the permanent concrete base slab has been installed inside the structure, the fence will be attached to the protruding reinforcing rods, or will be anchored used the concrete block method. Spacing of the posts or anchors will be determined through actual practice. However, the spacing will be adequate to support the fence in a neat, stable condition without unreasonable sag.

The applicant states that access through the fence will be provided by latching the end of a section of fence to an achor point. Thus, by deliberately removing the latched section, and pulling the fence aside, access can be gained into the fenced area. Access into the fenced area will require permission from a member of site supervision. Access will be permitted if the employee will be exposed to the overhead work.

The applicant states that the work practices described above and snow fence barricades will prevent any employee from being struck by a falling object, thus creating a work environment as safe as the use of a toeboard on the scaffold.

Section 1926.451(a)(5) states in part, that guardrail supports shall be at intervals not to exceed 8 feet. The applicant contends that its guardrail support spacing is established by the distant between the main support beams. The guardrail supports are connected to the pairs of aluminum beams at the main support points. When the veil scaffold is originally installed, the spacing between the support points may be 11 feet. During construction of the veil, the support spacing will reduce to approximately 7 feet and then will expand to approximately 8 feet at the top of the cooling tower.

The applicant further states that to maintain safe guardrails, it uses 1½-inch and 2-inch schedule 40 carbon steel pipe for the guardrails and midrails on the top level of the scaffolds, and 2 x 4 lumber on the lower levels.

The applicant contends that the 2-inch pipe guardrails and midrails on the top level of the *outside* scaffold are anchored at one end to the 3 by 4.1 channel iron posts. The opposite end of the pipe extends through a hole in the channel iron post thus allowing the changes in spacing between posts. Adjacent sections of guardrails and midrails are set at slightly different elevations to allow one section to pass the adjacent section. The excess length of pipe extends beyond the post and outside of the scaffold.

The applicant contends that the pipe guardrails and midrails on the top level of the *inside* scaffolds consists of a length of 1½-inch pipe anchored at one end to the 3 by 4.1 posts with the opposite end of the pipe inserted into a 2-inch pipe which is secured at its far end to the adjacent channel iron post. Contraction and expansion is obtained by the telescoping action of the pipes. Thes sections of pipe are designed to have at least 16 inches of telescoped overlap when the distance between supports are the maximum.

The applicant alleges that all work on the lower levels of the scaffolds, where 2 x 4 guardrails and midrails are provided, is a one- and two-man operation which involves light working loads. The outside face of each lower level is completely covered by the safety net.

The applicant contends that the guardrail spacing will provide a safe and healthful workplace for the veil scaffolds and a work area as safe as the 8-foot interval supports required by § 1926.451(a)(5).

Section 1926.451(a)(10)—Table L-3 states that the maximum permissible span is 10 feet. The applicant states that its scaffold plank spacing is governed by the same dimensions as its guardrail support spacing intervals. The scaffold planks are supported by

the same brackets that hold the guardrail posts.

The applicant states that to maintain safe planks, it uses 2 x 12 inches R4S, grade 171A lumber for all planking on all levels of the scaffolds.

The applicant further states that within each bay, one end of each plank is cleated and wired to paired C3x2.1 support brackets for the top scaffold. The opposite ends of the planks rest on top of the planks in the adjacent bay. With the maximum spacing between support brackets, the 14-foot long planks overlap the adjacent planks by 24 inches and the adjacent support by 18 inches.

The applicant contends that the three outside planks on both of the top levels of scaffolding are bolted to a 1½ x 1½ x 3/16 angle iron scab on the underside of the planks near the midpoint of the span. The fourth plank, near the form, is hinged to the third plank to allow the fourth plank to be turned out of the way for form work prevented from being displaced or dropped. It is them folded back into place to close the opening between the form and the scaffold. The cleating together of the planks causes them to react to the working loads more as a single platform rather than as individual planks. The planking on the lower levels of scaffold is cleated and wired to a support bracket at one end and rides on top of the adjacent planking at the other end with a minimum overlap of 24 inches. Only work involving light working loads is performed from the planks on the lower levels. The lower levels of scaffolding are enclosed by the safety nets.

The applicant contends that the 2 x 12 planking and the planking system provides safety on the scaffolds, and a work area as safe as would have been required by § 1926.451(a)(10).

DENIAL OF INTERIM ORDER

The applicant has also requested an interim order to be effected until a decision is rendered on the variance application.

Section 1926.451(a) (1), (4), (5), and (10) provides specific requirements for toeboards, guardrail support spacing intervals, and maximum permissible spans for scaffolding planks respectively.

It does not appear that the applicant has presented a method or specifications which will assure that employees will be protected to the degree required by the standards. While work practices and the concept of a physical barrier design to prevent unauthorized entry are theoretically sound, they are not always practicable. We have determined that employees could enter into the danger area of the vail to gain access to other areas.

Therefore, it does not appear from the facts presented that the applicant will be providing a place of employment as safe and healthful as the requirements of the standard from which a variance is sought. For these reasons pursuant to the authority in 29 CFR 1905.11(c), and in Secretary of Labor's Order No. 8-76 (41 FR 25059), the application for an interim order is denied.

Signed at Washington, D.C., this 25th day of October 1978.

EULA BINGHAM,
*Assistant Secretary of Labor.*

[FR Doc. 78-30762 Filed 10-30-78; 8:45 am]

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[4510-26-M]

[V-78-8]

## YOUNGSTOWN SHEET & TUBE CO.

### Application for Variance

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of application for variance.

SUMMARY: This notice announces the application of Youngstown Sheet & Tube Co. for a variance from the standard prescribed in 29 CFR 1910.179(n)(1) concerning the prohibition for loading a crane beyond its rated load.

Since a hearing has already been requested by the applicant, interested parties, including affected employers and employees, may file a request to present views and evidence, and to participate in the hearing. Such requests shall contain a statement of the position to be taken and a concise summary of the evidence to be introduced in support of that position.

A notice of "Hearing on Application for Variance" will appear in a future volume of the FEDERAL REGISTER.

DATE: The last date for interested persons to submit comments, to file requests to present views and evidence, and to participate in the hearing is November 30, 1978.

ADDRESS: Send comments and requests to participate in the hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue NW., Room N3668, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, Office of Variance Determination, at the above address, telephone 202-523-7121.

Or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 32d Floor, Room 3263, 230 South Dearborn Street, Chicago, Ill. 60604.

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Office Building, Room 847, 1240 East Ninth Street, Cleveland, Ohio 44199.

NOTICE OF APPLICATION

Notice is hereby given that Youngstown Sheet & Tube Co., Campbell Works, P.O. Box 900, Youngstown, Ohio 45501, has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance from the standards prescribed in 29 CFR 1910.179(n)(1) concerning the prohibition for loading a crane beyond its rated load. The address of the place of employment that will be affected by the application is as follows:

Youngstown Sheet & Tube Co., Campbell Works, P.O. Box 900, Youngstown, Ohio 44501.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing, although one has already been requested by the applicant.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by § 1910.179(n)(1), which states that cranes shall not be loaded beyond their rated loads except for test purposes.

The applicant states that it owns a Shaw Alliance overhead crane, identified as TM-6, that is located in the "Hall Shop" of the Coupling Department of the Continuous Tube Mill. The crane is rated at a 5-ton load capacity and is normally used to transport containers of threaded pipe sections within the "Hall Shop." These containers reach a maximum weight of 2 tons, or approximately 40 percent of the rated capacity.

The "Hall Shop" contains several Stamets boring machines, which were installed in 1939, and which are used to thread the pipe couplings manufactured by the applicant at its Campbell Works plant. The applicant contends that these machines presently require complete rebuilds by independent contractors. However, the "Hall Shop" is

brick walled, with small, low doors. The shop is also inaccessible to heavy equipment since it is located in the middle of the mill surrounded by other shops. There is no way in which higher-rated portable or traveling cranes could be brought into the "Hall Shop" to move the Stamets boring machines to the door of the "Hall Shop."

The applicant contends that when the Stamets machines are removed for rebuilding, they can be almost completely disassembled and moved in segments, thus lightening the load. However, when the rebuilt machines are returned to Youngstown, they can only be disassembled to a limited extent without destroying the integrity of the machines alinement. The machines will then weigh a maximum of approximately 10 tons each.

The applicant further contends that in moving these machines from their present locations to the door of the "Hall Shop" following rebuilding, they are to be lifted approximately 10 to 12 inches off the ground. The total length of the moves will vary with each machine, but it is expected to be less than 100 feet total for each of them.

Since 1976, crane TM-6 has been radio controlled. Other than the handling of the Stamets machines, the crane has not been used for any oversize loads. It receives both general weekly and monthly inspections, conducted by trained and qualified Youngstown personnel, including one hourly employee, who is a Union member, and one supervisor, representing management.

The applicant proposes that the following conditions be utilized when operating the Shaw Alliance 5-ton overhead remote controlled crane, TM-6, for loads beyond its rated capacity:

(a) The maintenance history of the crane, including reports of any prior special lifts, shall be reviewed;

(b) Structural, mechanical, and electrical components of the crane design shall be checked by a crane manufacturer or other qualified person, according to accepted crane design standards such as CMAA No. 70 or AISE No. 6;

(c) The crane supporting structure design shall be checked for conformance to AISE or other applicable design standards;

(d) A complete inspection of the crane as described in OSHA Standard 29 CFR 1910.179(j) shall be made just prior to making the lift. The crane support shall be inspected and any deterioration or damage shall be taken into consideration in design calculations;

(e) The lift shall be made under controlled conditions under the direction of an appointed person. In addition to these requirements, all personnel in the area of the crane runway shall be alerted;

(f) The operator shall test the crane at his special lift by lifting the load a short distance and setting the brakes;

(g) Complete records of the lift, including all distances moved, shall be placed on file where readily available to appointed personnel;

(h) After the special heavy lift is concluded, a thorough inspection shall be made of all critical parts of the crane;

(i) All special heavy lifts shall be made under the charge of maintenance or rigger supervision and performed by qualified crane operators;

(j) A complete inspection of crane No. TM-6, track, and supporting members shall be completed on a monthly basis with a signed report;

(k) While the special heavy load is suspended and being moved, tag lines and/or guide poles shall be used to control movement; hand guiding shall be prohibited except when final setdown guidance is required;

(l) Temporary machine supports shall be preset to eliminate employee exposure;

(m) The President of Local 1418, USWA, shall be notified 10 days in advance of any special heavy load lifts on crane No. TM-6; and,

(n) The President of Local 1418, will designate two Union Members to be present while the special heavy load lift is being conducted.

The applicant contends that the conditions described above are patterned after but are more stringent than those specified in Item 2-3.2.1.1 "Special Heavy Lifts," of the latest American National Safety Standard, ANSI B30.2.0-1976, *Overhead and Gantry Cranes (Top Running Bridge, Multiple Girder).*

The applicant further states that no employees will be beneath the crane or its load during the lift, and that the only employees directly involved in the area of the lift will be those guiding the final setdown of the load.

The applicant contends that under the conditions, as described above, employee health and safety will be fully protected.

Signed at Washington, D.C., this 25th day of October 1978.

EULA BINGHAM,
*Assistant Secretary of Labor.*

[FR Doc. 78-30760 Filed 10-30-78; 8:45 am]

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[4510-26-M]

## WYOMING STATE STANDARDS

### Approval

1. BACKGROUND

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On May 3, 1974, notice was published in the FEDERAL REGISTER (39 FR 15394) of the approval of the Wyoming Plan and the adoption of Subpart BB to Part 1952 containing the decision.

The Wyoming Plan provides for the adoption of Federal standards as State standards after public hearings. Section 1953.23(a)(2) of 29 CFR provides that whenever a Federal standard is promulgated, the State must adopt or promulgate a standard or standard change which will make the State standard at least as effective as the Federal standard or change within 6 months of the Federal promulgation or change. In response to Federal standard changes, the State has submitted by letters dated June 27, 1978, July 10, 1978, and September 28, 1978, from Donald D. Owsley, Health and Safety Administrator, to Curtis A. Foster, Regional Administrator, and incorporated as part of the plan, State standards comparable to the 29 CFR 1910.1018 Occupational Exposure to Inorganic Arsenic which was published in FEDERAL REGISTER (43 FR 19584), Friday, May 5, 1978, and (43 FR 23472), Friday, June 30, 1978. These standards, which are contained in the Wyoming Occupational Safety and Health Rules and Regulations for General Industry, were promulgated after hearings held on August 11, 1978, and by resolution adoption by the Wyoming Occupational Health and Safety Commission on August 11, 1978, and became effective on September 25, 1978, pursuant to section 27-278 Wyoming Status 1957 as amended 1973.

2. DECISION

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards.

3. LOCATION OF SUPPLEMENTS FOR INSPECTION AND COPYING

A copy of the standards supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Ad-

ministrator, Occupational Safety and Health Administration, Room 1554, Federal Building, 1961 Stout Street, Denver Colo. 80294; the Occupational Health and Safety Department, 200 East Eighth Avenue, Cheyenne, Wyo. 82001; and the Technical Data Center, Room N2439R, 200 Constitution Avenue NW, Washington, D.C. 20210.

4. PUBLIC PARTICIPATION

Under § 1953.2(c) of 29 CFR Part 1953, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Wyoming State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law, which included public comments, and further public participation would be unnecessary.

This decision is effective October 31, 1978.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Denver, Colo., this 11th day of October, 1978.

CURTIS A. FOSTER,
*Regional Administrator.*

[FR Doc. 78-30758 Filed 10-30-78; 8:45 am]

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**[4510-28-M]**

**Office of the Secretary**

[TA-W-3783]

**ALATEX, INC., ANDALA PLANT, ANDALUSIA, ALA.**

**Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3783: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 31, 1978 in response to a worker petition received on May 25, 1978 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's dress shirts at the Andala plant, in Andalusia, Ala., of Alatex, Inc.

The notice of investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26497). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Alatex, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that U.S. imports of men's and boys' woven dress and business shirts increased from 30,800,000 units in 1975 to 64,283,000 units in 1976 and increased to 64,446,000 units in 1977. U.S. imports of these articles increased from 16,011,000 units during the first quarter of 1977 to 17,168,000 units during the first quarter of 1978. The ratio of imports to domestic production increased from 36.2 percent in 1975, to 70.4 percent in 1976 and to 72.6 percent in 1977.

A survey conducted with the major customer of Alatex, Inc. indicated that this customer had substantially increased its purchases of imported men's dress shirts in 1977 compared to 1976 and continued importing men's dress shirts in the first half of 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's dress shirts produced at the Andala plant, Andalusia, Ala. of Alatex, Inc. contributed importantly to the decline in sales and production and to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Andala plant, in Andalusia, Ala., of Alatex, Inc., who became totally or partially separated from employment on or after May 4, 1977 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of October 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration and Planning.*

[FR Doc. 78-30586 Filed 10-30-78; 8:45 am]

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**[4510-28-M]**

[TA-W-4042—TA-W-4046]

**ALATEX, INC. ANDALUSIA PLANT, ANDALUSIA, ALA. ET AL.**

**Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

TA-W-4042, Alatex, Inc., Andalusia plant, Andalusia, Ala.; TA-W-4043, Alatex, Inc., Troy plant, Troy, Ala.; TA-W-4044, Alatex, Inc., Pike plant, Troy, Ala.; TA-W-4045, Alatex, Inc., Brantley plant, Brantley, Ala.; TA-W-4046, Alatex, Inc., Enterprise plant, Enterprise, Ala.

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4042, 4043, 4044, 4045, 4046: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 8, 1978 in response to worker petitions received on August 8, 1978 which were filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's dress shirts at the Andalusia, Troy, Pike, Brantley, and Enterprise plants (in Alabama) of Alatex, Inc.

The notice of investigation was published in the FEDERAL REGISTER on August 29, 1978 (43 FR 38634). No public hearing was requested and none was held.

The information upon which the determinations were made was obtained principally from officials of Alatex, Inc., its customers, U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of the Act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that U.S. imports of men's and boys' woven dress and business shirts increased from 30,800,000 units in 1975 to 64,283,000 units in 1976 and increased to 64,446,000 units in 1977. U.S. imports of these articles increased from 16,011,000 units during the first quarter of 1977 to 17,168,000 units during the first quarter of 1978. The ratio of imports to domestic production increased from 36.2 percent in 1975, to 70.4 percent in 1976 and to 72.6 percent in 1977.

A survey conducted with the major customer of Alatex, Inc. indicated that this customer had substantially increased its purchases of imported men's dress shirts in 1977 compared to

1976 and continued importing men's dress shirts in the first half of 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's dress shirts produced at the Andalusia, Troy, Pike, Brantley, and Enterprise plants (in Alabama) of Alatex, Inc. contributed importantly to the decline in sales and production and to the total or partial separation of workers of these plants. In accordance with the provisions of the Act, I make the following certificatios:

All workers at the Andalusia, Ala. plant of Alatex, Inc. who became totally or partially separated from employment on or after June 2, 1978 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974, and

All workers at the Troy plant in Troy, Ala. of Alatex, Inc. who became totally or partially separated from employment on or after June 2, 1978 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974, and

All workers at the Pike plant in Troy, Ala. of Alatex, Inc. who became totally or partially separated from employment on or after June 2, 1978 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974, and

All workers at the Brantley, Ala. plant of Alatex, Inc. who became totally or partially separated from employment on or after June 3, 1978 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974, and

All workers at the Enterprise, Ala. plant of Alatex, Inc. who became totally or partially separated from employment on or after June 2, 1978 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of October 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration and Planning.*

[FR Doc. 78-30587 Filed 10-30-78; 8:45 am]

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[4510—28-M]

[TA-W-3165]

**CATANIA CLOTHING CORP., NEW YORK, N.Y.**

**Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3165: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 21, 1978, in response to a worker petition received on February 6, 1978, which was filed by the Amalgamated Clothing & Textile Workers' Union on behalf of workers and former workers producing men's suit coats and sportcoats at Catania Clothing Corp., New York, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8864). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Catania Clothing Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' tailored suits increased from 3,106 thousand units in 1975 to 3,562 thousand units in 1976 and to 4,091 thousand units in 1977.

The import to domestic production ratio increased from 19 percent in 1976 to 20 percent in 1977.

U.S. imports of men's and boys' tailored dress coats and sportcoats increased from 5,465 thousand units in 1975 to 6,965 thousand units in 1976 and then declined to 6,269 thousand units in 1977 before increasing to 1,776 thousand units for the first quarter of 1978 from 1,323 thousand units for the first quarter of 1977.

A Department survey was conducted with manufacturers who contracted work to Catania Clothing. One manufacturer, which also acts as a retailer, decreased contract work with Catania and increased its purchases of imported men's suits and sportcoats from 1976 to 1977 and in the first quarter of 1978 compared to the first quarter of 1977. Another manufacturer, which decreased contract work with Catania, had lost sales to retail customers which increased imports of suits and coats from 1976 to 1977. Workers at this manufacturer's firm have been certified as eligible to apply for trade adjustment assistance.

Workers at Catania Clothing Corp. were previously certified as eligible to apply for trade adjustment assistance on January 23, 1976 (TA-W-291). That certification expired January 23, 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's suit coats and sportcoats produced by Catania Clothing Corp., New York, N.Y., contributed importantly to the decline in production and to the total or partial separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification.

All workers of Catania Clothing Corp., New York, N.Y., who became totally or partially separated from employment on or after January 23, 1978, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of October 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration and Planning.*

[FR Doc. 78-30589 Filed 10-30-78; 8:45]

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[4510-28-M]

[TA-W-3487]

**CITY TERRANCE SPORTSWEAR, INC., NEWBURGH, N.Y.**

**Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3487: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 11, 1978, in response to a worker petition received on March 31, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing rainwear at City Terrace Sportswear, Inc., Newburgh, N.Y. The investigation revealed that women's coats and raincoats are produced.

The notice of investigation was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18790). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of City Terrace Sportswear, Inc., its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's raincoats increased from 191 thousand dozen in 1975 to 261 thousand dozen in 1976 and decreased to 242 thousand dozen in 1977. In the first quarter of 1978, imports increased to 129 thousand dozen compared to 84 thousand dozen in the

same period of 1977. The ratio of imports to domestic production increased from 36.8 percent in 1975 to 45 percent in 1976 and decreased to 40.3 percent in 1977.

U.S. imports of women's, misses', and children's coats and jackets increased from 1,517 thousand dozen in 1975 to 2,252 thousand dozen in 1976 and increased to 2,723 thousand dozen in 1977. In the first quarter of 1978 imports decreased to 572 thousand dozen compared to 590 thousand dozen in the same period of 1977. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

A survey of the manufacturer which contracts most of the production at City Terrace Sportswear, Inc., revealed decreased sales by the manufacturer in 1976 and 1977. A survey of this manufacturer's customers revealed that some of these customers had increased import purchases while decreasing their purchases from the manufacturer.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's raincoats and other women's coats produced by City Terrace Sportswear, Inc., contributed importantly to the total or partial separation of workers at the plant. In accordance with the provisions of the act, I make the following certification:

All workers at City Terrace Sportswear, Inc., Newburgh, N.Y., who became totally or partially separated from employment on or after October 20, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of October 1978.

HARRY J. GILMAN,
*Acting Director, Office of Foreign Economic Research.*

[FR Doc. 78-30588 Filed 10-30-78; 8:45 am]

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[4510-28-M]

[TA-W-3323]

**DAVIS-LYNCH GLASS CO., STAR CITY, W. VA.**

**Affirmative Determination Regarding Application for Reconsideration**

On September 25, 1978, the petitioners for workers and former workers of Davis-Lynch Glass Co. requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance. This determination was published in the FEDERAL REGISTER on September 8, 1978 (43 FR 40075).

The petitioners cite new evidence that imports of glass lamp products, especially from Mexico, have resulted in lower sales of Davis-Lynch Glass Co. products and imply that the Department's survey of Davis-Lynch Glass Co.'s customers was inadequate.

CONCLUSION

After review of the application, I conclude that the claims of the petitioners are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 24th day of October 1978.

HARRY J. GILMAN,
*Acting Director, Office of Foreign Economic Research.*

[FR Doc. 78-30590 Filed 10-30-78; 8:45 am]

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[4510-28-M]

[TA-W-3615]

**DEL-BA COAT, INC., HOBOKEN, N.J.**

**Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3615: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats and suits at Del-Ba Coat, Inc., Hoboken, N.J. The investigation revealed that the company produced only ladies' coats.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Del-Ba Coat, Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 in 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Del-Ba Coat, Inc. worked in 1977 and 1978. Manufacturers that accounted for a significant portion of sales in 1977 reduced purchases from Del-Ba Coat, Inc. and increased purchases of imports in the first half of 1978 compared to the first half of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at Del-Ba Coat, Inc., Hoboken, N.J., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Del-Ba Coat, Inc., Hoboken, N.J., who became totally or partially separated from employment on or after November 1, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of October 1978.

HARRY J. GILMAN,
*Acting Director, Office of Foreign Economic Research.*

[FR Doc. 78-30591 Filed 10-30-78; 8:45 am]

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[4510-28-M]

[TA-W-3726]

**E PLUS E, INC., LOS ANGELES, CALIF.**

**Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3726: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 18, 1978 in response to a worker petition received on April 10, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' better dresses at E Plus E, Inc., Los Angeles, Calif.

The Notice of Investigation was published in the FEDERAL REGISTER on June 13, 1978 (43 FR 25498-9). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of E Plus E, Inc., its customers (manufacturer), the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criteria has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the total or partial separations, or threats thereof, and to the absolute decline in sales or production.

Imports of women's and misses' dresses decreased from 659,000 dozen in 1976 to 587,000 dozen in 1977. Imports increased from 114,000 dozen in the first quarter of 1977 to 194,000 dozen in the first quarter of 1978. The ratio of imports to domestic production decreased from 4.6 percent in 1976 to 4 percent in 1977.

E Plus E produced ladies' dresses as a contractor for only one manufacturer until August 1978. That manufacturer reduced purchases from E Plus E but did not purchase imports. The manufacturer's sales did not decline in 1977 and in the first quarter of 1978 were higher than in the first quarter of 1977.

The manufacturer produces women's designer or couture ready-to-wear clothing, excluding sportswear. Industry sources and customers of the manufacturer who were surveyed indicated that price competition is not an important factor in the market for ladies' designer apparel.

CONCLUSION

After careful review I determine that all workers of E Plus E, Inc., Los Angeles, Calif., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of October 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration and Planning.*

[FR Doc. 78-30592 Filed 10-30-78; 8:45 am]

[TA-W-3328]

**GOODYEAR TIRE AND RUBBER CO., AKRON PLANT II, AKRON, OHIO**

**Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3328: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 9, 1978 in response to a worker petition received on February 24, 1978 which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of workers and former workers producing passengger car tires at the Akron, Onio Plant II of Goodyear Tire and Rubber Co.

The Notice of investigation was published in the FEDEAL REGISTER on March 24, 1978 (43 FR 12401). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Goodyear Tire and Rubber Co., its customers, the Rubber Manufacturers Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that U.S. imports of passenger car tires increased to 12,643 thousand units in 1976 compared to 9,940 thousand units in 1975 and increased to 13,077 thousand units in 1977. The ratio of imports to domestic production increased in 1976 compared to 1975 and then decreased in 1977 compared to 1976.

Goodyear's imports of bias passenger car tires increased 2,913.3 percent in 1976 compared to 1975 and decreased 88.1 percent in 1977 compared to 1976, but the 1977 figure was 260.0 percent higher than the 1975 level of company imports. Goodyear's imports of radial passenger car tires increased 374.6 percent in 1976 compared to 1975 and increased 12.7 percent in 1977 compared to 1976.

The Akron Plant II has been primarily a bias-ply production facility with approximately two-thirds of the plant's output being bias-ply and bias-belted passenger car tires in 1976 and 1977, the remaining being radial passenger tires. These tires are sold in the replacement market.

In the national tire market radials are rapidly replacing traditional bias-ply tires. This is reflected both in increased production of radials and increased imports which are believed to be predominately (over 90 percent) radials. Radial tires are directly competitive with bias tires.

Imported passenger car tires, predominantly of radial construction, are primarily targeted for the replacement market. This impacts on the Akron Plant II in two ways: The longer life of radials and the preference by consumers for imported radials which replace both domestically produced bias and radial passenger car tires.

The Department conducted a survey of the major customers of Goodyear Tire and Rubber Co. Some of these customers increased import purchases while decreasing tire purchases from domestic sources, including Goodyear in 1976, 1977 and the first half of 1978. Several customers claimed that tire imports were capturing an increasing share of growth in tire demand.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with passenger car tires produced at the Akron, Ohio Plant II of Goodyear Tire and Rubber Co. contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Akron, Ohio Plant II of Goodyear Tire and Rubber Co. who became totally or partially separated from employment on or after August 27, 1977 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of October 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration and Planning.*

[FR Doc. 78-30593 Filed 10-30-78; 8:45 am]

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**[4510-28-M]**

[TA-W-3872]

**GRAVINER, INC., MOUNTAINSIDE, N.J.**

**Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3872: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 20, 1978, in response to a worker petition received on June 16, 1978, which was filed on behalf of workers and former workers producing indus-

trial fire protection systems at Graviner, Inc., Mountainside, N.J. The notice of investigation incorrectly identified the petitioner.

The notice of investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28580). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Graviner, Inc., industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. The Department has determined that services are not "articles" within the meaning of section 222 of the Act.

Workers at Graviner, Inc., were not engaged in the production of smoke detectors. They were engaged only in the testing and marketing of imported smoke detectors. Graviner, Inc., purchased the finished smoke detectors from Graviner, Ltd., in the United Kingdom. Each unit was tested at Graviner, Inc., at Mountainside, N.J. No workers involved in the testing of the smoke detectors worked solely or primarily on them.

CONCLUSION

After careful review, I determine that all workers employed in marketing services at Graviner, Inc., Mountainside, N.J., be denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of October 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration and Planning.*

[FR Doc. 78-30594 Filed 10-30-78; 8:45 am]

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**[4510-28-M]**

[TA-W-3537, 3537a]

**HACKNEY CORP., BIRMINGHAM, ALA., COLUMBIANA, ALA.**

**Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3537 and 3537a: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 25, 1978, in response to a worker petition received on April 12, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing chain link fence and fittings at the Birmingham, Ala., plant of Hackney Corp.

The investigation was expanded to include the Columbiana, Ala., plant of the Hackney Corp. as well as distribution centers at Birmingham and Mobile, Ala., Louisville, Ky., Jacksonville, Fla., and Charlotte, N.C.

The notice of investigation was published in the FEDERAL REGISTER on May 5, 1978 (43 FR 19478-9). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Hackney Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that U.S. imports of chain link fencing increased from 5.3 thousand short tons in 1975 to 8.7 thousand short tons in 1976. Imports decreased to 6.3 thousand short tons in 1977. Imports increased from 1.9 thousand short tons in the first quarter of 1977 to 3.7 thousand short tons in the first quarter of 1978.

U.S. imports of carbon steel pipe and tube increased from 1,542.5 thousand tons in 1975 to 1,820.7 thousand tons in 1976. Imports increased to 2,343.9 thousand tons in 1977. The ratio of imports to domestic production increased from 22.8 percent in 1975 to 35.8 percent in 1976, and increased to 38.5 percent in 1977.

A departmental survey of customers of Hackney Corp. indicated that customers accounting for a significant proportion of the subject firm's sales increased purchases of imported chain link fencing and fence components and decreased purchases from the subject firm in 1977 compared to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with chain link fencing and fence components produced at the Birmingham and Columbiana, Ala., plants of Hackney Corp. contributed importantly to the decrease in sales and production and to the total or partial separations of workers of those plants. In accordance with the provisions of the Act, I make the following certification:

All workers of the plants and distribution centers of Hackney Corp., listed below, who became totally or partially separated from employment on or after April 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Plants: Birmingham, Ala., Columbiana, Ala.

Distribution centers: Birmingham, Ala., Mobile, Ala., Louisville, Ky., Jacksonville, Fla., Charlotte, N.C.

Signed at Washington, D.C., this 24th day of October 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration and Planning.*

[FR Doc. 78-30595 Filed 10-30-78; 8:45 am]

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**[4510-28-M]**

[TA-W-3315]

**MAVEST, INC. AND MODERN MANUFACTURING CORP., TIMONIUM, MD.**

**Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3315: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 7, 1978 in response to a worker petition received on February 21, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's tailored clothing at Mavest, Inc. and Modern Manufacturing Corp. in Timinium, Md. Subsequent investigation revealed the company primarily produces sportcoats.

Workers at Mavest, Inc. and Modern Manufacturing Corp. were previously certified as eligible to apply for adjustment assistance on July 7, 1975. That certification expired on July 7, 1977 (TA-W-24).

The Notice of Investigation was published in the FEDERAL REGISTER on March 17, 1978 (43 FR 11277). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Mavest, Inc. and Modern Manufacturing Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of men's dress coats and sportcoats declined from 6,965 thousands of units in 1976 to 6,269 thousands of units in 1977. For the period January through June 1977, imports again declined from 3,537 units to 3,237 units in the same period January through June 1978. Likewise, the ratio of imports to domestic production declined from 30.0 percent in 1976 to 26.5 percent in 1977.

CONCLUSIONS

After careful review I determine that all workers of Mavest, Inc. and Modern Manufacturing Corp. located in Timonium, Md. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of October 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration and Planning.*

[FR Doc. 78-30596 Filed 10-30-78; 8:45 am]

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[4510-28-M]

[TA-W-3569]

**PEN-JAY, INC., FALL RIVER, MASS.**

**Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3569: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 3, 1978 in response to a worker petition received on April 20, 1978 which was filed on behalf of workers and former workers producing ladies' vests, slacks and skirts at Pen-Jay, Inc., Fall River, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on May 16, 1978 (43 FR 21068-21069). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Pen-Jay, Inc., its manufacturer, the National Cotton Council, of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

During 1976 and the first 8 months of 1977 a substantial proportion of Pen-Jay's business was comprised of contract work performed for a single manufacturer. With the cessation of orders to Pen-Jay, the manufacturer increased orders to other domestic contractors. Sales by the manufacturer increased in 1977 compared to 1976.

CONCLUSION

After careful review, I determine that all workers of Pen-Jay, Inc., Fall River, Mass. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of October 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration and Planning.*

[FR Doc. 78-30597 Filed 10-30-78; 8:45 am]

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[4510-28-M]

[TA-W-2956]

**PARIS KNITTING MILLS, CARLSTADT, N.J.**

**Termination of Investigation**

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 25, 1978 in response to a worker petition received on January 9, 1978, which was filed on behalf of workers and former workers producing women's knit apparel at Paris Knitting Mills, Inc., Carlstadt, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7068). No public hearing was requested and none was held.

During the course of the investigation it was established that all workers of Paris Knitting Mills, Inc. are included in a petition dated January 4, 1978. The petition for TA-W-2956 is dated January 5, 1978. In the event that more than one petition is received for the same group of workers, the earliest petition will stand and subsequent petitions will be terminated. The investigation has therefore been terminated.

Signed at Washington, D.C., this 25th day of October 1978.

MARVIN M. FOOKS,
*Director, Office of Trade Adjustment Assistance.*

[FR Doc. 78-30585 Filed 10-30-78; 8:45 am]

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[4510-28-M]

[TA-W-3388]

**RCA CORP., DEPTFORD, N.J.**

**Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3388: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was intitiated on March 21, 1978 in response to a worker petition received on March 6, 1978 which was filed on behalf of workers and former workers marketing and distributing electronic receiving tubes at the Deptford, N.J. facility of RCA Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on March 28, 1978 (43 FR 12967). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of RCA Corp., industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. The investigation revealed that all of the requirements have been met.

On May 9, 1976, the Department ussued a certification of eligibility to apply for adjustment assistance applicable to workers of the Deptford, N.J. facility of RCA Corp. engaged in employment related to the production of electronic receiving tubes. (TA-W-625). That certification expired on May 9, 1978—2 years from its date of issuance.

The certification applicable to TA-W-625 covered workers involved in the sales and distribution of electronic receiving tubes formerly produced by RCA Corp. at a plant in Harrison, N.J. With the closure of the Harrison plant in March 1975, workers engaged in such activities were transferred to Cherry Hill and Deptford, N.J. Previous determinations by the Department (TEA-W-249 and TA-W-1198) covered workers involved directly in the production operations at Harrison.

RCA is continuing to gradually phase out its electronic receiving tube

operations. The firm continues to sell off inventories of tubes produced at Harrison prior to its closure. As inventories are depleted, RCA reduces the workforce engaged in the sales and distribution of electronic receiving tubes at Deptford and at several regional locations (workers at the regional locations are considered Deptford employees). Thus, increased imports of electronic receiving tubes which resulted in the closure of RCA's Harrison plant continue to have an adverse impact on workers engaged in the sales and distribution of tubes formerly produced by RCA.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with electronic receiving tubes formerly produced by RCA Corp. contributed importantly to the separation of workers engaged in employment related to the sales and distribution of such products by RCA's Deptford, N.J. facility. In accordance with the provisions of the Act, I make the following certification:

All workers of the Distributor and Special Products Division of RCA Corp., Deptford, N.J., engaged in employment related to the distribution and marketing of electronic receiving tubes, who became totally or partially separted from employment on or after May 9, 1978 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of October 1978.

HARRY J. GILMAN,
*Acting Director, Office of Foreign Economic Research.*

[FR Doc. 78-30598 Filed 10-30-78; 8:45 am]

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[4510-28-M]

[TA-W-4016]

**TWINKLE UNDERGARMENT CO., INC., NEW YORK, N.Y.**

**Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4016: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on July 31, 1978 in response to a worker petition received on July 18, 1978 which was filed on behalf of workers and former workers producing ladies' undergarments at Twinkle Undergarment Co., New York, N.Y.

The Notice of Investigation was published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35130-31). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Twinkle Undergarment Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligiblity requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of women's, misses' and juniors' underwear declined in absolute terms from 1973 to 1974, increased from 1974 to 1975, and increased from 1975 to 1976. Imports increased 33 percent from 1,861 thousand dozens in 1976 to 2,470 thousand dozens in 1977. The ratios of imports to domestic production and consumption increased from 2.2 percent for both ratios in 1975 to 2.7 percent for both ratios in 1976.

The Department's survey of Twinkle Undergrament Co.'s customers revealed that respondents increased their purchases of imported ladies' panties (Twinkle's major product) in 1977 compared with 1976. Purchases from Twinkle Undergarment Co. were reduced during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases in imports of articles like or directly competitive with ladies' undergarments produced at Twinkle Undergarment Co., New York, N.Y. contributed importantly to the decline in sales and production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Twinkle Undergarment Co., Inc., New York, N.Y. who became totally or partially separated from employment on or after July 11, 1977 and before January 1, 1978 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974. All workers separated after January 1, 1978 are denied program benefits.

Signed at Washington, D.C., this 24th day of October 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration and Planning.*

[FR Doc. 78-30599 Filed 10-30-78; 8:45 am]

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[4510-28-M]

[TA-W-2828]

**VALLEY NITROGEN PRODUCERS, INC., HERCULES, CALIF.**

**Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2828: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 28, 1977 in response to a worker petition received on December 12, 1977, which was filed by the Oil, Chemical and Atomic Workers International Union on behalf of workers and former workers producing chemical fertilizers at Valley Nitrogen Producers, Inc., Hercules, Calif.

The Notice of Investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1554). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Valley Nitrogen Producers, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analyst and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of nitrogenous fertilizers and intermediate products increased from 1,827.6 thousands of short tons in 1975 to 2,190.8 thousands of short tons in 1976 and increased to 3,350.2 thousands of short tons in 1977. The ratio of imports to domestic production increased from 6.2 percent in 1976 to 10.3 percent in 1977.

Valley Nitrogen Producers, Inc. opened its Hercules, Calif. plant in October 1976. Production and employment remained stable through July 1977. Workers at Hercules went on strike on August 2, 1977 and remained on strike until the plant closure in November 1977. This strike was the dominant factor in the declines in sales and production at the Hercules plant.

CONCLUSION

After careful review, I determine that all workers of Valley Nitrogen Producers, Inc., Hercules, Calif. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of October 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration and Planning.*

[FR Doc. 78-30600 Filed 10-30-78; 8:45 am]

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[4510-28-M]

**INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE**

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of subpart B of 29 CFR part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 13, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 13, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of September 1978.

MARVIN M. FOOKS,
*Director, Office of Trade Adjustment Assistance,*

APPENDIX

| Petitioner: Union/workers or former workers of— | Location | Date received | Date of petition | Petition No. | Articles produced |
|---|---|---|---|---|---|
| AVTEX Fibers, Inc. (ACTWU) | Front Royal, Va | Sept. 18, 1978 | Sept. 12, 1978 | TA-W-4,184 | Rayon tire yarn and rayon staple fiber. |
| E & W of Manila, Inc. (workers) | Manila, Ark | Sept. 15, 1978 | Sept. 6, 1978 | TA-W-4,185 | Blue jeans, fatigues, painter jeans, and different types of work pants. |
| Haspel Bros., Inc. (ACTWU) | New Orleans, La | Sept. 18, 1978 | Sept. 12, 1978 | TA-W-4,186 | Men's suits. |
| Lilli Ann Corp. (ILGWU) | San Francisco, Calif | Sept. 8, 1978 | Aug. 31, 1978 | TA-W-4,187 | Women's suits and coats. |
| Orange Country Coat Co., Inc. (ILGWU). | Newburgh, N.Y | Sept. 19, 1978 | Sept. 15, 1978 | TA-W-4,188 | Sportswear, jackets, and vests. |
| Sharon Fabrics, Division of Mode Fabrics (workers). | New York, N.Y | Aug. 8, 1978 | Aug. 5, 1978 | TA-W-4,189 | Shirtings (cloth) to be sold to the men's shirt trade. |
| Vicki Clothing Co., Inc. (ILGWU) | Newburgh, N.Y | Sept. 19, 1978 | Sept. 15, 1978 | TA-W-4,190 | Storm coats for ladies. |
| Walworth Co., sales office (workers) | Hinsdale, Ill | Sept. 11, 1978 | Sept. 6, 1978 | TA-W-4,191 | The selling of industrial valves to Walworth Co.'s customers. |
| Do | New York, N.Y | do | do | TA-W-4,198 | Do. |
| Walworth Co., Columbus foundry (workers). | Columbus, Ohio | do | do | TA-W-4,199 | Steel industrial valves. |
| Walworth Co. (workers) | King of Prussia, Pa | do | do | TA-W-4,200 | Sales, distribution center, warehouse, and corporate headquarters. |
| Walworth Co., Aloyco plant (workers) | Linden, N.J | do | do | TA-W-4,201 | Steel industrial valves. |
| Walworth Co., foundry (workers) | Elizabeth, N.J | do | do | TA-W-4,202 | Do. |
| Walworth Co., sales office (workers) | Downey, Calif | do | do | TA-W-4,192 | The selling of industrial valves to Walworth Co.'s customers. |
| Do | Oakland, Calif | do | do | TA-W-4,193 | Do. |
| Do | Atlanta, Ga | do | do | TA-W-4,194 | Do. |
| Do | Dallas, Tex | do | do | TA-W-4,195 | Do. |
| Do | Houston, Tex | do | do | TA-W-4,196 | Do. |
| Do | Westfield, N.J | do | do | TA-W-4,197 | Do. |

[FR Doc. 78—30605 Filed 10-30-78; 8:45 am]

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[4510-28-M]

**INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE**

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under title II, chapter 2, of the Act in accordance with the provisions of subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 10, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 13, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 20th day of October 1978.

MARVIN M. FOOKS,
*Director, Office of Trade Adjustment Assistance.*

APPENDIX

| Petitioner: Union/workers or former workers of— | Location | Date received | Date of petition | Petition No. | Articles produced |
|---|---|---|---|---|---|
| Apeco Corp. (company) | Des Plaines, Ill | Oct. 18, 1978 | Oct. 12, 1978 | TA-W-4,272 | Corporate office. |
| Do | Elk Grove Village, Ill | do | do | TA-W-4,273 | Provides credit collection, marketing, receiving and distribution (shipment) and engineering. |
| Apeco Corp. (company) | Melrose Par, Ill | do | do | TA-W-4,274 | Toner for photocopy equipment. |
| Bethlehem Steel Corp. (workers) | do | Oct. 13, 1978 | Oct. 10, 1978 | TA-W-4,275 | Provides air-condition and heat units service, janitor service and escort service within the building. |
| Bethlehem Steel Corp. Saucon Production Scheduling (workers). | Bethlehem, Pa | Oct. 10, 1978 | Oct. 5, 1978 | TA-W-4,276 | The scheduling the operation of the Saucon Mills. |
| Brockton Sole & Plastic (workers) | Winchester, Tenn | Oct. 18, 1978 | Oct. 15, 1978 | TA-W-4,277 | Heel base, soles and shanks for shoes and boots. |
| Knitcracker Sweet Ltd (company) | New York, N.Y | do | Oct. 9, 1978 | TA-W-4,278 | Buy and contract goods for ladies' sweaters and knit tops. |
| Offspring Industries, Inc. (workers) | Bronx, N.Y | Oct. 17, 1978 | Oct. 12, 1978 | TA-W-4,279 | Junior and misses sweaters. |
| Slater Paper Box (workers) | Fall River, Mass | Oct. 16, 1978 | Oct. 10, 1978 | TA-W-4,280 | Paper folding boxes. |
| The Hanna Furnace Corp. (USWA) | Buffalo, N.Y | Oct. 17, 1978 | Oct. 13, 1978 | TA-W-4,281 | Merchant pig iron. |
| Tiara Footwear, Inc | Dover, N.H | do | do | TA-W-4,282 | Women's casual footwear clogs and boots. |

[FR Doc. 78-30455 Filed 10-30-78; 8:45 am]

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[4510-28-M]

[TA-W-4047]

## ALATEX, INC., MONTGOMERY, ALA.

### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4047: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on August 8, 1978 in response to a worker petition received on August 8, 1978 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers engaged in employment related to the warehousing and distribution of men's dress shirts at the Montgomery, Ala. Distribution Center of Alatex, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on August 29, 1978 (43 FR 38634). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Alatex, Inc. its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that U.S. imports of men's and boys' woven dress and business shirts increased from 30,800,000 units in 1975 to 64,283,000 units in 1976 and increased to 64,446,000 units in 1977. U.S. imports of these articles increased from 16,011,000 units during the first quarter of 1977 to 17,168,000 units during the first quarter of 1978. The ratio of imports to domestic production increased from 36.2 percent in 1975, to 70.4 percent in 1976 and to 72.6 percent in 1977.

A survey conducted with the major customer of Alatex, Inc. indicated that this customer had substantially increased its purchases of imported men's dress shirts in 1977 compared to 1976 and continued importing men's dress shirts in the first half of 1978.

### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's dress shirts produced by Alatex, Inc. contributed importantly to the decline in sales and production and to the total or partial separation of workers at the Montgomery, Ala. Distribution Center of Alatex, Inc. In accordance with the provisions of the act, I make the following certification:

All workers at the Montgomery, Ala. Distribution Center of Alatex, Inc. who became totally or partially separated from employment on or after March 31, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of October 1978.

HARRY J. GILMAN,
*Acting Director, Office of Foreign Economic Research.*

[FR Doc. 78-30742 Filed 10-30-78; 8:45 am]

[4510-28-M]

[TA-W-3762]

**ASARCON DIVISION OF ASARCO, INC., AND FEDERATED METALS CORP., PERTH AMBOY, N. J.**

**Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3762: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 24, 1978 in response to a worker petition received on February 7, 1978 which was filed by the United Steelworkers of America on behalf of all workers producing copper rod and tubes and atomic shielding at the Perth Amboy plant of Asarco, Inc. The investigation revealed that Asarco produced cast alloy rod and tube and lead products (atomic shielding). These operations were sold to its subsidiary, Federated Metals Corp., in April 1977. The two operations are known as the Asarcon Division.

The Notice of Investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24634). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Asarco, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department's investigation revealed that sales and production of cast alloy rod and tube and lead products increased in quantity and value in the first 6 months of 1977 compared to the same period in 1976. When the labor contract with the United Steelworkers expired at the end of June 1977 there was a strike. The plant never reopened. In January 1978 Federated Metals completely shut down the Perth Amboy plant.

CONCLUSION

After careful review I determine that all workers engaged in employment related to the production of cast alloy rod and tube and lead products at the Asarcon Division of Asarco, Inc., and Federated Metals Corp., Perth Amboy, N.J., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of October 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration and Planning.*

[FR Doc. 78-30743 Filed 10-30-78 8:45 am]

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[4510-28-M]

[TA-W-3838]

**CLINTON ENGINES CORP., MAQUOKETA, IOWA**

**Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3838: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 14, 1978 in response to a worker petition received on June 12, 1978 which was filed by the International Association of Machinists on behalf of workers and former workers producing motors for lawn mowers and air-cooled outboard motors at Clinton Engines Corp., Maquoketa, Iowa.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27924). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Clinton Engines Corporation, its customers, manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and isue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

Imports of gasoline engines under 11 horsepower excluding outboards increased both absolutely and relative to domestic production in 1977 from 1976 and in January-June 1978 from the same period in 1977. Imports of outboard motors increased in 1977 from 1976.

Clinton Engines Corp. began importing four cycle engines in August 1977. Separations resulting from the termination of four cycle production occurred during the second half of 1977. Company imports of four cycle engines were terminated in July 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the motors for lawn mowers and air-cooled outboard motors produced at Clinton Engines Corp., Maquoketa, Iowa contributed importantly to the decline in production and to the total or partial separation of workers of that firm. In accordance with the provisions of the act, I make the following certification:

All workers of Clinton Engines Corp., Maquoketa, Iowa who became totally or partially separated from employment on or after June 8, 1977 and before December 31, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Workers separated after December 31, 1977 are denied program benefits.

Signed at Washington, D.C. this 24th day of October 1978.

HARRY J. GILMAN,
*Acting Director, Office of Foreign Economic Research.*

[FR Doc. 78-30744 Filed 10-30-78; 8:45 am]

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[4510-28-M]

[TA-W-3132]

**GENERAL REFRACTORIES CO., U.S. DIVISION, CLAYSBURG, PA.**

**Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3132: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 15, 1978, in response to a worker petition received on February 2, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing silica coke oven brick at the General Refractories Co., U.S. Division, Claysburg Works, Claysburg, Pa.

The Notice of Investigation was published in the FEDERAL REGISTER on February 28, 1978 (43 FR 8209). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the U.S. Division of General Refractories Co., the U.S. Depart-

ment of Commerce, the U.S International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of silica refractory products increased from 4,124 thousands of 9-inch brick equivalents in 1976 to 7,591 thousands of 9-inch brick equivalents in 1977. The ratio of imports to domestic production increased from 10 percent in 1976 to 26.1 percent in 1977. Imports increased from 911 thousands of 9-inch brick equivalents in the first 3 months of 1977 to 1,835 thousands of 9-inch brick equivalents in the same period of 1978. The ratio of imports to domestic production increased from 13.9 percent in the first 3 months of 1977 to 21.89 percent in the same period of 1978.

Refractory products are produced according to contracts awarded by customers on a competitive bid basis. Evidence developed during the course of the investigation revealed that bids lost by General Refractories to foreign refractory producers in 1977 constituted a major portion of the decline in Claysburg's sales in that year.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with silica refractory products produced at the Claysburg, Pa., plant of the U.S. Division of the General Refractories Co. contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Claysburg, Pa., plant of the U.S. Division of the General Refractories Co. who became totally or partially separated from employment on or after January 31, 1977, and before February 1, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers separated from employment after February 1, 1978, are denied program benefits.

Signed at Washington, D.C., this 25th day of October 1978.

HARRY J. GILMAN,
*Acting Director, Office of Foreign Economic Research.*

[FR Doc. 78-30745 Filed 10-30-78; 8:45 am]

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[4510-28-M]

[TA-W-3767]

**KOPPERS CO., INC., CONTAINER MACHINERY DIVISION, CRANFORD, N.J.**

**Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3767: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 24, 1978, in response to a worker petition received on May 22, 1978, which was filed on behalf of workers of the Cranford, N.J. plant of the Container Machinery Division of Koppers Co., Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24634-24635). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Koppers Co., Inc., its customers, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of machinery for making corrugated boxes increased in value from $18 million in 1976 to $22.8 million in 1977. Imports increased from $12.4 million during January-June 1977 to $18.5 million during January-June 1978. Imports amounted to 13.5 percent of total domestic production in 1976 and 14.7 percent in 1977.

A survey conducted by the Department revealed that some customers who decreased purchases from the Container Machinery Division of Koppers Co., Inc., in 1977 and the first quarter of 1978 increased purchases of imported machinery during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with machinery for the corrugated box industry produced at the Cranford, N.J., plant of the Container Machinery Division of Koppers Co., Inc., contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Cranford, N.J. plant of the Container Machinery Division of Koppers Company, Inc., who became totally or partially separated from employment on or after May 15, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of October 1978.

HARRY J. GILMAN,
*Acting Director, Office of Foreign Economic Research.*

[FR Doc 78-30746 Filed 10-30-78; 8:45 am]

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[4510-28-M]

[TA-W-4035]

**PYR-A-LARM, INC., DUBLIN, GA.**

**Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-4035: Investigation regarding certification of eligibilty to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on August 3, 1978, in response to a worker petition received on August 2, 1978, which was filed by the International Union of Electrical, Radio, and Machine Workers on behalf of workers and former workers producing residential smoke detectors at Pyr-A-Larm Inc., of Dublin, Ga.

The Notice of Investigation was published in the FEDERAL REGISTER on September 1, 1978 (43 FR 39193). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Pyr-A-Larm, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. The investigation revealed that all of the criteria have been met.

U.S. imports of smoke detectors increased from 900,000 units in 1976 to 2,600,000 units in 1977, and further increased from 1,200,000 units in the first 6 months of 1977 to 1,700,000 units during the same period in 1978. The import-to-production ratio increased from 12.7 in 1976 to 25.0 in 1977, and from 23.1 in the first 6 months of 1977 to 23.3 during the same period in 1978.

The decline in the Dublin, Ga. plant's sales and employment is direct-

ly linked to the import influence in the industry. A major U.S. firm and a price leader in the U.S. market, imports 100 percent of its residential smoke detectors from Europe. This major firm increased its imports of smoke detectors 43 percent in 1977 compared to 1976 and 152 percent in the first 9 months of 1978 compared to the same period in 1977. Another major U.S. participant in the residential smoke detector industry imported virtually all of its products from Hong Kong in 1978 and increased its imports significantly over 1977. These import increases reduced the market share for Pyr-A-Larm and placed downward pressure on prices. As a consequence of this important development, inventories of domestically-produced smoke detectors grew, making it unprofitable for Pyr-A-Larm to continue production at former levels.

The Department's investigation revealed that company sales and production of smoke detectors by Pyr-A-Larm Inc., decreased significantly in the third quarter of 1978 compared to the same quarter in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with smoke detectors produced at the Dublin, Ga., plant of Pyr-A-Larm Inc., contributed importantly to the decline in sales and to the total or partial separation of the workers of that plant. In accordance with the provisions of the act, I make the following certification:

All workers at the Dublin, Ga. plant of Pyr-A-Larm Inc., who became totally or partially separated from employment on or after June 15, 1978, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of October 1978.

HARRY J. GILMAN,
*Acting Director, Office of Foreign Economic Research.*

[FR Doc. 78-30747 Filed 10-30-78; 8:45 am]

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[4510-28-M]

[TA-W-4015]

**SPORN DRESS CO., FREEHOLD, N.J.**

**Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-4015: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on July 31, 1978, in response to a worker petition received on July 28, 1978, which was filed on behalf of all workers and former workers producing ladies' gowns, dresses, and pants suits at the Freehold, N.J., plant of the Sporn Dress Co.

Subsequent investigation revealed that ladies' dresses were the only product produced at the plant.

The Notice of Investigation was published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35130). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Sporn Dress Co., its customer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

Imports of women's, misses', and children's dresses declined from 1,614 thousand dozen in 1976 to 1,420 thousand dozen in 1977. The ration of imports to domestic production of women's, misses', and children's dresses declined from 8 percent in 1976 to 6.7 percent in 1977.

The Department of Labor surveyed the only customer of the Spron Dress Co. This customer indicated it did not purchase imported dresses or use foreign contractors to produce dresses in 1976 and 1977.

CONCLUSION

After careful review, I determine that all workers of the Sporn Dress Company, Freehold, N.J., are denied eligibility to apply for trade adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of October 1978.

HARRY J. GILMAN,
*Acting Director, Office of Foreign Economic Research.*

[FR Doc. 78-30748 Filed 10-30-78 8:45 am]

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[4510-28-M]

[TA-W-2849]

**UNION RAILROAD CO.**

**Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance**

On May 26, 1978, the Director of the Office of Trade Adjustment Assistance issued a Notice of Termination of Investigation (43 FR 25500), in response to a petition which was filed by the Brotherhood of Locomotive Engineers on behalf of workers and former workers engaged in transporting of raw materials into the United States Steel Corp. plants, interplant moves, and finished products from the plants to interchange points at Union Railroad Co., East Pittsburgh, Pa. (TA-W-2849). The investigation was terminated on the grounds that the group of workers covered by the petition were included in a separate petition.

On the basis of additional information, the Director of the Office of Trade Adjustment Assistance has decided to reopen the investigation to determine the workers' eligibility for adjustment assistance.

Signed at Washington, D.C., this 24th day of October 1978.

MARVIN M. FOOKS,
*Director, Office of Trade Adjustment Assistance.*

[FR Doc. 78-30749 Filed 10-30-78; 8:45 am]

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[6820-41-M]

## NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY

**COMMITTEE AND COUNCIL MEETINGS**

OCTOBER 26, 1978.

Pursuant to section 10 of the Federal Advisory Committee Act of 1972, notice is hereby given that the National Advisory Council on Economic Opportunity will hold two committee meetings on December 7, 1978, and have a full Council meeting on December 8, 1978. The committee and Council meetings will be held at the Council Office at 1725 K Street NW. (Room 405), Washington, D.C. All committee and Council meetings will begin at 9 a.m. and are open to the public.

On December 7, one committee of the Council will discuss health delivery systems as they affect the poor, welfare reform, inflation and related issues. Also on December 7, a committee of the Council will discuss policy issues involving community economic development and employment and training programs.

On December 8, the Council wil discuss and review committee reports and other relevant issues affecting antipoverty programs.

The National Advisory Council on Economic Opportunity is authorized by section 605 of the Community Services Act to advise the President and the Director of the Community Services Administration on policy matters arising under the administration of the Act and to review the effectiveness and operations of programs under the Act.

Records shall be kept of all proceedings and shall be available for public inspection at the office of the National Advisory Council on Economic Opportunity.

WALTER B. QUETSCH,
*Executive Director.*

[FR Doc. 78-30691 Filed 10-30-78; 8:45 am]

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[7590-01-M]

## NUCLEAR REGULATORY COMMISSION

### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON ADVANCED REACTORS

#### Meeting

The November 1, 1978 meeting of the ACRS Subcommittee on Advanced Reactors has been rescheduled to be held on Wednesday, December 6, 1978 in Room 1046, 1717 H Street, NW., Washington, D.C. 20555 to continue its review of matters related to the NRC sponsored research on the safety of advanced reactor designs. Notice of this meeting was published on October 17 and 20, 1878 (43 FR 47802 and 49080, respectively).

The agenda and all other matters pertaining to the meeting remain the same as announced in above cited FEDERAL REGISTER notices.

Dated: October 26, 1978.

JOHN C. HOYLE,
*Advisory Committee Management Officer.*

[FR Doc. 78-30666 Filed 10-30-78; 8:45 am]

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[7590-01-M]

[Docket No. 70-135]

### BABCOCK & WILCOX NUCLEAR MATERIAL DIVISION, COMMERCIAL NUCLEAR FUEL FABRICATION PLANT, BOROUGH OF APOLLO, PA.

#### Negative Declaration Regarding Renewal of License No. SNM-145

The U. S. Nuclear Regulatory Commission (the Commission) has renewed Special Nuclear Material License SNM-145 for the continued operation of the B&W Nuclear Fuel Fabrication Plant at Apollo, Pa.

The Commission's Division of Fuel Cycle and Material Safety has prepared an environmental impact appraisal for the renewal of License No. SNM-145. On the basis of this appraisal, the Commission has concluded that an environmental impact statement for this particular license renewal was not warranted because there will be no significant environmental impact attributable to the proposed action. The environmental impact appraisal is available for public inspection and copying at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

Dated at Silver Spring, Md. this 23d day of October 1978.

For the Nuclear Regulatory Commission.

LELAND C. ROUSE,
*Chief, Fuel Processing and Fabrication Branch, Division of Fuel Cycle and Material Safety.*

[FR Doc 78-30668 Filed 10-30-78; 8:45 am]

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[7590-01-M]

[Dockets Nos. 50-317 and 50-318]

### BALTIMORE GAS & ELECTRIC CO.

#### Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 35 and 17 to Facility Operating Licenses Nos. DPR-53 and DPR-69, issued to Baltimore Gas & Electric Co. (the licensee), which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant units Nos. 1 and 2, located in Calvert County, Md. The amendments are effective as of the date of issuance.

The amendments change the Technical Specifications to delete the requirements for 10 hydraulic snubbers on the unit No. 1 and 4 hydraulic snubbers on the unit No. 2 support systems associated with the Containment Charcoal Filter Dousing System.

The application for the amendments 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 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) the application for amendment dated June 13, 1978, (2) Amendments Nos. 35 and 17 to Licenses Nos. DPR-53 and DPR-69, 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 Calvert County Library, Prince Frederick, Md. 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 16th day of October 1978.

For The Nuclear Regulatory Commission.

ROBERT W. REID,
*Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.*

[FR Doc. 78-30669 Filed 10-27-78; 8:45 am]

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[7590-01-M]

[Docket No. 50-247]

### CONSOLIDATED EDISON CO. OF NEW YORK, INC.

#### Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 41 to Facility Operating License No. DPR-26, issued to Consolidated Edison Co. of New York, Inc. (the licensee), which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 2 (the facility) located in Buchanan, Westchester County, N.Y. The amendment is effective as of the date of issuance.

The amendment changes the license to provide generalized provisions for sealed radioactive sources and changes the Technical Specifications to provide for standard surveillance requirements for these sources.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. [Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.]

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 21, 1978, (2) Amendment No. 41 to License No. DPR-26, 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 White Plains Public Library, 100 Martine Avenue, White Plains, N.Y. 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 17th day of October 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
*Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.*

[FR Doc. 78-30670 Filed 10-30-78; 8:45 am]

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[7590-01-M]

[Docket No. 50-255]

**CONSUMERS POWER CO.**

**Issuance of Amendment to Provisional Operating License**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 44 to Provisional Operating License No. DPR-20, issued to Consumers Power Co. (the licensee), which revised the Technical Specifications for operation of the Palisades Plant, (the facility) located in Covert Township, Van Buren County, Mich. The amendment is effective as of its date of issuance.

The amendment authorizes deletion of a requirement to perform weekly monitoring of fish impingment on the intake traveling screens.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment did not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 24, 1976, as supplemented by letter dated October 28, 1977, (2) Amendment No. 44 to License No. DPR-20, and (3) the Commission's related transmittal letter. 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 Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Mich. 49006. 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 16th day of October 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
*Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.*

[FR Doc. 78-30671 Filed 10-30-78; 8:45 am]

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[7590-01-M]

[Docket No. 50-409]

**DAIRYLAND POWER COOPERATIVE**

**Issuance of Amendment To Provisional Operating License**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 14 to Provisional Operating License No. DPR-45, issued to Dairyland Power Cooperative (the licensee), which revised the Technical Specifications for operation of the La Crosse Boiling Water Reactor (LACBWR) located in Vernon County, Wisc. The amendment is effective as of its date of issuance.

The amendment deletes the requirement for operable fire detectors in the Reactor Containment Building during the performance of the containment integrated leak rate test.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 27, 1978, (2) Amendment No. 14 to License No. DPR-45, 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 La Cross Public Library, 800 Main Street, La Crosse, Wisc. 54601. 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 11th day of October 1978.

For the Nuclear Regulatory Commission.

THOMAS V. WAMBACH,
*Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.*

[FR Doc. 78-30672 Filed 10-30-78; 8:45 am]

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[7590-01-M]

[Docket No. 50-414]

**DUKE POWER CO. NORTH CAROLINA MUNICIPAL POWER AGENCY NO. 1**

**Issuance of Amendment to Construction Permit**

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Construction Permit No. CPPR-117, issued to the Duke Power Co. The amendment reflects a change in the ownership of the Catawba Nuclear Station, Unit 2 (the facility) located in York County, S.C. The amendment is effective as of its date of issuance.

The amendment adds the North Carolina Municipal Power Agency No. 1 as a co-owner of and co-applicant for the facility. The Duke Power Co. will retain sole responsibility for the design, construction, and operation of the facility.

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 amendment.

Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated May 15, 1978, and suplementary information dated September 11, 1978, (2) Amendment No. 1 to Construction Permit CPPR-117, (3) the Commission's related Safety Evaluation, and (4) the Environmental Impact Appraisal and Negative Declaration supporting Amendment No. 1 to that construction permit.

All of these items and other related material are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C., and at the local Public Document Room located at the York County Library, 325 South Oakland Avenue, Rock Hill, S.C. 29730.

A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Director, Division of Project Management.

Dated at Bethesda, Md., this 19th Day of October 1978.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
*Chief, Light Water Reactors Branch No. 4, Division of Project Management.*

[FR Doc. 78-30673 Filed 10-30-78; 8:45 am]

[7590-01-M]

## EXPORTATION OF NUCLEAR FACILITIES OR MATERIALS

### Applications for Licenses

Pursuant to 10 CFR 110.70, "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street NW., Washington, D.C.

Dated this 20th day of October 1978, at Bethesda, Md.

For The Nuclear Regulatory Commission.

GERALD G. OPLINGER,
*Assistant Director, Export/Import and International Safeguards, Office of International Programs.*

| Name of applicant, date of application, date received, application number | Material type | Quantity special nuclear material in kilograms | | End-use | Country of ultimate destination |
|---|---|---|---|---|---|
| | | Total element | Total isotope | | |
| Edlow International, Sept. 20, 1978, Sept. 25, 1978, XSNM01379. | Enriched uranium | 19,858.8 | 487.3 | Reload for Tarapur power station. | India. |
| Exxon Nuclear, Sept. 22, 1978, Sept. 26, 1978, XSNM01380. | do | 55,400 | 1,940.4 | Reload for Tihange I | Belgium. |
| Mitsubishi International, Sept. 14, 1978, Sept. 27, 1978, XU08434. | Natural uranium | 583,511 | | For conversion to $UF_6$ for reimport. | Canada. |
| Mitsubishi International, Sept. 29, 1978, Oct. 10, 1978, SXNM01386. | Enriched uranium | 16,341 | 545 | Reload for Ikata I | Japan. |
| Science General Corp., Oct. 9, 1978, Oct. 13, 1978, XMAT0013. | Heavy water | 8,510 | | To verify computer operation in a reactor control system. | Republic of China. |
| Nissho-Iwai America, Aug. 24, 1978, Aug. 31, 1978, XMAT005 (formerly XMAT0034). | do | 6,001 | | Moderator to "Fugen" reactor | Japan. |
| Carpenter Technology, Aug. 18, 1978, Aug. 28, 1978, XCOM0035. | Zircaloy tubes | [1]600 | | Use in Atucha power reactor | Argentina. |

[1] Calandria tubes, value $2,000,000.

[FR Doc. 78-30667 Filed 10-30-78; 8:45 am]

[7590-01-M]

[Docket No. 50-466]

## HOUSTON LIGHTING AND POWER CO., (ALLENS CREEK NUCLEAR GENERATING STATION, UNIT 1)

### Order Scheduling Special Prehearing Conference

Pursuant to 10 CFR 2.751a, on November 17, 1978 (and on November 18th, if necessary) at 9:30 a.m. local time the Special Prehearing Conference will be held at the Host International Hotel, 18700 John F. Kennedy Boulevard, Houston, Tex. 77205 in order to:

a. Permit identification of the key issues in the proceeding;

b. Take any steps necessary for further identification of the issues;

c. Consider all intervention petitions to allow the presiding officer to make such preliminary or final determinations as to the parties to the proceeding, as may be appropriate; and

d. Establish a schedule for further actions in the proceeding.

Further, pursuant to 10 C.F.R. 2.714(b), as amended, not later than fifteen (15) days prior to the holding of the Special Prehearing Conference, any person who filed a petition for leave to intervene pursuant to the Corrected Notice Of Intervention Procedures published in the FEDERAL REGISTER on September 11, 1978 (43 FR 40328) shall file a supplement to this petition to intervene which must include a list of the contentions which petitioner seeks to have litigated in the matter and the bases for each contention set forth with reasonable specificity. Any person who filed a petition for leave to intervene pursuant to the Notice Of Intervention Procedures published in the FEDERAL REGISTER on May 31, 1978 (43 FR 23666) and complied with the Memorandum and Order Re: Persons Seeking Intervention And Scheduling Special Prehearing Conference dated August 14, 1978, may amend previously filed contentions not later than fifteen (15) days prior to the holding of the Special Prehearing Conference.

Limited Appearance statements will not be received at the above-mentioned conference, but will be received at any subsequent prehearing conference and/or at the beginning of the hearing.

It is so ordered.

Dated at Bethesda, Md, this 24th day of October, 1978.

For the Atomic Safety and Licensing Board.

SHELDON J. WOLFE, Esq.
*Chairman.*

[FR Doc 78-30674 Filed 10-30-78; 8:45 am]

[7590-01-M]

[Docket Nos. 50-275 and 50-323]

**PACIFIC GAS AND ELECTRIC CO. DIABLO CANYON NUCLEAR POWER PLANT, UNITS 1 AND 2**

**Order Extending Construction Completion Dates**

Pacific Gas & Electric Co. is the holder of Construction Permit Nos. CPPR-39 and CPPR-69 issued by the Atomic Energy Commission[1] on April 23, 1968 and December 9, 1970, respectively, for construction of the Diablo Canyon Nuclear Power Plant, Units 1 and 2, presently under construction at the Company's site in San Luis Obispo County, Calif.

On August 11, 1978 and August 23, 1978, Pacific Gas and Electric Company filed requests for extensions of the completion dates for Units 1 and 2.

On May 11, 1976 and September 10, 1976, the Commission's staff published Supplements 4 and 5 to the Safety Evaluation Report for the Diablo Canyon Nuclear Power Plant documenting the need for a reevaluation of the plant's seismic capabilities, the criteria to be used in the reevaluation and the staff's request that Pacific Gas & Electric Co. perform such a reevaluation. This reevaluation has resulted in significant modifications to upgrade the plant's seismic resistance. For Unit 1, additional time is required to complete the modifications and to conclude the licensing process. For Unit 2, additional time is required to complete the modifications by personnel who are giving priority to completing Unit 1.

This action involves no significant hazards consideration; good cause has been shown for the delays; an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with the extension; and the requested extension is for a reasonable period, the bases for which are set forth in a staff evaluation of request for extension.

For further details with respect to this action, see (1) the applicant's requests for extension of the construction permit completion dates dated August 11, 1978 and August 23, 1978 and (2) the staff's related evaluation, all of which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20555 and at the Local Public Document Room located in San Luis Obispo County Free Library, P.O. Box X, San Luis Obispo, Calif. 93406.

It is hereby ordered that the latest completion date for CPPR-39 is extended from September 30, 1978 to April 30, 1979 for Unit 1 and the latest completion date for CPPR-69 is extended from December 31, 1978 to October 31, 1979 for Unit 2.

Date of Issuance: October 13, 1978.

For the Nuclear Regulatory Commission.

ROGER S. BOYD,
*Director, Division of Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 78-30675 Filed 10-30-78; 8:45 am]

[7590-01-M]

[Docket No. P-564-A]

**PACIFIC GAS AND ELECTRIC CO. STANISLAUS NUCLEAR PROJECT, UNIT NO. 1**

**Reconstitution of Board**

Elizabeth S. Bowers, Esq., was a member of the Atomic Safety and Licensing Board for the above proceeding. Because of a schedule conflict Mrs. Bowers is unable to continue her service on this board.

Accordingly, Seymour Wenner, Esq., whose address is 4807 Morgan Drive, Chevy Chase, Md. 20015, is appointed a Member of this Board. Reconstitution of the Board in this manner is in accordance with § 2.271 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Md. this 25th day of October 1978.

JAMES R. YORE,
*Chairman, Atomic Safety and Licensing Board Panel.*

[FR Doc. 78-30623 Filed 10-30-78; 8:45 am]

[7590-01-M]

[Docket Nos. 50-582 and 50-583]

**SAN DIEGO GAS & ELECTRIC CO.**

**Availability of Final Site Environmental Statement for the Sundesert Nuclear Plant, Unit Nos. 1 and 2**

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that the Final Site Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation, relative to suitability of the proposed site for eventual construction of the Sundesert Nuclear Plant, Unit Nos. 1 and 2 by the San Diego Gas and Electric Company in Riverside County, Calif., is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and in the Palo Verde Valley District Library, 125 West Chanslorway, Blythe, Calif., and the San Diego County Law Library, 1105 Front Street, San Diego, Calif. The Final Site Environmental Statement is also being made available at the Office of the Governor, Office of Planning and Research, 1400 Tenth Street, Sacramento, Calif., and the Southern California Association of Governments, Suite 1000, 600 South Commonwealth Avenue, Los Angeles, Calif.

In early 1978 following issuance of the Draft Environmental Statement, the California Public Utilities Commission issued an order to SDG&E to cease all expenditures on this project except as necessary to preserve the site and water supply for future use in meeting the electrical energy needs of Southern California. SDG&E then requested the NRC to continue the licensing effort with a view toward issuing the Final Environmental Statement for site suitability. Consequently, this Final Site Environmental Statement relative to determination of the suitability of the site for eventual construction of the Sundesert Nuclear plant is being issued. This statement is necessary for SDG&E and the Department of Interior to consummate exchange of ownership of the publicly-owned site for other lands; however, no hearings are presently contemplated by NRC.

The notice of availability of the Draft Environmental Statement for the Sundesert Nuclear Plant, Unit Nos. 1 and 2, and requests for comments from interested persons was published in the FEDERAL REGISTER on February 6, 1978 (43 FR 4891). The comments received from Federal, State, and local agencies and interested members of the public have been

[1] Effective January 20, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and Permits in effect on that day were continued under the authority of the Nuclear Regulatory Commission.

included as appendices to the Final Site Environmental Statement.

Copies of the Final Site Environmental Statement (Document No. NUREG-0455) may be purchased, at current rates, from the National Technical Information Service, Springfield, Va. 22161.

Dated at Bethesda, Md., this 23rd day of October 1978.

For The Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
*Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.*

[FR Doc. 78-30677 Filed 10-30-78; 8:45 am]

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[7590-01-M]

[Docket Nos. 50-445A, 50-446A]

**TEXAS UTILITIES GENERATING CO., ET AL. (COMANCHE PEAK STEAM ELECTRIC STATION, UNITS 1 AND 2).**

**Order Granting Intervention Petitions and Notice of Special Prehearing Conference**

I

OCTOBER 19, 1978.

Petitions for leave to intervene in this proceeding have been filed pursuant to the Notice of Receipt of Attorney General's Advice and Time for Filing of Petitions to Intervene on Antitrust Matters (43 FR 34850, August 7, 1978). The State of Texas has intervened as "an interested state" pursuant to 10 CFR 2.715(c), and the Committee on Power for the Southwest has elected to make a limited <appearance in accordance with the provisions of 10 CFR 2.715(a). Without objection, both are granted leave to participate in these respective roles.

On September 6, 1978, a petition for leave to intervene was filed by Central and South West Corp. (CSW), a public utility holding company, and its four operating subsidiaries, Central Power & Light Co. (CPL), Public Service Co. of Oklahoma (PSO), Southwestern Electric Power Co. (SWEP), and West Texas Utilities Co. (WTU). The Applicant, Texas Utilities Generating Co. (TUGCO), filed an answer on September 21, 1978, objecting to portions of the petition and urging that no ruling be made on CSW's party status until contentions have been submitted and responded to. The Staff filed its response on September 26, 1978, supporting the adequacy of the CSW intervention petition.

Under the *Wolf Creek* criteria,[1] an intervening petitioner must set forth with reasonable particularity (1) an interest in the proceeding, (2) an allegation of a situation inconsistent with the specified antitrust laws, (3) a nexus between the alleged inconsistent situation and the activities to be licensed, and (4) a request for specific relief.

CSW is a registered public utility holding company whose subsidiaries' service areas adjoin those of the operating company subsidiaries of Texas Utilities Co. (TU), whose system is allegedly the largest in Texas. The TU subsidiaries are the applicants in this proceeding. CSW alleges that the policy of TU and Houston Lighting & Power Co. (HL&P) to refuse to deal with interstate utilities, denies its subsidiaries meaningful access to the Comanche Peak nuclear facility. It is also claimed that this intrastate policy denies some of the benefits of existing interconnections to some of its subsidiaries. These allegations constitute an adequate showing of interest under 10 CFR 2.714.

CSW alleges that TU and its subsidiaries have combined with others to refuse to deal with interstate utilities, and that it has used its dominance to monopolize and attempt to monopolize various relevant markets. These actions are asserted to be inconsistent with sections 1 and 2 of the Sherman Act and § 5 of the Federal Trade Commission Act (15 U.S.C. §§ 1, 2, 45). This is a sufficient pleading of a situation inconsistent with the antitrust laws.

CSW further alleges that TU has refused to grant interstate utilities access to Comanche Peak, and that the continuation of the policy would frustrate relief in another antitrust hearing (South Texas) because the intrastate only policy is enforced through the threat of disconnection by the combination of TU and HL&P, which are dominant in Texas. This pleading satisfies the nexus requirement of a connection between the anticompetitive situations and the licensed activities.

It is requested that any operating license be conditioned so as to effectively neutralize TU's intrastate only policy. This is an adequate request for relief in an antitrust licensing proceeding. Accordingly, CSW's petition for leave to intervene is granted.

II

By its petition for leave to intervene, filed on September 20, 1978, Tex-La Electric Cooperative, Inc. (Tex-La) sought to intervene in this proceeding on behalf of its seventeen member co<operatives which operate in Texas. TUGCO filed an answer on October 4, 1978, which denied the adequacy of the petition to show interest, a situation inconsistent with the antitrust laws, or nexus. The Staff's response filed October 10, 1978, considered that the petition satisfied the requirements of 10 CFR 2.714.

Tex-La's seventeen member cooperatives allegedly purchase substantial amounts of power at wholesale from TU through its subsidiary, TP&L. Its interest is to ensure that its members are not restricted from access to bulk power supplies from interstate or intrastate sources. Tex-La also asserts an interest in participating in the Comanche Peak Nuclear Facilities. These pleadings sufficiently assert a cognizable interest. Tex-La asserts that TU has conditioned its agreements with Tex-La and others to preclude the interstate transmission of electricity, that TU has restricted participation in Comanche Peak to intrastate utilities, and that TU's activities violate the antitrust laws. This is a sufficient allegation of a situation inconsistent with the antitrust laws, which should be refined by a statement of contentions within 15 days prior to the special prehearing conference under the provisions of 10 CFR 2.714.(b), as amended.

Tex-La further alleges that TU's intrastate restraint on participation in Comanche Peak is anticompetitive and constitutes the required nexus between the inconsistent situation and the licensed activities, citing *Louisiana Power & Light Co.* (Waterford Steam Electric Generating Station, Unit 3), CLI-73-25, 6 AEC 619, 620-21 (1973). These allegations sufficiently plead the nexus requirement.

Tex-La requests that the Comanche Peak operating license be conditioned to allow both interstate and intrastate access to the plants output, and to mandate an opportunity for Tex-La to participate in the facility. This request for relief satisfies the requirements of 10 CFR 2.714, as amended, and the request for leave to intervene is granted.

III

Notice is hereby given the parties that a special prehearing conference pursuant to the provisions of 10 CFR 2.751a, will be held at 9:30 a.m., local time, in the Nuclear Regulatory Commission Hearing Room, 5th Floor, located at 4350 East-West Highway, Bethesda, Md. 20014, on December 5, 1978.

Intervention petitions shall be supplemented to state contentions and the bases therefor reasonable specificity, in accordance with the provisions of 10 CFR 2.714(b), as amended.

It is so ordered.

Dated at Bethesda, Md. this 19th day of October 1978.

For the Atomic Safety and Licensing Board.

MARSHALL E. MILLER,
*Chairman.*

[FR Doc. 78-30678 Filed 10-30-78; 8:45 am]

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[1] Kansas Gas & Electric Co. (Wolf Creek Generating Station, Units No. 1), ALAB-279, 1 NRC 559 (1975).

[7590-01-M]

[Docket No. 50-594; License No. XR-131]

**WESTINGHOUSE ELECTRIC CORP.**

**Issuance of Facility Export License**

Please take notice that no request for a hearing or a petition for leave to intervene having been filed following publication of notice of proposed action in the FEDERAL REGISTER on April 28, 1978 (page 18365) and the Nuclear Regulatory Commission having found that:

(a) The application filed by Westinghouse Electric Corp., Docket No. 50-594, complies with the requirements of the Atomic Energy Act, as amended, and the Commission's regulations set forth in Title 10, Chapter 1, Code of Federal Regulations, and

(b) the reactors proposed to be exported are utilization facilities as defined in said Act and regulations, the Commission has issued License No. XR-131 to Westinghouse Electric Corp., Pittsburgh, Pa., authorizing the export of two power reactors with a thermal power level of 2,785 megawatts each to the Korea Electric Co., Seoul, Korea.

The export of the reactors to the Republic of Korea is within the purview of the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Korea.

Dated at Bethesda, Md. this 19th day of October 1978.

For the Nuclear Regulatory Commission.

GERALD G. OPLINGER,
*Assistant Director, Export/Import and International Safeguards, Office of International Programs.*

[FR Doc. 78-30680 Filed 10-30-78; 8:45 am]

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[7590-01-M]

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-414]

**CATAWBA NUCLEAR STATION, UNIT 2**

**Negative Declaration Regarding Proposed Amendment to the Construction Permit**

The U.S. Nuclear Regulatory Comission (the Commission) is considering the issuance of an amendment to Construction Permit No. CPPR-117 issued to Duke Power Co. for the Catawba Nuclear Station, Unit 2, located in York County, S.C.

The amendment would authorize the addition of North Carolina Municipal Power Agency No. 1 as co-owner of the station with Duke Power Co.

The Commission's Division of Site Safety and Environmental Analysis has prepared an environmental impact appraisal for the proposed 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 proposed action.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the York County Library, 325 South Oakland Avenue, Rockhill, S.C. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Md., this 19th day of October, 1978.

For the Nuclear Regulatory Commission.

JAN A. NORRIS,
*Acting Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.*

[FR Doc. 78-30712 Filed 10-30-78; 8:45 am]

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[7715-01-M]

## POSTAL RATE COMMISSION

**NOTICE OF VISIT TO MAIL FACILITIES**

OCTOBER 24, 1978.

Notice is hereby given that employees of the Postal Rate Commission will visit bulk mail centers and facilities associated with the processing of bulk mail on November 7-9, 1978 for the purpose of observing these operations.

No particular matter at issue in contested proceedings before the Commission nor the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission will be discussed.

A report of the visits will be on file in the Commission's docket room.

PLACES OF VISIT

Group 1—Buffalo, N.Y., Pittsburgh, Pa., Elmira, N.Y., Ithaca, N.Y., Slaterville Springs, N.Y.

Group 2—New Orleans, La., Mobile, Ala., Citronelle, Ala., Chinchula, Ala., Memphis, Tenn.

By direction of the Commission.

CYRIL J. PITTACK,
*Acting Secretary.*

[FR Doc. 30754-Filed 10-30-78; 8:45 am]

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[8025-01-M]

## SMALL BUSINESS ADMINISTRATION

[Application No. 05/05-5135]

**DEARBORN CAPITAL CORP.**

**Application for License To Operate as a Small Business Investment Company**

An application for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. et seq.), has been filed by Dearborn Capital Corp. (applicant) with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1978).

The officers, directors, and stockholders of the applicant are as follows:

Robert C. Chambers, President, Treasurer, Director, 30105 Valley Side Drive, Farmington Hills, Mich. 48018.

Harold Gardner, Vice President, Secretary, 16700 Warwick, Detroit, Mich. 48219.

Robert B. Alexander, Director, 2254 Belmont, Ann Arbor, Mich. 48104.

Levi A. Jackson, Director, 1707 Orleans, Detroit, Mich. 48207.

David M. Sparling, Director, 18395 Pinebrook Northville, Mich. 48167.

Kenneth Whipple, Jr., Director, 29475 Briarbank Court, Southfield, Mich. 48034.

Ford Motor Co., 100 percent stockholder, The American Road, Dearborn, Mich. 48121.

Ford Motor Credit Co., Investment Adviser/Manager, The American Road, Dearborn, Mich. 48121.

The applicant, a Delaware corporation, with its principal place of business located at The American Road, Dearborn, Mich. 48121, will begin operations with $500,000 of paid-in capital and paid-in surplus, derived from the sale of 1,000 shares of common stock.

The applicant will conduct its activities principally in the State of Michigan, and in other areas within the United States of America.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under section 301(d) of the act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social economic or disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and SBA rules and regulations.

Any person may, not later than November 15, 1978, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Dearborn, Mich.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: October 23, 1978.

PETER F. MCNEISH,
*Deputy Associate Administrator for Investment.*

[FR Doc. 78-30736 Filed 10-30-78; 8:45 am]

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[8025-01-M]

**F&F VENTURE CAPITAL CORP.**

[License No. 09/09-5179]

**Termination of License**

Notice is hereby given that F&F Venture Capital Corporation (F&F), Route No. 1, Chino Airport, Chino, California 91710, has surrendered its license to operate as a small business investment company under Section 301(d) of the Small Business Investment Act of 1958, as amended (the Act).

F&F was licensed by the Small Business Administration on January 28, 1975.

Under the authority vested by the Act and pursuant to 13 CFR 107.105 (1978), the surrender of F&F's license is hereby approved.

Accordingly, all rights, privileges and franchises derived from the license are hereby terminated.

(Catalog of Federal Domestic Assistance Program Number 59.011, Small Business Investment Companies.)

Dated: October 24, 1978.

PETER F. MCNEISH,
*Deputy Associate Administrator for Investment.*

[FR Doc. 78-30737 Filed 10-30-78; 8:45 am]

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[8025-01-M]

[Declaration of Disaster Loan Area No. 1538]

**TEXAS**

**Declaration of Disaster Loan Area**

Reeves County and adjacent counties within the State of Texas constitute a disaster area as a result of damage caused by excessive rainfall and flooding which occurred on September 26, 1978, through September 30, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on December 26, 1978, and for economic injury until the close of business on July 24, 1979, at: Small Business Administration, District Office, 712 Federal Office Building and U.S. Courthouse, Lubbock, Tex. 79401, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: October 24, 1978.

WILLIAM T. GENNETTI,
*Acting Administrator.*

[FR Doc. 78-30738 Filed 10-30-78; 8:45 am]

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[4830-01-M]

## DEPARTMENT OF THE TREASURY

**Internal Revenue Service**

**FORM 990, RETURN OF ORGANIZATION EXEMPT FROM INCOME TAX**

**Proposed Revision**

AGENCY: Internal Revenue Service, Department of the Treasury.

ACTION: Notice of proposed revision of Form 990, Return of Organization Exempt from Income Tax, for 1979.

SUMMARY: As part of their forms simplification and reporting burden reduction efforts, the Internal Revenue Service is asking for public comments on a proposed extensive revision of Form 990, Return of Organization Exempt from Income Tax, for 1979. After considering all comments and suggestions, the Service will decide whether to adopt the proposed revision for 1979.

DATE: Written comments and suggestions should be mailed or delivered by December 15, 1978.

ADDRESS: Written comments and suggestions should be mailed or delivered to the Chairman, Tax Forms Coordinating Committee, Internal Revenue Service, Room 5577, 1111 Constitution Avenue NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert I. Brauer, 1111 Constitution Avenue NW., Washington, D.C. 20224, telephone 202-566-6150 (not a toll-free telephone number).

SUPPLEMENTARY INFORMATION: The proposed revision provides the means for an organization to report the nature and amount of available resources, net changes in fund balances and the amounts expended for programs, fundraising and management and general purposes.

The proposed revision is simpler to complete for organizations that have gross receipts of $25,000 or less. A substantial number of organizations are in this category. They will have to complete: (1) Lines 1(f), 2, 3, 4, 5(c), 6, 7(c), 8(d), 9(e), 10, 14, and 15 of part I; (2) columns A and B of part II; (3) all of part III; (4) line 51 of part IV; and (5) all of part V. The specific instructions are keyed to the applicable line items and are explicit as to the information to be recorded thereon.

The Service is hopeful that this revised form will be adopted by states to meet their financial reporting requirements of charitable and other organizations.

Return preparers and organizations are cautioned not to make any program changes based on the proposed revision before it is adopted.

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.

Dated: October 24, 1978.

S. ALLEN WINBORNE,
*Assistant Commissioner, Employee Plans, Exempt Organizations.*

[4830-01-C]

Form **990**
Department of the Treasury
Internal Revenue Service

# Return of Organization Exempt from Income Tax

Under section 501(c) (except private foundation), 501(e) or (f) of the Internal Revenue Code

19

For the calendar year 19 , or fiscal year beginning , 19 , and ending , 19

| Use IRS label. Otherwise, please print or type. | Name of organization | A Employer identification number (see instructions) |
|---|---|---|
| | Address (number and street) | B If exemption application is pending check here ▶ ☐<br>C If address changed check here . . . . . ▶ ☐ |
| | City or town, State, and ZIP code | D Fair market value of assets at end of year (see instructions) ▶ |

E Check applicable box—Exempt under section ▶ ☐ 501(c) ( ) (insert number), ☐ 501(e) OR ☐ 501(f).

F Is this a group return (see Instruction K) filed for affiliates? ☐ Yes ☐ No. Is this a separate return filed by a group affiliate? ☐ Yes ☐ No. If "Yes" to either, give four-digit group exemption number . . . . . ▶

**Note:** If your gross receipts are: (a) normally not more than $10,000 (see Instruction U), check here ☐ and do not complete the rest of this return (see Instruction C), OR (b) $25,000 or less (but normally more than $10,000), check here ☐ and complete ONLY the shaded items in Parts I, II and IV and all of Parts III and V (see Instruction D).

All section 501(c)(3) organizations must also complete Schedule A (Form 990) and attach it to this return.

**Part I** Analysis of Revenue, Expenses and Fund Balances

| | | Total | These columns are strictly optional—see Instructions: Restricted | Unrestricted |
|---|---|---|---|---|
| Revenue | 1 Contributions, gifts, grants and similar amounts received: | | | |
| | (a) Directly from the public . . . . . | | | |
| | (b) Through professional fundraisers . . . . . | | | |
| | (c) As allotments from fundraising organizations . | | | |
| | (d) As government grants . . . . . | | | |
| | (e) Other . . . . . | | | |
| | (f) Total (add lines 1(a) through 1(e)) (attach schedule—see instructions) . | | | |
| | 2 Membership dues and assessments . . . . . | | | |
| | 3 Interest . . . . . | | | |
| | 4 Dividends . . . . . | | | |
| | 5 (a) Gross rents . . . . . | | | |
| | (b) Less: Rental expenses . . . . | | | |
| | (c) Net rental income . . . . . | | | |
| | 6 Royalties . . . . . | | | |
| | 7 Capital gains: | | | |
| | (a) Gross amount received from sale of assets other than inventory . . . . . | | | |
| | (b) Less: Cost or other basis and sales expenses of assets sold . . . . . | | | |
| | (c) Net gain/loss (attach schedule) . . . . . | | | |
| | 8 (a) Gross sales . . . . . | | | |
| | (b) Less: Returns and allowances . . . . . | | | |
| | (c) Less: Cost of goods sold (attach schedule) . . | | | |
| | (d) Gross profit (loss) . . . . . | | | |
| | 9 Other revenue (state nature): | | | |
| | (a) | | | |
| | (b) | | | |
| | (c) | | | |
| | (d) | | | |
| | (e) Total (add lines 9(a) through 9(d)) . . . . . | | | |
| | 10 Total revenue (add lines 1(f), 2, 3, 4, 5(c), 6, 7(c), 8(d) and 9(e)) . . | | | |
| Expenses | 11 Fundraising (from line 38(B)) . . . . . | | | |
| | 12 Program services (from line 38(C)) . . . . . | | | |
| | 13 Management and general (from line 38(D)) . . . . . | | | |
| | 14 Total expenses (add lines 11 through 13) . . . . . | | | |
| Fund Balances | 15 Excess (deficit) for the year (subtract line 14 from line 10) . . . . | | | |
| | 16 Fund balances or net worth, beginning of year (from line 61(A)) . . . | | | |
| | 17 Other changes in fund balances or net worth (attach explanation) . . | | | |
| | 18 Fund balances or net worth, end of year (add lines 15, 16 and 17) . . | | | |

FOR DISCUSSION PURPOSES ONLY

Form 990 (19 ) Page 2

**Part II** Allocation of Expenses by Function

| Note: Do not include amounts reported on lines 5(b), 7(b) and 8(c) of Part I. | (A) Total | (B) Fundraising | (C) Program services | (D) Management and general |
|---|---|---|---|---|
| Expenses | | | | |
| 19 Contributions, gifts, grants and similar amounts awarded (attach schedule) | | | | |
| 20 Benefits disbursed to or for members | | | | |
| 21 Compensation of officers, directors and trustees | | | | |
| 22 Other salaries and wages | | | | |
| 23 Pension plan contributions (enter amount of plans ▶.....) | | | | |
| 24 Other employee benefits | | | | |
| 25 Payroll taxes | | | | |
| 26 Fees for fundraising | | | | |
| 27 Other professional services | | | | |
| 28 Interest | | | | |
| 29 Occupancy | | | | |
| 30 Rental and maintenance of equipment | | | | |
| 31 Printing and postage | | | | |
| 32 Telephone | | | | |
| 33 Supplies | | | | |
| 34 Travel and entertainment | | | | |
| 35 Other expenses (attach schedule) | | | | |
| 36 Total expenses before depreciation (add lines 19 through 35) | | | | |
| 37 Depreciation, depletion, etc. | | | | |
| 38 Grand total (add lines 36 and 37). Enter here and on lines 11 through 13 | | | | |

FOR DISCUSSION PURPOSES ONLY

**Part III** List of Officers, Directors and Trustees (See instructions)

| (A) Name and address | (B) Title and time devoted to position | (C) Compensation | (D) Contributions to employee benefit plans | (E) Expense account and other allowances |
|---|---|---|---|---|
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**Part IV** Balance Sheet

| Assets | (A) Beginning of tax year | (B) End of tax year |
|---|---|---|
| 39 Cash: | | |
| (a) Savings and interest-bearing accounts | | |
| (b) Other | | |
| 40 Accounts receivable ▶ ..... less allowance for doubtful accounts ▶ | | |
| 41 (a) Notes receivable (attach schedule) ▶ ..... less allowance for doubtful accounts ▶ | | |
| (b) Loans to officers, directors and trustees (attach schedule) | | |
| 42 Inventories | | |
| 43 Government obligations: | | |
| (a) U.S. and instrumentalities | | |
| (b) State, subdivisions thereof, etc. | | |
| 44 Investments in nongovernmental bonds, etc. (attach schedule) | | |
| 45 Investments in corporate stocks (attach schedule) | | |
| 46 Mortgage loans (number of loans ▶ ) | | |
| 47 Other investments (attach schedule) | | |
| 48 Depreciable (depletable) assets (attach schedule): | | |
| (a) Beginning assets ▶ ..... less accumulated depreciation ▶ | | |
| (b) Ending assets ▶ ..... less accumulated depreciation ▶ | | |
| 49 Land | | |
| 50 Other assets (attach schedule) | | |
| 51 Total assets | | |
| **Liabilities** | | |
| 52 Accounts payable | | |
| 53 Contributions, gifts, grants, etc., payable | | |
| 54 (a) Bonds and notes payable (attach schedule) | | |
| (b) Mortgages payable | | |
| (c) Loans from officers, directors and trustees (attach schedule) | | |
| 55 Other liabilities (attach schedule) | | |
| 56 Total liabilities | | |
| **Fund Balances and Net Worth** | | |

**Note:** *You must complete this section of the balance sheet based on the method of accounting you normally use. Please check either "Fund Accounting" or "All Others" and provide the information requested under the method you have checked.*

| Fund Accounting | All Others | | |
|---|---|---|---|
| Check here ▶ ☐ | Check here ▶ ☐ | | |
| 57 Current funds: | | | |
| (a) Unrestricted | | | |
| (b) Restricted | | | |
| 58 Land, buildings and equipment | Capital stock or trust principal | | |
| 59 Endowment and similar funds | Paid-in or capital surplus | | |
| 60 Other | Retained earnings or accumulated income | | |
| 61 Total fund balances | Total net worth | | |
| 62 Total liabilities and fund balances/net worth | | | |

FOR DISCUSSION PURPOSES ONLY

Form 990 (19 ) Page 4

**Part V** Statements Regarding Certain Activities

| | Yes | No |
|---|---|---|
| **63** Describe briefly the nature of the activities conducted in accomplishing your exempt purpose(s): | | |
| **64** Have you engaged in any activities not previously reported to the Internal Revenue Service? If "Yes," attach a detailed description of such activities. | | |
| **65** Have any changes not previously reported to the Internal Revenue Service been made in your organizing or governing documents? If "Yes," attach a copy of the changes. | | |
| **66** (a) Did you have unrelated business gross income of $1,000 or more during the year covered by this return? | | |
| (b) Have you filed a tax return on Form 990–T, Exempt Organization Business Income Tax Return, for this year? | | |
| (c) If you have gross sales or receipts from business activities not reported on Form 990–T, attach a statement explaining your reason for not reporting them on Form 990–T. | | |
| **67** Was there a liquidation, dissolution, termination, or substantial contraction during the year (see instructions)? If "Yes," attach a schedule of the dispositions for the year showing type of assets disposed of, the dates disposed, the cost or other basis, the fair market value on dates of disposition and the names and addresses of the recipients of the assets distributed. | | |
| **68** Are you related (other than by association with a statewide or nationwide organization) through common membership, governing bodies, trustees, officers, etc., to any other exempt or nonexempt organization (see instructions)? If "Yes," enter the name of organization ▶ ..... and check whether it is ☐ exempt or ☐ nonexempt. | | |
| **69** (a) Enter amount expended, if any, directly or indirectly for political purposes | | |
| (b) Did you file Form 1120–POL, U.S. Income Tax Return of Certain Political Organizations for this year? | | |
| **70** Did your organization receive donated services or the use of facilities or equipment at no charge or at substantially less than fair rental value? If "Yes," you may if you choose indicate the value of such services or items here. Do not include this amount elsewhere on this return ▶ | | |
| **The following statements should be completed ONLY by the organizations indicated.** | | |
| **71** *Section 501(c)(5) or (6) organizations.*—Did you expend any amounts in connection with any attempt to influence the general public, or segments thereof, with respect to legislative matters or referendums (see instructions and section 1.162–20(c) of the Income Tax Regs.)? If "Yes," enter the total amount expended for this purpose | | |
| **72** *Section 501(c)(7).*—Enter amount of: | | |
| (a) Initiation fees and capital contributions included on line 10 | | |
| (b) Gross receipts from general public from use of club facilities included in line 10 (see instructions) | | |
| (c) Does your governing instrument or any written policy statement provide for discrimination against any person because of race, color or religion? | | |
| **73** *Section 501(c)(12) organizations*—Enter: | | |
| (a) The total amount of gross income received from members or shareholders | | |
| (b) The total amount of gross income received from other sources (do not net amounts due or paid to other sources against amounts due or received from them) | | |
| **74** *Public interest law firm.*—Attach information required by specific instruction for line 74. | | |

FOR DISCUSSION PURPOSES ONLY

**Please Sign Here**

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

▶ Signature of officer Date

▶ Title

▶ Paid preparer's signature (see instructions)

▶ Paid preparer's address (or employer's name and address)

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

INSTRUCTIONS FOR FORM 990—RETURN OF ORGANIZATION EXEMPT FROM INCOME TAX

UNDER SECTION 501(C) (EXCEPT PRIVATE FOUNDATION), 501(E) OR (F) OF THE INTERNAL REVENUE CODE

*(Section references are to the Internal Revenue Code, unless otherwise indicated)*

General Instructions—Exempt Organizations (Under Section 6033)

*Rounding Off to Whole-dollar Amounts*

Money items may be shown as whole-dollar amounts by eliminating amounts less than 50 cents, and increasing amounts from 50 cents through 99 cents to the next higher dollar.

A. *Who Must File Form 990.*—An annual return on this form is required of organizations exempt from tax under section 501(a) of the Code (including foreign organizations and cooperative service organizations described in sections 501(e) and (f)) except the following:

(1) A church, an interchurch organization of local units of a church, a convention or association of churches, or an integrated auxiliary of a church (such as a men's or women's organization, religious school, mission society, or youth group).

(2) A school below college level affiliated with a church or operated by a religious order, even though it is not and integrated auxiliary of a church.

(3) A mission society sponsored by or affiliated with one or more churches or church denominations, more than one-half of the activities of that society are conducted in, or directed at persons in, foreign countries.

(4) An exclusively religious activity of any religious order.

(5) For tax years ending on or after December 31, 1976, an organization (other than a private foundation as described in (8) below) that normally has gross receipts in each taxable year of not more than $10,000.

(6) A State institution whose income is excluded from gross income under section 115.

(7) An organization described in section 501(c)(1). Section 501(c)(1) organizations are corporations organized under an Act of Congress that are:

(a) instrumentalities of the United States, and;

(b) exempt from Federal income taxes (under such Acts as amended and supplemented).

(8) A private foundation exempt under section 501(c)(3) and described in section 509(a). (Required to file Form 990-PF, Return of Private Foundation Exempt from Income Tax.)

(9) A stock bonus, pension, or profit-sharing trust which qualified under section 401. (See Form 5500, Annual Return/Report for Employee Benefit Plan.)

(10) A religious or apostolic organization described in section 501(d). (Required to file Form 1065, U.S. Partnership Return of Income.)

*Return When Exempt Status Not Established.*—If your application for exemption is pending with the Internal Revenue Service and you claim exempt status under section 501(a) prior to a determination by the Service, you should file the appropriate return. An organization acknowledging that is a private foundation should file Form 990-PF.

B. *Section 501(c)(3) Organizations.*—Section 501(c)(3) organizations (other than private foundations filing Form 990-PF) must also complete Schedule A (Form 990). Organization Exempt Under 501(c)(3) Supplementary Information.

C. *Filing Requirements Tests.*—You are exempted from filing Form 990 if your gross receipts are normally not more than $10,000. Your gross receipts are the sum of lines 1(f), 2, 3, 4, 5(a), 6, 7(a), 8(a), and 9(e) of Part I, plus the expenses of special fundraising events and activities deducted on line 9. (These expenses must be added back because line 9(e) reflects the net income rather than the gross amount received from the special fundraising events and activities reported on that line.) If you meet this exception we ask that you fill in only the heading of Form 990 and check the first box in the note above Part I. Send this information form to the service center for your area. This will help us keep our records current and we won't have to contact you later asking why a return wasn't filed.

D. *Shortened Return Format for Small Organizations.*—If your gross receipts (see instruction C for computation) are $25,000 or less but normally more than $10,000, you should complete only the shaded items in Parts I, II, and V and all of Parts III and IV. Be sure to check the second box in the note above Part I, Form 990, so that we know that you didn't have to complete all items, and you won't be subject to a penalty for and incomplete return.

E. *Complete Returns.*—All line items on Form 990 must be completed unless the organization has gross receipts of $25,000 or less. (If this exception applies, refer to instruction D.) There are items on Form 990 which may not be applicable to you, but for which we need and answer even if it is negative.

A penalty of $10 a day for failure to file a return under section 6652(d) (see instruction F below) may be charged if an incomplete return is submitted. If one or more line items on the return are not filled in we may consider the return incomplete or contact you for the missing information. Therefore, we urge that you be sure to make and entry in each part of the form, even those that do not apply to you. If a part or line item does not apply enter "N/A" (not applicable), or if a dollar amount is zero enter "—0—." Please make sure your return is complete before it is submitted. (See Rev. Rul. 77-162, 1977-1 C.B. 400.)

F. *Accounting Period.*—The return shall be on the basis of the established annual accounting period of the organization. If the organization has no such established accounting period, the return shall be on the basis of the calendar year.

A group return (see "K" below) shall be on the basis of the established annual accounting period of the central organization.

To change your accounting period, file Form 1128, Application for Change in Accounting Period.

G. *Period to Be Covered by Return.*—File the 1979 return for the calendar year 1979 and fiscal years beginning in 1979. If the return is for a fiscal year, fill in the taxable year space at the top of the return.

H. *Accounting Methods.*—Gross income, receipts and disbursements must be computed in accordance with the method of accounting regularly used by the organization in maintaining its books and records, unless otherwise specified in the instructions.

I. *When and Where to File.*—This return must be filed on or before the 15th day of the fifth month following the close of the accounting period.

Requests for extension of time to file may be made by filing Form 2758, Application for Extension of Time to File.

In case of a complete liquidation, dissolution or termination file the return on or before the 15th day of the fifth month following complete liquidation, dissolution or termination.

| If the principal office of the organization is located in— | Send the return to— |
|---|---|
| Connecticut, New Hampshire, Maine, Massachusetts, Rhode Island, or Vermont. | Internal Revenue Service Center, Andover, Mass. 05501 |
| Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, or Tennessee. | Internal Revenue Service Center, Atlanta, Ga. 31101 |
| Arkansas, Colorado, Kansas, Louisiana, New Mexico, Oklahoma, Texas, or Wyoming. | Internal Revenue Service Center, Austin, Tex. 73301 |
| Indiana, Kentucky, Michigan, Ohio, or West Virginia. | Internal Revenue Service Center, Cincinnati, Ohio 45999 |
| Arizona, California, Hawaii, Nevada, or Utah. | Internal Revenue Service Center, Fresno, Calif. 93888 |
| Alaska, Idaho, Minnesota, Montana, North Dakota, Oregon, South Dakota, Washington, or Wisconsin. | Internal Revenue Service Center, Ogden, Utah 84201 |
| Any other State, the District of Columbia, any U.S. possession or foreign country. | Internal Revenue Service Center, Philadelphia, Pa.19255 |

J. *Penalty for Failure to File on Time.*—If an organization fails to file the return on or before the due date, section 6652(d) imposes a penalty of $10 for each day the return is late (not to exceed $5,000), unless it can be shown that the failure was due to reasonable cause. The Internal Revenue Service may make written demand that the deliquent return be filed within a reasonable time after notice of mailing of the demand. The person failing to file the deliquent return (unless it can be shown to be due to reaonable cause) will have to pay $10 for each day (not to exceed $5,000) after the period expires, if more than one person is liable for failure to file the deliquent return, all such persons shall be jountly and severally liable with respect to such failure. (See section 6652(d).)

There are penalties for willful failure to file and, for filing fraudulent returns and statements. (See sections 7203, 7206, and 7207.)

K. *Group Return.*—A group return may be filed by a central, parent, or like organization for two or more local organizations, none of which are private foundations, provided the local organizations are: (a) affiliated with the central organization at the close of the central organization's annual accounting period; (b) subject to the general supervision or control of the central organization; and (c) exempt from tax under a group exemption letter which is currently in effect. Each local organization must annually authorize the central organization in

writing to include it in the group return and must also annually file with the central organization a declaration, under penalty of perjury, of the truth and completeness of the authorization and statements required by this form. The group return is in addition to the separate return of the central organization but instead of separate returns by the local organizations included in the group return. There shall be attached to such group return schedules showing separately: (a) the total number, names, addresses, and employer identification numbers of the local organizations included; and (b) the same information for those not included therein.

If no local organization included in the group return has more than $25,000 of gross receipts, a group return may be prepared in accordance with general instruction D.

Receipts by a central organization from organizations included in a group return need not be itemized in the central organization's separate return.

The four-digit group exemption number required in block "F," page 1 of the return, is not to be confused with the nine-digit employer identification number (EIN) required in block "A" in the heading of the return.

L. *Public Inspection of Form 990.*—The information reported on or with Form 990, including all attachments other than the list of contributors required with respect to line 6, Part I, will be made available for public inspection under section 6104(b). This applies both to information required by the form or instructions and to information furnished voluntarily.

*The forms and attachments should be such quality that they can be reproduced photographically.*

M. *Signature and Verification.*—The return must be signed by the president, vice president, treasurer, assistant treasurer, chief accounting officer, or other corporate officer (such as tax officer) authorized to sign. A receiver, trustee, or assignee must sign any return which he or she is required to file on behalf of a corporation. If the return is filed on behalf of a trust, it must be signed by the duly authorized trustee or trustees. The return must also be signed by any outside person, firm, or corporation who was paid for preparing it. If prepared by a paid firm or corporation, it should be signed in the name of the firm or corporation. The verification is not required if the return is prepared by a regular full-time employee of the organization.

N. *Form 990-T.*—Every organization exempt from tax under section 501(a), except organizations described in section 501(c)(1), must file a return on Form 990-T if it has gross income of $1,000 or more derived from business which is unrelated to the purpose on which the organization's exemption is based. There are special rules for foreign organizations; organizations described in sections 501(c)(7), (9) and (19); unrelated debt-financed income; rents; and income from controlled subsidiaries. Domestic organizations taxable at corporate rates must file a return on or before the 15th day of the 3d month following the close of the taxable year. Those taxable at trust rates must file on or before the 15th day of the 4th month. See Form 990-T. For further information, you may obtain *Publication 598,* Tax on Unrelated Business Income of Exempt Organizations, from your local Internal Revenue Service Office.

O. *Information Returns and Forms That May Be Required.*—

*(1) Forms W-2 and W-3.*—Employee's wage and tax statement, and transmittal of income and tax statements.

*(2) Form W-2P.*—Statement for recipients of annuities, pensions or retired pay.

*(3) Form 1096—Annual summary and transmittal of U.S. information returns.*

*(4) Form 5452.*—Corporate report of nontaxable dividends.

*(5) Forms 1099—DIV, INT, MED, MISC, OID, PATR, and R.*—Information returns for reporting certain dividends, interest, medical and health care payments, miscellaneous income, original issue discount, patronage dividends, and lump-sum distributions from profit-sharing and retirement plans.

P. *Attachments.*—If you need more space on forms or schedules, attach separate sheets and use the same arrangement as the printed forms, but show your totals on the printed forms. Be sure to put your name and employer identification number on these separate sheets.

Q. *Organizations Organized or Created in a Foreign Country or United States Possession.*—Amounts must be reported in United States currency (state conversion rate used) and information must be furnished in the English language. All items must be reported in aggregate including amounts from both within and without the United States.

R. *Liquidation, Dissolution, Termination or Substantial Contraction.*—In the case of liquidation, dissolution, termination or substantial contraction, organizations required to file this return shall attach a statement to the return showing the nature of liquidation, dissolution, termination or substantial contraction, and in the case of a complete liquidation of a corporation or termination or a trust, whether or not a final distribution of assets has been made and the date made. Such organizations will also attach a certified copy of the resolution or plan, if any, of liquidation, etc., together with all amendments or supplements not previously filed and a schedule indicating the names and addresses of all recipients of assets distributed in liquidation, dissolution or substantial contraction and the nature and fair market value of assets distributed to each such recipient.

If the organization ceases to exist, write *"Final Return"* at the top of the form.

*Substantial Contraction.*—The term "substantial contraction" shall include any partial liquidation or any other significant disposition of assets (other than transfers for full and adequate consideration or distributions out of current income).

A "significant disposition of assets" shall not include any disposition for a taxable year when the aggregate of:

(1) the dispositions for the taxable year, and

(2) where any disposition for the taxable year is part of a series of related dispositions made during prior taxable years, the total of the related dispositions made during such prior taxable years,

Is less than 25 percent of the fair market value of the net assets of the organization at the beginning of the taxable year (in the case of (1) above) or at the beginning of the taxable year in which any of the series of related dispositions was made (in the case of (2) above).

The determination whether a significant disposition has occurred through a series of related dispositions will be determined from all the facts and circumstances of the particular case.

*Label—Name, Address, and Employer Identification Number.*—If you received a Form 990 from the Internal Revenue Service with a pre-addressed removable label, please affix the removable label to the name and address area of the return you file. If the name or address on the label is wrong, draw a line through the incorrect portion and enter the correct information.

You should have only one identification number. If you have more than one number and have not been advised which one to use, notify the appropriate Internal Revenue Service Center shown under instruction I above, of the numbers you have, the name and address to which each number was assigned, and the address of your principal office. The Service will then advise you which number to use.

T. *Fair Market Value of Assets at End of Year.*—Enter on page 1, under F, the total fair market value of securities for which market quotations are readily available plus the total fair market value of all of your other assets. If the fair market value of an asset is not readily ascertainable, you may use an estimated figure.

U. *Definitions:*

*Gross Receipts for Purposes of this Return.*—Gross receipts means the gross amount received by the organization during its annual accounting period from all sources without reduction for any costs or expenses; including for example—cost of goods sold or cost of assets sold, cost of operations, or expenses of earnings, raising, or collecting such amounts. Thus, gross receipts includes but is not limited to (a) the gross amount received as contributions, gifts, grants and similar amounts without reduction for the expenses of raising and collecting such amounts; (b) the gross amount received as dues or assessments from members or affiliated organizations without reduction for expenses attributable to the receipt of such amounts; (c) gross sales or receipts from business activities including business activities unrelated to the purpose for which the organization received an exemption, the net income or loss from which may be required to be reported on Form 990-T; (d) the gross amount received from the sale of assets without reduction for the cost or other basis of the property and expense of sale; and (e) the gross amount received as investment income such as interest, dividends, rents and royalties. Instruction C indicates how to compute gross receipts.

*Organizations Described in Section 501(c)(8).*—In the case of organizations described in section 501(c)(8), where a local organization merely collects insurance premiums for the parent organization and forwards them to the parent without asserting any right to use them or otherwise derive benefit from their collection and the parent fully and currently reports the collection of those premiums, the premiums shall not be considered as gross receipts by the local organization. (Rev. Rul. 73-364, 1973-2 C.B. 393.)

*Normally Not More Than $10,000.*—For the purpose of instruction A(4) above, the annual gross receipts of an organization are normally not more than $10,000 if:

(1) in the case of an organization which has been in existence for one year or less, the organization has received, or donors have pledged to give, gross receipts of $15,000 or less during the first taxable year of the organization,
(2) in the case of an organization which has been in existence for more than one, but less than three years, the average of the gross receipts received by the organization in the first two taxable years is $12,000 or less, and
(3) in the case of an organization which has been in existence for three years or more, the average of the gross receipts received by the organization in the immediately preceding three years, including the year for which the return would be filed, is $10,000 or less.

SPECIFIC INSTRUCTIONS

PART I.—ANALYSIS OF REVENUE EXPENSES AND FUND BALANCES

Part I has three colums headed "Total," "Restricted," and "Unrestricted." All organizaitons required to file this return must complete the Total column and provide the information inquired in the line items to the left of that column.

The Restricted and Unrestricted columns are strictly for the optional use of organizations that want to reflect any externally imposed restrictions on the use of contributions, gifts, grants, endowment income, and other amounts received in the current year. These columns also provide a summarized accounting for the utilization of restricted funds received in the current year or in any prior year. Externally imposed restrictions primarily refer to those designated by donors and grantors as to the use of their separate contributions and grants and in the case of endowment gifts, the income earned by such funds. However, the term could also apply to restrictions imposed by any applicable State or Federal statute or regulations issued by an administrative agency of a State or the Federal Government. An appropriation of funds made at the discretion of the organization's governing body is not an externally imposed restriction.

The Restricted and Unrestricted columns are a breakdown of the information required to be reported in the Total column and the individual line items to the left of that column. Therefore, for any line item, the combined amount of the Restricted and Unrestricted columns should equal the figure reported in the Total column or to the left of that column.

When any externally imposed restriction on the use of funds lapses, the transfer to an unrestricted fund should be reported on line 17 of Part I by showing a decrease in the amount involved in the Restricted column and a corresponding increase in the Unrestricted column. These offsetting entries would result in a -0- entry in the Total column. The change would also be reflected in lines 57-61 of the fund balances section of the balance sheet in Part IV of the return. Do no show the transfer on lines 1-10 of Part I since those lines are for reporting the initial receipt or accrual of restricted and unrestricted amounts.

Although the IRS does not require any organization to complete the Restricted and Unrestricted columns, an organization that does so should follow the above instructions. Also, an organization may complete only those line items in the Restricted and Unrestricted columns that it chooses to complete and not all the applicable lines in those two columns.

*Line 1—Contributions. Gifts, Grants, and Similar Amounts Received*

Lines 1(a) through (e) are to be used to report amounts received as voluntary contributions: i.e., payments for which the payer (donor) does not receive full and adequate consideration from the recipient (donee) organization. (In the case of grants see the discussion below under the heading "Grants Equivalent to Contributions".) Income from fund raising events such as dinners, door-to-door sales of merchandise, raffles, carnivals, bingo games, and dances should not be reported as contributions received, but as either gross sales (line 8) if the sale of merchandise is involved, or other revenue (line 9) in all other circumstances. However, when the amount received or to be received from the payer exceeds the value of the consideration furnished by the filer, the excess represents a contribution and should be reported as such. When the recipient organization furnishes consideration having only nominal value, the entire amount received should be reported as a contribution. (See the instructions for line 2 for a discussion of when membership dues and assessments should be treated as contributions.)

On lines 1(a) through (f) do not report as a contribution received the value of any donated services rendered to the organization or similar items (such as the free use of facilities or equipment) for which a charitable contribution deduction is not allowable under section 170 of the Code. This applies whether the services or facilities are provided by individuals or organizations, including organizations that are exempt from tax. This amount may be reported in the block on line 70 of Part V.

Attach an itemized schedule (not subject to public inspection) where money, securities, or other property of $5,000 or more is received directly or indirectly from one person during the year showing the name, address, date received, and the total amount received from each such person.

An organization described in section 501(c)(3) which meets the 33⅓ percent support test of the regulations under section 170(b)(1)(A)(vi) (without regard to whether such organization otherwise qualifies as an organization described in section 170(b)(1)(A)) need only furnish the above information for a person contributing $5,000 or more if the contribution exceeds 2 percent of total contributions, bequests, and devises received by the organization during the year.

An organization need only report the name and address of the contributor where it has actual knowledge of the contributor. For instance, an organization need not require an employer which withholds contributions from the compensation of employees and pays over to the organization periodically the total of amounts withheld, to specify the amounts paid over with respect to a particular employee. In such case, unless the organization has actual knowledge that a particular employee gave more than $5,000 (and in excess of 2 percent if the above paragraph is applicable), the organization need report only the name and address of the employer and the total amount paid over.

Organizations in determining whether a person has contributed $5,000 or more need only aggregate gifts of $1,000 or more from such person. Separate and independent gifts need not be aggregated if less than $1,000. If a contribution is in the form of property where the fair market value is readily ascertainable (such as market quotations for securities), the description and fair market value must be submitted. If the fair market value of the property is not readily ascertainable, you may submit an estimated value.

The term "person" includes individuals, fiduciaries, partnerships, corporations, associations, trusts and exempt organizations.

Organizations described in section 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) that receive contributions or bequests to be used exclusively for the purposes described in sections 170(c)(4), 2055(a)(3), or 2522(a)(3), must attach a schedule with respect to all gifts which aggregate $1,000 or more from any one person showing (a) the name of the donor, (b) the amount of such contribution or bequest, (c) the specific purpose for which such contribution or bequest was given, and (d) the specific use to which such amount was put. In the case of an amount set aside for such purposes, the organization shall indicate the manner in which such amount is held (for instance, whether such amount is commingled with amounts held for other purposes). If the contribution or bequest was transferred to another organization, the schedule must include (a) the name of the transferee organization, (b) a description of the nature of such organization, and (c) a description of the relationship between the transferee and transferor organizations. Such organizations must also attach a statement showing the total dollar amount of contributions and bequests received for such purposes which are $1,000 or less.

*Grants equivalent to contributions.*—Only those grants that are equivalent to contributions should be reported on lines 1(a)-(e). As discussed in section 1.509 (a)-3(g) of the Income Tax Regulations, a grant is normally made to encourage the grantee organization to carry on certain programs or activities in furtherance of its exempt purposes. It may contain certain terms and conditions imposed by the grantor to ensure that the grantee's programs or activities are conducted in a manner compatible with the grantor's own programs and policies. The use of the grant funds may be restricted to one or more specific projects or activities of the grantee, as, for example, a voter registration drive or the restoration of a historically significant building.

A grant would still be equivalent to a contribution if the grantee performs a service or produces a work product which only incidently benefits the grantor. (See the examples in the instructions for line 1(d).) However, if the terms of a grant require that a specific service, facility, or product be provided the grantor—the purpose of which is to serve the direct and immediate needs of that grantor rather than primarily to confer a direct benefit upon the general public or that segment of the public served by the organization in the case of organizations other than those described in section 501(c)(3)—such grant does not represent a contribution but a payment for services and/or rental income depending upon the specific facts. In general, any payment made primarily to enable the payer to realize or re-

ceive some economic or physical benefit as a result of the service, facility, or product obtained should not be treated as a contribution.

As an example, assume that a public interest organization described in section 501(c)(4) makes a grant to another organization to conduct a nationwide survey using a scientific sampling method. The purpose of the survey is to determine voter attitudes on various issues in which the grantor has an interest. The grantor plans to use the survey results in planning its program for the next three years. Under these circumstances the grant to fund the survey does not represent a contibution since conducting the survey and furnishing the survey report primarily serve the direct and immediate needs of the grantor and the benefit to the grantor would be more than incidental. The grantee should treat the grant funds as other revenue (line 9) when they are taken into account as income.

Research leading to the developement of tangible products for the use or benefit of the payer should generally be treated as a service provided to serve the direct and immediate needs of the payer, whereas basic research or studies carried on in the physical or social sciences generally should not be so treated.

(a). *Contributions, etc. received directly from the public.*—Enter the total contributions, etc. received by the organization directly from the public. However, do not include any amounts received through a professional fundraiser which are required to be reported on line 1(b).

Amounts to be reported here include contributions, gifts, grants, etc. received from individuals, trusts, corporations, estates and foundations. Also to be included are contributions and grants from public charities and other exempt organizations that the not fund raising organizations (see instructions for line 1(c)) or affiliates of the filing organization (see instructions for line 1(e)). To the extent that membership dues and assessments represent contributions from the public rather than affiliated organizations, they should be reported on line 1(a).

Amounts contributed by any commercial co-venturer should be reported on line 1(a) as a contribution received directly from the public. These are amounts due to the donee organization for letting an outside organization or individual use its name in a sales promotion campaign in which the donor advertises that it will contribute a certain dollar amount to the named donee organization for each unit of a particular product or service sold or for each occurrence of a specified type.

1(b). *Contributions, etc. received through professional fundraisers.*—Enter the amount of contributions received from the public through any solicitation campaign conducted for the organization by a professional fundraiser. Under such an arrangement the fundraiser typically utilizes its own mailing list and conducts the mail campaign (or has employees who solicit contributions in person or by telephone), is compensated for certain direct costs such as printing and mailing expenses and employee salaries and is paid a fee that may be based on the use of the mailing list and the net contributions received (total contributions reduced by mailing list charges and/or direct expenses).

Do not include on line 1(b) contributions received through solicitation campaigns conducted by the organization itself.

1(c). *Contributions, etc. received as allotments from fund raising organizations.*—Enter the total of contributions received indirectly from the public through solicitation campaigns conducted by federated fund raising agencies (such as a United Way organization and certain sectarian federations) and similar fund raising organizations. These organizations conduct fund raising campaigns, normally within a single metropolitan area or some part of a particular State, and allot a portion of the net proceeds to each participating organization on the basis of the designations made by individual donors and other factors taken into account by the particular distribution formula utilized.

Contributions from public charities and other publicly supported organizations that are not fund raising agencies of the type described above should be reported on line 1(a) unless the donor and donee organization are affiliates. In the latter event, the donee should report such contributions on line 1(e).

1(d). *Contributions, etc. received as government grants.*—The discussion under Grants Equivalent to Contributions is particularly applicable to this line item. A grant or other payment from a governmental unit represents a contribution if the purpose of the payment is primarily to enable the donee to provide a service to, or maintain a facility for, the direct benefit of the public (even if part of the expense of providing such service or facility is paid for by the public) rather than to serve the direct and immediate needs of the grantor.

Following are examples of governmental grants and other payments that satisfy this requirement and therefore represent contributions.

(1) Amounts paid by a government unit for the construction or the maintenance of library or hospital facilities which are open to the public.
(2) Amounts paid under government programs to nursing homes or homes for the aged in order to provide health care or domiciliary services to residents of such facilities.
(3) Amounts paid to child placement or child guidance organizations under governmental programs serving children in the community.

The general public derives the primary benefit (and a direct one) from the above payments. Any benefit to the governmental unit itself would be indirect and insubstantial as compared to the public benefit.

1(a). *Other contributions, etc.*—Enter the aggregate amount of contributions, etc. received from all sources other than those covered by lines 1(a)—(d). As indicated by the instructions for line 1(a), contributions and grants from organizations affiliated with the donee organization should be reported on this line (1(e)).

A national organization's affiliates would include its local, State, and area chapters. The affiliates of any of these chapters would include both the national organization and any other chapter. An auxiliary or similar organization is an affiliate of the organization that it operates in close association with (whether or not there is any overlapping control) and to which it provides financial support or from which it receives such support.

1(f). *Total contributions, etc.*—Enter the total of the contributions, gifts, grants and similar amounts reported on lines 1(a) through (e). See the instructions for line 1 above for information regarding the schedule of contributors required in some circumstances.

2. *Membership dues and assessments.*—Enter the total of membership dues and assessments from members and affiliates for the year that do not represent contributions. The rationale applied in Revenue Rulings 54-565, 1954-2 C.B. 95, and 68-432, 1968-2 C.B. 104, is applicable in making this distinction. These rulings state that dues paid to a charitable organization are a form of contribution to the extent that the amount paid exceeded the monetary value of the benefits and privileges accruing (but whether or not availed of) to the dues payer as an incident of membership.

Examples of such benefits and privileges include subscriptions to publications, newsletters (other than those which merely provide information as to the activities of the organization), free or reduced rate admissions to events sponsored by the organization or the use of its facilities, and discounts on articles or services available for purchase by both members and nonmembers. Other intangible benefits, such as the right to attend meetings, vote or hold office in the organization and the publicity or distinction arising from being a member of the organization, may be disregarded in determining the value of the benefits of membership.

In the case of membership organizations, other than those described in section 501(c)(3), there are generally benefits or consideration received in return for the payment of dues and therefore the dues are not contributions. This is particularly true with organizations described in section 501(c)(5), 501(c)(6) or 501(c)(7), although the benefits accruing to members may be somewhat indirect.

When a dues payment is made primarily to provide financial support for the activities of the recipient organization rather than for the payer to derive certain benefits having more than nominal monetary value, that dues payment represents a contribution. The fact that benefits whose aggregate value is more than a nominal amount are available to the dues payer evidences that that person's intent (and that of all members of the same class) in paying the dues was to receive those benefits and not to make a contribution.

3. *Interest.*—Enter the total interest income for the year including interest on certain governmental obligations that is not subject to tax in accordance with section 103 of the Code, but excluding amounts earned on program-related investments (reportable on line 9). Program-related investments are those made for the primary purpose of accomplishing an exempt purpose consistent with the investing organization's exempt status rather than for the production of income. All income from loans, the purpose of which is to accomplish an exempt purpose, should be reported on line 9. Following are examples of such loans: scholarship loans; low interest loans to charitable organizations, indigents, or victims of a disaster; loans to affiliated organizations; and loans by a credit union to its members. Loans to officers, directors and trustees do not fall within this category.

4. *Dividends.*—Enter the total dividend income for the year, excluding any capital gains dividends which should be reported on line 7. Dividends on stock that represents a program-related investment (see instruc-

tions for line 3 for definition) should be reported on line 9.

5(a). *Gross rents.*—Enter the gross amount of rental income for the year from investment property. Do not include amounts that represent income from an exempt function (program service) which should be reported on line 9 (and the related expenses of which should be reported in column (C) of Part II). For example, an organization whose exempt purpose is to provide low-rental housing to persons with low income would derive exempt function income from such rentals. Renting office space or other facilities or equipment to unaffiliated exempt organizations does not give rise to income from an exempt function (and, therefore, should be reported on line 5(a)) unless the charge is materially below the fair rental value of the property, and the lessor's purpose in charging less than fair rental value was to assist the lessee in carrying out its exempt purposes. For purposes of completing Form 990 only, income derived from renting property to affilated exempt organizations should be treated as exempt function income and reported on line 9.

5(b). *Rental expenses.*—Enter the total expenses paid or incurred that are attributable to the income reported on line 5(a). These expenses included depreciation if that expense is recorded on the organization's books of account.

5(c). *Net rental income.*—Enter the difference between lines 5(a) and 5(b). Any loss should be shown in parentheses.

6. *Royalties.*—Enter the total royalty income for the year from all sources.

7(a)-(c). *Capital gains.*—Attach a schedule showing with respect to each asset (whether or not depreciable) sold or exchanged: (a) date acquired, manner of acquisition, date sold, and to whom sold; (b) gross sales price; (c) cost, other basis, or value at time of acquisition if donated (state which); (d) expense of sale and cost of improvements subsequent to acquisition; and (e) if depreciable property, depreciation since acquisition.

*Publicly traded securities.*—In the case of sales of publicly traded securities through a broker, an organization may aggregate the gross sales price, the cost or other basis, and the expense of sale on all securities sold and report lump sum figures in lieu of the detailed reporting required in the above paragraph.

For purposes of this return, publicly traded securities include common and preferred stocks, bonds (including governmental obligations) and mutual fund shares which are listed and regularly traded in an over-the-counter market or on an established exchange and for which market quotations are published or otherwise readily available.

An exempt organization may use average cost basis in reporting gain or less from sales of securities, porvided such averaging is confined to sales reported for informational purposes only. For this purpose, when securities are sold, gain or loss may be computed by comparing the sales price with the average cost basis of the particular security.

The gross sale price should be entered on line 7(a) of Part I, the cost or other basis, expenses, etc. (less depreciation if applicable), should be aggregated and entered on line 7(b), and the net gain or loss entered on line 7(c). Capital gains dividends, the organization's share of capital gains and losses from a partnership, and capital gains distributions from trusts should be reported on lines 7(a) and 7(c) and the source indicated on the schedule described above.

8(a) through 8(d). *Gross profit on sales of inventory.*—On the appropriate line provided, enter the amount of gross sales, returns and allowances, cost of goods sold, and gross profit (or loss) from the sale of inventory items. These are items either produced by the organization itself for sales to others or purchased by the organization for resale. The latter does not include investments on which the organization anticipated deriving a profit through appreciation and subsequent sale. (Such sales should be reported on line 7.) Sales revenue and the related cost of goods sold should be reported on line 8 whether the sale of the merchandise involved constitutes an exempt function of the organization, unrelated trade or business, or a special fundraising event or activity.

9. *Other revenue.*—The amount of income from all sources not covered by lines 1 through 8 should be entered on lines 9(a) through 9(d). The nature of the income items should be stated in the spaces provided.

*Reporting income from special fundraising events and activities.*—Income from fundraising events and activities involving the sale of merchandise should be reported on line 8. Income from all other special fundraising events and activities such as dances, carnivals, bingo games, etc.—BUT NOT RECEIPTS REPRESENTING CONTRIBUTIONS—should be reported on line 9. In themselves, these fundraising activities do not accomplish an exempt purpose other than incidently. Their sole or primary purpose is to raise funds to finance the exempt activities of the organization.

For the above types of special fundraising events and activities that are reportable on line 9, report the net income from each such event or activity in the Total column of lines 9(a)-(d). A description of the event or activity generating the receipts, the amount received, and the total expenses incurred should be entered on the line to the left of the Total column or on an attached schedule. For example, a line entry might be "Dance receipts, $2,400; less expenses, $850" and the net income of $1,550 would be entered in the Total column.

For each special fundraising event or activity, attach a schedule reflecting the expenses incurred. Do not report these expenses in column (B) of Part II.

10. *Total revenue.*—Enter the total of lines 1 through 9.

### *Lines 11 through 14—Expenses*

The completed schedule of expenses in Part II provides the information needed to complete the Total column of lines 11 through 14. In completing Part II, it is necessary to add together expenses of the same object classification (salaries, travel and entertainment, occupancy, etc.) to reflect the functional activity (fundraising, program services, or management and general) in connection with which they were paid or incurred, without regard to whether the expenses was financed out of restricted or unrestricted funds. In completing lines 11-14 of the Restricted and Unrestricted columns, it is necessary to resegragate these amounts to reflect the utilization of funds subject to externally imposed restrictions and those free of such restrictions.

11. *Fundraising.*—In the Total columns, enter the amount from column (B) of line 38.

12. *Program services.*—In the Total column, enter the amount from column (C) of line 38.

13. *Management and general.*—In the Total column, enter the amount from column (D) of line 38.

14. *Total expenses.*—In the Total column, enter the amount from column (A) of line 38.

### *Lines 15 through 18—Fund Balances*

15. *Excess (deficit) for the year.*—Enter the difference between line 10 and line 14. If line 14 is greater than line 10, enter the deficit in parentheses.

16. *Fund balances or net worth, beginning of year.*—Enter the amount from column (A) of line 61.

17. *Other changes in fund balances or net worth.*—Attach a schedule explaining any changes in fund balances or net worth between the beginning and end of the year that are not accounted for by the excess or deficit on line 15. Transfers between restricted and unrestricted funds should be reflected in the Restricted and Unrestricted columns (by organizations that elect to complete those columns), but the net effect of such transfers would be -0- in the Total column.

18. *Fund balances or net worth, end of year.*—Enter the total of lines 15, 16, and 17. The figure in the Total column should equal the amount reported in column (B) of line 61.

## PART II.—ALLOCATION OF EXPENSES BY FUNCTION

Part II reflects the organization's expenses by object classification (e.g., salaries, printing and postage, supplies) allocated into the three functional areas of fundraising (column (B)), program services (column (C)), and management and general (column (D)). These functional areas are explained below. Any expense item required to be reported on line 5(b), 7(b), 8(c) or 9 in Part I should not also be reported in Part II.

Organizations should follow their normal method of accounting in reporting their total expenses paid or incurred in column (A). If the filer's accounting system does not segregate expenses into categories that are readily compatible with columns (B), (C) and (D), any reasonable method may be used to allocate expenses among the three categories. Figures should be reasonably accurate if precise figures cannot be determined.

Expenses attributable solely to a specific function should be reported in the column appropriate for that function. Expenses such as officers' salaries that are attributable to several functions should be reflected as an expense of the separate functions on the basis of the time devoted by each of the officers. Some shared expenses such as occupancy, supplies, and depreciation of furniture and fixtures must be allocated among columns (B), (C) and (D) using an appropriate basis for each type of cost while other shared expenses should be reported in column (D) only. The instructions for the individual columns discuss this further.

Column (A). *Total.*—Column (A) is the total of columns (B), (C) and (D) for each line item in Part II. With the exception of those expenses reported on lines 5(b), 7(b),

8(c) and 9 of Part I, all of the expenses paid or incurred by the organization (including contributions awarded and depreciation expense, if any) should be reported in column (A).

Column (B). *Fundraising.*—Fundraising expenses include the total costs of soliciting (restricted and unrestricted) contributions, gifts, grants, etc. Both direct and indirect expenses, including allocable amounts of overhead and other shared costs, should be reported in column (B). Expenses incurred in connection with special fundraising events and activities such as dances, raffles, bingo games, carnivals, etc. should not be reported in this column or anywhere else in Part II. Such expenses should be reported on line 8 of Part I if the sale of merchandise is involved or on line 9 in all other circumstances. See the instructions for line 9 for additional discussion of the reporting of income and expenses from special fundraising events and activities.

Column (C) *Program services.*—Program services are those activities conducted by the organization that form the basis of the organization's qualification for exemption from tax as an organization described in section 501(c). When reporting these expenses, it does not matter whether these activities are self-funded (in whole or in part) or funded entirely out of contributions, investment income, accumulated income or any other source.

When an organization receives a grant requiring it to conduct research, produce a work product or perform a service either to meet the specific needs of the grantee or for the direct benefit of the public, the costs incurred represent program service expenses. These costs should not be treated as fund raising expenses even if the grant is reported as a contribution on line 1.

Column (D). *Management and general.*—This column is to be used to report those expenses which relate to the overall management and functioning of the organization rather than the direct supervision or conduct of fundraising activities or program services. Specific types of expenses that should be reported here include those attributable to meetings of the board of directors or similar group, committee and staff meetings, general legal services, accounting, personnel and other centralized functions, auditing, investment expenses other than those relating to rental income (line 5(b)), general liability insurance, preparation, publication and distribution of an annual report and office management. However, this is true only regarding expenses of a general nature and not expenses incurred in connection with a special meeting or other activity dealing with fund raising or specific program services.

Salaries of officers and their staffs and related expenses should be allocated to program services and fund raising on the basis of the officers' time devoted to those functions. Only the remainder should be reported as management and general expenses.

19. *Contributions, gifts, grants, and similar amounts awarded.*—Attach a schedule to support contributions, gifts, grants, scholarships, etc., showing: (a) each class of activity; (b) separate total for each activity; (c) name and address of donee and amount of distribution to donee; and (d) relationship of donee; if related by blood, marriage, adoption, or employment (including children of employees) to any person or corporation having an interest in the organization such as creator, donor, director, trustee, officer, etc. Activities should be classified according to purpose in greater detail than merely charitable, educational, religious, or scientific. For example, payments for nursing service, or laboratory construction, for fellowships, or for assistance to indigent families should be so identified. In case of payments for assistance to indigent families, the identity of the individual donees need not be reported on the attached schedule.

Although the actual distribution of cash, securities or other property is to be entered on line 19, column (C) the expenses in connection with the distributions are not to be included on that line, but should be entered on lines 21 through 37 of column (C).

Where the fair market value of the property at the time of disbursement is the measure of a contribution, the schedule must also show: (a) description of the contributed property; (b) book value of the contributed property; (c) the method used to determine the book value; and (d) the date of the gift. In such case the difference between fair market value and book value should be reflected in the books of account.

20. *Benefits disbursed to or for members.*—Organizations furnishing benefits to members or dependents (such as those organizations exempt under section 501(c)(8), 501(c)(9) or 501(c)(17)) attach a schedule showing amount of: (a) death, sickness, hospitalization, or disability benefits, (b) unemployment compensation benefits, and (c) other benefits (state nature). Do not report on this line the cost of benefits furnished officers and employees of the organization.

21. *Compensation of officers, directors, and trustees.*—Enter the aggregate amount of compensation of officers, directors, and trustees for the taxable year. The name, compensation, and other information relating to each officer, director, and trustee must be listed in Part III.

The organization's officers, directors, trustees, etc., should include in their income all payments and allowances made to them or on their behalf, unless the payments are specifically excluded by some provision of the Code. For more detailed information regarding the types of income to be reported here, please see Publication 525, Taxable Income and Nontaxable Income.

All organizations, except for certain ones exempt under section 501(c)(3), that pay salaries, wages, or other compensation to officers or other employees are generally liable for filing Forms 941 and 940 to report social security, withholding, and Federal unemployment taxes. Your exemption letter will state whether or not your organization is subject to these taxes.

22. *Other salaries and wages.*-Enter the aggregate salaries of all employees not reported on line 21.

23. *Pension plan contributions.*—Enter the employer's share of contributions to qualified and nonqualified pension plans for the year. Complete Form 5500 for your plan and file as a separate return. If you have more than one plan, complete a Form 5500 for each plan. File this form on or before the last day of the 7th month following the close of the plan year.

24. *Other employee benefits.*—Enter the amount of your contributions to employee benefit programs (e.g., insurance, health and welfare programs) that are not an incidental part of a pension plan included on line 23. Also, see instructions for Form 5500.

25. *Payroll taxes.*—Enter the amount of Federal, State, and local payroll taxes for the year, but only those taxes that are imposed on the employer. This would include the employer's share of FICA taxes, the FUTA tax, State unemployment compensation taxes, and other State and local payroll taxes. Do not include taxes (such as Federal and State income taxes and the employee's share of FICA tax) withheld from employees' salaries and paid over to the various governmental units.

26. *Fees for fundraising.*—Enter the amount paid or incurred as fees to outside fundraisers in connection with solicitation campaigns conducted by them and the receipts from which are reported on line 1(b). (See the instructions for line 1(b).) Also include fees paid or due to fundraisers for services such as providing consulting services in connection with a solicitation campaign conducted by the organization itself.

27. *Other professional services.*—Enter the total expense for the year for professional services including legal, accounting, investment advice, medical and other professional services not reported on line 26. Do not include amounts paid to employees of your organization.

28. *Interest.*—Enter the total interest expense for the year. Do not include any interest expense attributable to rental property which is reportable on line 5(b).

29. *Occupancy.*—Enter the aggregate amount paid of incurred for the use of office space or other facilities, heat, light, power, and other utilities other than that reported on line 32, outside janitorial services, and similar expenses.

30. *Rental and maintenance of equipment.*—Enter the total expense of renting and maintaining equipment other than automotive equipment. Include the latter on line 35 (other expenses) along with all other automobile operating costs.

31. *Printing and postage.*—Enter the total printing and postage costs for the year from all activities.

32. *Telephone.*—Enter the total telephone expense for the year. Telegram expenses may be included on this line or listed separately on line 35.

33. *Supplies.*—Enter the total cost of office, classroom, medical, and other supplies utilized during the year as determined under the organization's normal method of accounting for supplies.

34. *Travel and entertainment.*—Enter the total of all travel expenses (other than automobile operating costs reportable on line 35) and all entertainment costs for the year.

35. *Other expenses.*—Enter the total of all other expenses and attach a schedule reflecting the type and amount of each.

36. *Total expenses before depreciation.*—Enter the total of lines 19 through 35.

37. *Depreciation, depletion, etc.*—If your organization follows the accounting practice of recording depreciation, depletion, and similar expenses, enter the total of such expenses for the year. Include any depreciation (amortization) of leasehold improvements. If you do record depreciation, attach a schedule (or use Form 4562, Depreciation) showing: (a) description of property; (b) date acquired; (c) cost or other basis (exclude land); (d) depreciation allowed or allowable in prior years (e) method of computation; (f) rate (%) or life (years); and (g) depreciation this year (total additional first-year depreciation claimed must be shown on

a separate line of the depreciation schedule).

Attach Form T if a deduction is claimed for depletion of timber.

38. *Total.*—Enter the total of lines 36 and 37. The figures entered in columns (A), (B), (C), and (D) should be reported on lines 14, 11, 12, and 13, respectively, of the Total column in Part I.

PART III.—LIST OF OFFICERS, DIRECTORS AND TRUSTEES

Enter the amount of compensation and other payments made by the organization during its annual accounting period (or during the calendar year ending within such period) to the officers, directors, and trustees (or any person having responsibilities or powers similar to those of officers, directors, or trustees) of the organization.

Column (E). *Expense account and other allowances.*—Enter only those amounts that are includable in the gross income of the recipients (i.e., reportable on their separate income tax returns) because no accounting was provided the organization, because allowances or reimbursements exceeded the expenses incurred by the payee in rendering services to the organization, or for any other reason.

PART IV.—BALANCE SHEETS

The balance sheets should agree with the books of account or any differences should be reconciled.

*Lines 57 through 61—Fund Balances and Net Worth Section*

*Fund Accounting*

Organizations that use fund accounting should check the block in the left column and complete lines 57 through 61 using the line item captions in that column. Fund accounting is a procedure under which an organization segregates its assets, liabilities, and net worth into separate funds according to externally imposed restrictions on the use of certain assets, similar designations by the organization's governing board, and other amounts that are unrestricted as to use. Each fund is like a separate entity in that it has a self-balancing set of accounts reflecting assets, liabilities, equity (fund balance), "income", and expenses. Since these funds are actually components of a single entity, they are all included in that organization's own financial statements. Similar accounts in the various funds may or may not be consolidated in those statements according to the organization's preference and practice. Parts I, II, and IV of this form, however, require such consolidation. Recognition of the separate funds and the net changes within the various funds during the year is accomplished by the fund balances section (lines 57 through 61) of the balance sheet.

57(a). *Current funds, unrestricted.*—Enter the fund balance per books for the current unrestricted fund.

57(b). *Current funds, restricted.*—Enter the aggregate fund balances per books for all current restricted funds.

58. *Land, buildings and equipment fund.*—Enter the fund balance per books for the land, buildings and equipment fund (plant fund).

59. *Endowment and similar funds.*—Enter the aggregate fund balances per books for the (permanent) endowment fund, term endowment funds, and funds functioning as endowment (funds designated by the board to be retained and invested, with the income to be used for either general or specified purposes). The fund balances of the annuity and life income funds may be reported here if immaterial in amount or on line 60.

60. *Other funds.*—Enter the aggregate fund balances per books for all funds not reported on lines 57 through 59.

61. *Total frnd balances.*—Enter the total of lines 57 through 60. The beginning of the year figure in column (A) should be carried over to the Total column in Part I at line 16. The end of year figure in column (B) should agree with the figure on line 18 of the Total column in Part I.

62. *Total liabilities and fund balances.*—Enter the total of lines 56 and 61. That total must equal the figure for total assests reported on line 51 for both the beginning and end of year.

*All Others*

All organizations that do not use fund accounting should check the block in the right column and report their net worth on lines 58 through 61.

58. *Capital stock or trust principal.*—For corporations, enter the balance per books in the capital stock accounts representing the par or stated value (or total amount received upon issuance in the case of stock with no par or stated value) of all classes of stock issued and, as yet, uncancelled. For trusts, enter the amount in the trust principal or corpus account.

59. *Paid-in or capital surplus.*—Enter the balance per books for all paid-in capital in excess of par or stated value for all stock issued and, as yet, uncancelled. Also, organizations that record them in such manner should include any paid-in capital representing donations from both stockholders and others. (Note: This does not apply to section 501(c)(3) organizations and most of the other organizations that file this form.) Any current year donations that would be included in the line 59 total must also be reported on line 1 of Part I.

60. *Retained earnings or accumulated income.*—For corporations, enter the balance in the retained earnings or similar account, less the cost of any treasury stock held by the corporation. For trusts, enter the balance per books in the accumulated income or similar account.

61. *Total net worth.*—Enter the total of lines 58 through 60. The beginning of the year figure in column (A) should be carried over to the Total column in Part I at line 16. The end of year figure in column (B) should agree with the figure on line 18 of the Total column in Part I.

62. *Total liabilities and net worth.*—Enter the total of lines 56 and 61. That total must equal the figure for total assets reported on line 51 for both the beginning and end of year.

PART V.—STATEMENTS REGARDING CERTAIN ACTIVITIES

63. *Description of activities.*—Provide a brief activities of the various exempt purpose activities you engaged in during the period covered by this return. Generally, these will include those program services, the expenses of which are reported in column (C) of Part II. See the instructions for column (C).

64. *Change in activities.*—Attach a statement explaining any significant changes in the nature of type of activities that you conduct in furtherance of your exempt purpose. These new or modified activities would be those not specified as being conducted currently or planned in your application for recognition of exemption or those not previously made known to the Internal Revenue Service by means of a letter to your key district director or by an attachment to your return for any prior year. Besides the commencement of new activities or the modification of existing ones, any major program activities that are being terminated should also be disclosed.

65. *Changes in organizing or governing documents.*—Attach a copy of any changes to your articles of incorporation, constitution, trust instrument or other organizing document or your bylaws or other governing document. When a significant number of changes are made, a copy of the entire organizing instrument or governing document, as revised, should also be provided.

66. *Unrelated business income.*—See general instruction N for a discussion of unrelated business income and the Form 990-T filing requirements for section 501(c) organizations having such income. All items of income and expense reported on Form 990-T must also be reported on Form 990 when the organization is required to file both forms.

67. *Liquidation, dissolution, termination, or substantial contraction.*—See general instruction R for definitions and instructions regarding the information required to be furnished in the event of a liquidation, dissolution, termination, or substantial contraction.

68. *Relation to other organizations.*—Answer this question "Yes" if a majority of the organization's governing body, officers, trustees or membership consists of individuals who are also officers, directors, trustees or members of any one other organization.

A strictly coincidental overlap of membership with another organization, i.e., where membership or affiliation with one organization is not a condition of membership in the other, should be disregarded.

Affiliation with any statewide or nationwide organization also should be disregarded.

69. *Expenditures for political purposes.*—An "expenditure for political purposes" is any expenditure intended to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice Presidential electors, whether or not such individual or electors are selected, nominated, elected or appointed.

An expenditure includes a payment, distribution, loan, advance, deposit, or gift, of money, or anything of value, and includes a contract, promise, or agreement to make an expenditure, whether or not legally enforceable.

Section 501(c) organizations are required to file Form 1120-POL if the amount of their expenditures for political purposes and their net investment income each exceed $100 for the year.

Section 501(c) organizations that maintain separate segregated funds described in section 527(f)(3) should refer to the instructions for Form 1120-POL for filing requirements.

70. *Donated services or facilities.*—Organizations that receive donated services or the use of facilities or equipment at less than fair rental value should not report the value

of such items in Part I or II of this return. (See instructions for line 1.) However, some organizations may want this information to be reflected on the return since, as discussed in instruction L, Form 990 is available for public inspection.

Organizations that maintain records indicating the amount and aggregate value of the donated services or use of assets may enter that information in the space provided on line 70. (The IRS does not require the maintenance of such records or the reporting of this information.) Also, estimates may be furnished where there is a clearly objective basis for measuring the value of donated services or facilities.

71. *Section 501(c)(5) or (6) organizations.*—Attempts to influence the opinion of the general public, or any segment of the general public, with respect to legislative matters or referendums consititute grassroots lobbying. Such lobbying may be explicit in the case of an advertisement which urges or encourages the public to contract members of a legislative body for the purpose of proposing, supporting, or opposing specific legislation. Grassroots lobbying may also be implicit in any advertisement or other communication directed at the public if the intent of the communication is to mold the public's opinion on a particular legislative matter or referendum. Any lobbying directed at the members of the organization is directed at "potential" members, employees of members, or stockholders of members would be. See section 1.162-20(c) of the income Tax Regulations for further discussion of grassroots lobbying.

72. *Clubs exempt under section 501(c)(7).*—A 501(c)(7) organization is permitted to receive up to 35 percent of its gross receipts, including investment income, from sources outside of its membership without losing its tax-exempt status. Of the 35 percent, not more than 15 percent of the gross receipts should be derived from the use of a social club's facilities or services by the general public.

Gross receipts are defined for this purpose as those receipts from normal and usual activities of the club (that is, those activities it has traditionally conducted) including charges, admissions, membership fees, dues, assessments, investment income (such as dividends, rents, and similar receipts), and normal recurring capital gains on investments, but excluding initiation fees and capital contributions. However, where a club receives unusual amounts of income, such as from the sale of its clubhouse or similiar facility, that income is not to be included in the formula: that is, such unusual income is not to be included in either the gross receipts of the club or in the permitted 35- or 15-percent allowances. On the other hand where college fraternities or sororities charge membership initiation fees, but no annual dues, such fees will be included in their gross receipts, notwithstanding that initiation fees are ordinarily excluded.

If an organization has outside income in excess of the 35-percent limit (or 15 percent in the case of gross receipts derived from nonmember use of a club's facilities), all the facts and circumstances are to be taken into account in determining whether the organization qualifies for exempt status.

If the application of the above rules does not affect the club's exempt status, the amount of income shown on line 72(b) must be reported on Form 990-T.

Public Law 94-568 provides, in part, that an organization described in section 501(c)(7) is not exempt from income tax for any taxable year beginning after October 20, 1976, if, at any time during such a taxable year, its governing instrument, operating procedures or any written policy statement provides for discrimination against any person on the basis of race, color or religion.

73. *Section 501(c)(12) organizations.*—For purposes of section 501(c)(12, the term "gross income" means gross receipts less cost of goods sold.

74. *Public interest law firms.*—Public interest law firms exempt under section 501(c)(3) or 501(c)(4) must attach a statement that sets forth the cases in litigation, or that have been litigated during the year. With respect to each such case, the statement must include a description of the matter in dispute and an explanation as to how the litigation will benefit the public generally. See Rev. Proc. 71-39, 1971-2 C.B. 575. The firms must also attach a report of all fees sought and recovered. See Rev. Proc. 75-13, 1975-1 C.B. 662, for procedures for the acceptance of attorneys' fees.

[FR Doc. 78-90684 Filed 10-30-78; 8:45 am]

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[4830-01-M]

## PRIVATE TAX—EXEMPT SCHOOLS

### Public Comments on Proposed Revenue Procedure

AGENCY: Internal Revenue Service, Treasury.

ACTION: Extension of time for comments.

SUMMARY: This document provides notice of an extension of time for submitting comments with respect to a proposed revenue procedure on private schools, and a December 5, 1978, public hearing on the proposed procedure.

DATES: Written comments by persons who wish to speak at the December 5, 1978 hearing, must be submitted by October 31, 1978. Outlines of oral comments by persons who wish to speak at the hearing must be submitted by November 20, 1978. Written comments by persons who do not wish to speak at the hearing must be submitted by December 5, 1978.

ADDRESS: Send comments and outlines to: Commissioner of Internal Revenue, Attn: E:EO, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

James E. Griffith, of the Exempt Organizations Division, Internal Revenue Service, Washington, D.C. 20224, 202-566-6181.

SUPPLEMENTARY INFORMATION: A proposed revenue procedure that sets forth guidelines the Internal Revenue Service will apply in determining whether certain private schools have racially discrimatory policies as to students and therefore are not qualified for tax exemption under section 501(c)(3) of the Internal Revenue Code of 1954 was announced on August 21, 1978, in a news release (IR-2027), and also appeared in the FEDERAL REGISTER for Tuesday, August 22, 1978, at page 37296 (43 FR 37296). A public hearing on the proposed revenue procedure to be held December 5, 1978, was announced on October 13, 1978, in a news release (IR-2043), and also appeared in the FEDERAL REGISTER for Wednesday, October 18, 1978, at page 48091 (43 FR 48091). The proposed revenue procedure and the notice of public hearings stated that comments were to be delivered or mailed by October 23, 1978. For persons who wish to speak at the December 5, 1978 hearing, the date by which their comments must be delivered or mailed is hereby extended to October 31, 1978. For persons who do not wish to speak at the hearing, the date by which their comments must be submitted is hereby extended to December 5, 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.

W. E. WILLIAMS,
*Acting Commissioner of Internal Revenue.*

[FR Doc. 78-30683 Filed 10-30-78; 8:45 am]

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[4810-22-M]

## DEPARTMENT OF THE TREASURY

### Office of the Secretary

### TITANIUM DIOXIDE FROM BELGIUM, FRANCE, THE FEDERAL REPUBLIC OF GERMANY, AND THE UNITED KINGDOM

### Antidumping Proceeding

AGENCY: U.S. Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether imports of titanium dioxide from Belgium, France, West Germany, and the United Kingdom are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended. There is substantial doubt that imports of the subject merchandise, allegedly at less than fair value, are causing, or are likely to cause, injury to an industry in the United States. Therefore, the case is being referred to the U.S. International Trade Com-

mission for a determination on the injury question.

EFFECTIVE DATE: October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, Duty Assessment Division, U.S. Customs Service, Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On September 18, 1978, a petition in proper form was received pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel on behalf of SCM Corporation, New York, N.Y., alleging that titanium dioxide from Belgium, France, West Germany, and the United Kingdom is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as the "Act").

Titanium dioxide, $TiO_2$, is the primary white pigment consumed in the paint and coatings, paper and paper bond, and plastics industries. It is classifiable under item 473.70 of the Tariff Schedules of the United States.

It appears that foreign producers and some purchasers in the United States are related within the meaning of the Act and, therefore, it will be necessary to establish the exporter's sales price of the merchandise in the U.S. market.

Based upon the information set forth in the petition and that derived from the Customs Service's summary investigation, it appears that the margins of dumping may range from as low as 5 percent to as much as 37 percent depending on the source of the imports.

There is evidence on record concerning injury, or likelihood of injury, to the U.S. industry from the alleged less than fair value imports of titanium dioxide from Belgium, France, West Germany, and the United Kingdom. The petition indicates that the alleged less than fair value imports represent an increasing share of the U.S. market, having expanded from 4.1 percent of the U.S. market in 1973 to 10.2 percent in 1977. Although year-end stocks of titanium dioxide have grown continuously since 1973, preliminary reports show a small decline in 1977.

The petition also indicates that domestic production of titanium dioxide dropped 4 to 5 percent in 1977. However, the volume of overall domestic shipments and consumption has been rising. In addition, the capacity utilization of the domestic industry apparently has stablized with a substantial expansion of production capacity likely in the near future. Finally, although the petitioner has submitted information to demonstrate that the industry's profit margins have eroded in the last 2 years, annual price increases have occurred with the most recent increase made effective in June 1978. More importantly, if price supression does, in fact, exist, it may be a result of competition among domestic producers rather than a result of sales by foreign manufacturers at less than fair value.

On the basis of such evidence, it has been concluded that there is substantial doubt of injury or likelihood of injury to an industry in the United States by virtue of such imports from Belgium, France, West Germany, and the United Kingdom. Accordingly, the U.S. International Trade Commission is being advised of such doubt pursuant to section 201(c)(2) of the act (19 U.S.C. 160(c)(2)).

Having conducted a summary investigation as required by section 153.29 of the Customs Regulations (19 CFR 153.29), and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value. Should the International Trade Commission, within 30 days of receipt of this referral, advise the Secretary that there is no reasonable indication that an industry in the United States is being, or is likely to be, injured by reason of the importation of such merchandise into the United States, this investigation will be terminated. Otherwise, the investigation will continue to conclusion.

This notice is published pursuant to section 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,
*General Counsel*
*of the Treasury.*

OCTOBER 25, 1978.

[FR Doc. 78-30725 Filed 10-30-78; 8:45 am]

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[7035-01-M]

## INTERSTATE COMMERCE COMMISSION

[Notice No. 734]

### ASSIGNMENT OF HEARINGS

OCTOBER 26, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC-F-13608, Arkansas Best Freight System, Inc.—Control and Merger—Navajo Freight Lines, F.D. 28771, Arkansas Best Freight System, Inc. and F.D. 28772, Arkansas Best Freight, Inc., now assigned for Prehearing Conference on November 20, 1978, at Washington, DC is canceled.

No. MC 144285F, Bay Haven Marina, Inc., now assigned for hearing on November 15, 1978, at Chicago, IL is canceled.

No. MC 119988 (Sub-145F), Great western Trucking Co., Inc., now being assigned for hearing on December 11, 1978, (1 day), at Dallas, TX in a hearing room to be later designated.

No. MC 119777 (Sub-349F), Ligon Specialized Hauler, Inc., now being assigned for hearing on December 12, 1978, (2 days), at Dallas, TX in a hearing room to be later designated.

No. MC 134477 (Sub-228F), Schanno Transportation, Inc., now being assigned for hearing on January 23, 1979, (2 days), at Chicago, IL in a hearing room to be later designated.

No. MC 78228 (Sub-79F), J. Miller Express, Inc., now being assigned for hearing on January 25, 1979, (2 days), at Chicago, IL in a hearing room to be later designated.

No. MC 35358 (Sub-40F), Berger Transfer & Storage, Inc., now being assigned for hearing on January 30, 1979, (2 days), at Chicago, IL in a hearing room to be later designated.

No. MC 30032 (Sub-8F), Houdek Motor Service, Inc., now being assigned for hearing on February 1, 1979, (2 days), at Chicago, Il in a hearing room to be later designated.

No. MC 140829 (Sub-87F), Cargo Contract Carrier Corp., now being assigned for hearing on January 29, 1979, (1 day), at Chicago, IL in a hearing room to be later designated.

No. MC 144690 (Sub-1F), Cherry-Wink, Inc., now being assigned for hearing on December 14, 1978, (2 days), at Dallas, TX in a hearing room to be later designated.

No. MC 105045 (Sub-83F), R.L. Jeffries Trucking Co., Inc., now being assigned for hearing on December 18, 1978, (1 day), at Dallas, TX in a hearing room to be later designated.

No. MC 83835 (Sub-151F), Wales Transportation, Inc., now being assigned for hearing on December 19, 1978, (2 days), at Dallas, TX in a hearing room to be later designated.

No. MC 134906, Cape Air Freight, Inc. and No. MC 134906 (Sub-1, 2, 3, 4, 5, 6, and 7) Cape Air Freight, Inc. now assigned for continued hearing December 5, 1978 (9 days) at Louisville, KY in a hearing room to be later designated.

No. MC-F-13606, Crouse Cartage Co.—Purchase (Portion)—The Rock Island Motor Transit Co. and No. MC-F-13622, Paris Motor Freight, Inc.—Purchase (Portion)—Rock Island Motor Transit Co. and No. MC-F-13631 Witte Transportation Co.—Purchase (Portion)—The Rock Island Motor Transit Co. and No. MC-F-13649 Ideal Truck Lines, Inc.—Purchase (Por-

tion)—The Rock Island Motor Freight Co., and No. MC-F-13657, Century-Mercury Motor Freight, Inc.—Purchase (Portion)—The Rock Island Motor Transit Co. and No. MC-F-13663 Murphy Motor Freight Lines, Inc.—Purchase (Portion)—The Rock Island Motor Transit Company and No. MC-F-13668F, Garrison Motor Freight, Inc.—Purchase (Portion)—The Rock Island Motor Transit Co. and No. MC-F-13670 Winters Truck Line, Inc.—Purchase (Portion)—Rock Island Motor Transit Co. and No. MC 57393 (Sub-7F), Winters Truck Line, Inc., and No. MC-F-13691F, Jerry Simpson d.b.a. Thornton Transfer—Purchase (Portion)—The Rock Island Motor Transit Co. now assigned for pre-hearing conference November 27, 1978 at Washington, DC and will be held at the Office of the Interstate Commerce Commission. No MC 118159 (Sub-277F) National Refrigerated Transport, Inc., now assigned December 12, 1978 (1 day) at Denver, CO, and will be held at Room C-503 U.S. Courthouse 1929 Stout Street.

No. MC 107295 (Sub-73), Pre-Fab Transit Co., now assigned for hearing on October 31, 1978, at Boston, MA is postponed indefinitely.

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

[FR Doc. 78-30770 Filed 10-30-78; 8:45 am]

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**[7035-01-M]**

**Fourth Section Applications for Relief**

OCTOBER 25, 1978.

This application for long-and-short-haul relief has been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of this notice.

FSA No. 43618, Trans-Continental Freight Bureau, Agent's No. 527, rates on sulphur dioxide, in tank cars, from Tacoma, WA, to Leeds, SC, and LeMoyne, AL, in Supp. 27 to its Tariff 2-P, ICC 1969, to become effective November 20, 1978. Grounds for relief—water competition.

By the Commission.

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

[FR Doc. 78-30769 Filed 10-30-78; 8:45 am]

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**[7035-01-M]**

[Notice No. 123]

**MOTOR CARRIER TRANSFER PROCEEDINGS**

OCTOBER 31, 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-77898. By application filed October 23, 1978, Norma Bjornson, individual and personal representative of Arthur B. Bjornson estate, d.b.a. Bjornson Truck Service, R.F.D., Ellsworth, WI 54011, seeks temporary authority to transfer the operating rights of Norma Bjornson, personal representative of Arthur B. Bjornson estate, individual, d.b.a. Bjornson Truck Service, R.F.D., Ellsworth, WI 54011, under section 210a(b). The transfer to Norma Bjornson, individual and personal representative of Arthur B. Bjornson estate, d.b.a. Bjornson Truck Service, of the operating rights of Norma Bjornson, personal representative of Arthur B. Bjornson estate, individual, is presently pending.

By the Commission.

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

[FR Doc. 78-30767 Filed 10-30-78; 8:45 am]

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**[7035-01-M]**

[No. MC-133689 (Sub-104)]

**OVERLAND EXPRESS, INC.**

**Extension—Farmers Union Central Exchange, Inc. (New Brighton, MN); Decision**

Decided: October 20, 1978.

We have considered the application and the record in this proceeding, including the decision of the Administrative Law Judge, the exceptions filed by applicant and protestant Hilt Truck Line, Inc., the reply to applicant's exceptions filed by protestant Hilt, and the reply to protestant Hilt's exceptions filed by applicant.

The Administrative Law Judge recommended the granting to applicant of a certificate authorizing the operation described in the appendix to this decision.

The pleadings raise no new or material matters of fact or law not adequately considered and properly disposed of by the Administrative Law Judge in his decision, and are not of such nature as to require the issuance of a decision discussing the evidence in the light of the pleadings.

*We find:* The evidence considered in the light of the pleadings does not warrant a result different from that reached by the Administrative Law Judge. The statement of facts, the conclusions, and the findings of the Administrative Law Judge are proper and correct in all material respects, and are affirmed.

*It is ordered:* The application is granted to the extent set forth in the appendix and subject to the republication condition imposed there. A certificate will be issued if applicant complies with the appropriate requirements set forth in Code of Federal Regulations (49 CFR 1043, 1044, and 1307). Applicant must comply within 90 days after the date of service of this decision. If it fails to comply, the grant of authority will be void.

This decision will become effective 30 days from the date of service.

By the Commission, Division 2, Commissioners Stafford, Gresham, and Christian.

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

APPENDIX

*Service authorized*

Operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of hardware, hand agricultural implements, agricultural implement parts, chemicals, appliances, heaters, furnaces, motor vehicle parts and accessories, feed, and iron and steel articles, from points in IL, IN, MO, MI, NJ, NY, OH, PA, and SC, to points in IA, MN, NE, ND, SD, and WI, restricted (1) against the transportation of commodities which, because of their size or weight, require the use of special equipment, and (2) to traffic destined to the facilities of Farmers Union Central Exchange, Inc. (Cenex) or of its member cooperatives.

*Conditions*

(1) A notice of the authority granted in this decision will be published in the FEDERAL REGISTER and, at the expiration of 30 days, this decision shall become effective as the decision of the Commission, provided that in the interim no party in interest has filed a petition for leave to intervene in this proceeding.

(2) The grant of authority and any existing authority held by applicant that it duplicates shall be construed as conferring a single operating right.

*Notice*

By this decision, this proceeding is rendered administratively final within the meaning of 49 CFR 1101.2(f) of the Commission's regulations; and, in accordance with the provisions of section 558(c) of the Administrative Procedure Act, any corresponding temporary authority expires and operations thereunder must cease upon the effective date of this decision, except that to the extent permanent authority is granted in this proceeding (and if partial, only to that extent) the corresponding temporary authority or portion thereof will continue in effect until a certificate or permit is issued and becomes effective. The filing of any further pleadings in this matter will not stay the expiration of the temporary authority related to the denied portion of the sought permanent authority.

NOTE.—This decision does not constitute authority to operate.

[FR Doc. 78-30771 Filed 10-30-78; 8:45 am]

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**[7035-01-M]**

[Finance Docket No. 28884F]

**RICHMOND RAILROAD CO.—ACQUISTION AND OPERATION—OVER DARDANELLE AND RUSSELLVILLE RAILROAD CO., IN POPE COUNTY, AR**

Richmond Railroad Co., 1700 West Loop South, Houston, TX 77027, represented by Forrest R. Qualls, Rich-

mond Railroad Co., 1700 West Loop South, Houston, TX 77027, hereby give notice that on the 18th day of October 1978, it filed with the Interstate Commerce Commission at Washington, DC, an application under section 1(18) of the Interstate Commerce Act for a decision approving and authorizing acquisition and operation of the entire system of the Dardanelle and Russellville Railroad Co., a wholly owned subsidiary of Applicant, which application is assigned Finance Docket No. 28884F.

Applicant has acquired all of the issued and outstanding stock of the Dardanelle and Russellville Railroad Co., (D&R), and proposed to merge the D&R into Applicant. Applicant will be the surviving corporation and will continue the operation of the railroad. The line is located entirely in Pope County, AR. The line has 5.22 miles of main line track and 1.27 miles of siding, a distance of 6.49 miles.

The operation of this line is necessary and desirable to provide common carrier rail service to industries along the line and in the area traversed by the line, and such other industries as may be reasonably expected to locate in the immediate area.

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 C.F.R. 1108.8) in Ex Parte No. 55 (Sub-4), *Implementation—National Environmental Policy Act, 1969,* 352 I.C.C. 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 affect 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, DC 20424, 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. 78-30768 Filed 10-30-78; 8:45 am]

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[7035-01-M]

[Section 5a Application No. 24; Amendment No.3]

**SAN FRANCISCO MOVER TARIFF BUREAU**

OCTOBER 23, 1978.

The Commission is in receipt of an application in the above proceeding for approval of amendments to the approved agreement.

Filed July 7, 1978 by: Ann M. Pougiales, Loughran & Hegarty, 100 Bush Street, 21st Floor, San Francisco, CA 94104.

The amendments involve: Complete revision of presently approved agreement and changes to make the by-laws comply with Ex Parte 297 Sub 4.

The complete application may be inspected at the Office of the Commission, in Washington, DC.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing within 30 days from the date of publication of this notice in the FEDERAL REGISTER. As provided by the General Rules of Practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved without public hearing.

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

[FR Doc. 78-30765 Filed 10-30-78; 8:45 am]

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[7035-01-M]

**EMPLOYEE BOARD ON EDUCATION AND PRACTICE**

**Appointment of Members**

On October 16, 1978, the Commission voted to appoint the following to the Employee Board on Education and Practice and Committee of Examiners:

EMPLOYEE BOARD ON EDUCATION AND PRACTICE

Thaddeus J. Harty, Jr., Chairman, Roy P. Liberman, and Ronald S. Young.

COMMITTEE OF EXAMINERS

Jane Dixon, William P. Geisenkotter, John Mattras, B. Scott Walker, Gerald C. Wegznek, Melvin B. Werner, and David B. Wuehmann.

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

[FR Doc. 78-30766 Filed 10-30-78; 8:45 am]

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[1505-01-M]

**INTERSTATE COMMERCE COMMISSION**

[Decisions Vol. No. 20]

**DECISION-NOTICE**

*Correction*

In FR Doc. 78-23367 appearing on page 37301 in the issue of Tuesday, August 22, 1978, on page 37307, the first and second applications (MC 129788 (Sub-7F)) are duplicates; therefore, delete the second MC 129788 (Sub-7F) and insert the following application which was omitted from the original publication:

"MC 129788 (Sub-8F), filed July 7, 1978. Applicant: NASS TRUCK LINES, INC., A Delaware corporation, Box 'H', Wenona, IL 61377. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Malt beverages,* from Detroit, MI, to Decatur, Springfield, Champaign, and Jacksonville, IL. (Hearing site: Chicago, IL, or Washington, DC.)"

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[1505-01-M]

[Decisions Volume No. 17]

**DECISION-NOTICE**

*Correction*

On page 33861 in the issue of Tuesday, August 1, 1978, on page 33868, first column, in MC 138328 (Sub-70F), the next to the last line should read as follows: "* * * MS, MO, NM, OK, and TN. (Hearing [site: Omaha, NE.)].".

On page 33870, in the middle column, in MC 144852 F, from the 14th line to the end of that paragraph, the text should read, "* * * States (except AK and HI), (2) materials, equipment, and supplies used in manufacture of new furniture, from points in the United States (except AK and HI), to facilities of Sirco Manufacturing, at or near (a) Missoula, MT and (b) Stevens Point, WI, under a continuing contract(s) with Sirco Manufacturing, of Missoula, MT. (Hearing site: Missoula, MT.)."

The file line was inadvertently omitted at the end of the document on page 33871. The file line should read: [FR Doc. 78-21099 Filed 7-31-78; 8:45 am].

[7035-01-M]

[Decisions Volume No. 41]

DECISION-NOTICE

Decided: October 16, 1978

The following applications are governed by special rule 247 of the Commission's rules of practices (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have beem modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

It is ordered: In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extend that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

By the Commission, review board number 2, members Eaton, and Liberman, board member Boyle not participating.

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

MC 730 (Sub-417F), filed August 30, 1978. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a Nevada corporation, 25 North Via Monte, P.O. Box 8004, Walnut Creek, CA 94598. Representative: A. G. Krebs (same as applicant). To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Beaumont, CA, and Pratt, KS, from Beaumont, CA, over Interstate Hwy 10 to junction U.S. Hwy 80, then over U.S. Hwy 80 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction Interstate Hwy 25, then over Interstate Hwy 25 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction U.S. Hwy 281, then over U.S. Hwy 281 to Pratt, KS, and return over the same route, serving no intermediate points, and serving the junctions of (a) Interstate Hwy 10 and CA Hwy 86, (b) U.S. Hwys 60 and 80, (c) U.S. Hwy 60 and Interstate Hwy 25, (d) U.S. Hwys 54 and 60, and (e) U.S. Hwys 60 and 70, for purposes of joinder only, as an alternate route for operating convenience only, in connection with carrier's otherwise authorized regular-route operations, (2) between San Diego, CA, and junction U.S. Hwys 60 and 70, from San Diego, CA, over Interstate Hwy 8 to junction Interstate Hwy 10, then over Interstate Hwy 10 to junction combined U.S. Hwys 70 and 82, then over combined U.S. Hwys 70 and 82 to junction U.S. Hwy 54, then over U.S. Hwy 54 to junction U.S. hwy 70, then over U.S. Hwy 70 to junction U.S. Hwy 60, and return over the same route, serving no intermediate points, and serving the junctions of (a) Interstate Hwy 8 and CA Hwy 86, (b) Interstate Hwy 10 and U.S. Hwy 89, and (c) U.S. Hwys 54 and 70, for purposes of joinder only, as an alternate route for operating convenience only, in connection with carrier's otherwise authorized regular-route operations, (3) between junction Interstate Hwy 10 and CA hwy 86, and junction Interstate Hwy 8 and CA Hwy 86, over CA Hwy 86, serving no intermediate points, as an alternate route for operating convenience only, in connection with carrier's otherwise authorized regular-route operations, (4) between junction Interstate Hwy 25 and U.S. Hwy 60, and Albuquerque, NM over Interstate Hwy 25, serving no intermediate points, as an alternate route for operating convenience only, in connection with carrier's otherwise authorized regular-route operations, (5) between junction U.S. Hwys 54 and 70, and junction U.S. Hwys 54 and 66, from junction U.S. Hwys 54 and 70, over U.S. Hwy 54 to junction U.S. Hwy 66 then over U.S. Hwy 66 to junction U.S. Hwy 54, and return over the same route, serving no intermediate points, and serving junction U.S. Hwys 54 and 60, for purposes of joinder only, as an alternate route for operating convenience only, in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Washington, DC, or San Francisco, CA.)

MC 730 (Sub-421F), filed September 14, 1978. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a Nevada corporation, 25 North Via Monte, P.O. Box 8004, Walnut Creek, CA 94596. Representative: R. N. Cooledge (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from the facilities of Union Carbide Corp., at or near Texas City, TX, to points in AL, AR, CO, CT, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC,

ND, OH, OK, PA, SC, SD, TN, VA, WV, WI, and WY, restricted to the transportation of traffic originating at the named origin. (Hearing site: Houston, TX.)

MC 2066 (Sub-4F), filed August 11, 1978. Applicant: R. M. SULLIVAN TRANSPORTATION, INC., 649 Cottage Street, P.O. Box 155, Highland Station, Springfield, MA 01104. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01104. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of General Cable Corp., at Pownal, VT, on the one hand, and, on the other, points in CT, MA, NH, NJ, NY, and RI. (Hearing site: Washington, DC.)

MC 2633 (Sub-61F), filed August 31, 1978. Applicant: CROSSETT, INC., P.O. Box 946, Warren, PA 16365. Representative: Kenneth T. Johnson, Bankers Trust Building, Jamestown, NY 14701. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, (1) from Warren, PA, to points in OH (except those points on and east of OH Hwy 14 from Cleveland to Unity, and those points on and north of OH Hwy 165 from Unity to the OH-PA State line), and (2) from Miles, OH, to points in Venango County, PA. (Hearing site: Buffalo, NY, or Pittsburgh, PA.)

MC 8768 (Sub-37F), filed September 26, 1978. Applicant: SECURITY VAN LINES, INC., 100 West Airline Hwy, Kenner, LA 70062. Representative: Donald Goldwasser, P.O. Box 830, Kenner, LA 70062. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, between points in the United States (except AK, HI, and ND). (Hearing site: New Orleans, LA.)

MC 20824 (Sub-37F), filed August 7, 1978. Applicant: COMMERCIAL MOTOR FREIGHT, INC. OF INDIANA, 2141 South High School Road, Indianapolis, IN 46241. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Crowfordsville, IN, and Danville, IL, over Interstate Hwy 74, serving no intermediate points. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 21866 (Sub-107F), filed August 3, 1978. Applicant: WEST MOTOR FREIGHT, INC., 740 South Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and metal articles* from the facilities of Reading Industries, Inc., at Reading, PA, to points in the United States (exept AK, HI, and PA), and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above, from the destination points named in (1) above to the facilities of Reading Industries, Inc., at Reading, PA. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 26396 (Sub-194F), filed August 7, 1978. Applicant: POPELKA TRUCKING CO., a corporation, d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *cement pipe*, and (2) *Fittings* for cement pipe, from Van Buren, AR, to those points in the United States in and west of MN, IA, MO, OK, TX, and LA (except AK and HI). (Hearing site: St. Louis, MO.)

MC 29886 (Sub-352F), filed August 8, 1978. Applicant: DALLAS & MAVIS FORWARDING CO., INC., an Indiana Corp., 4314 39th Ave., Kenosha, WI 53142. Representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pollution control equipment*, and (2) *equipment, materials, and supplies*, used in the manufacture and installation of pollution control equipment, (a) between the facilities of Envirotech Corp., at or near Winston-Salem, NC, Lebanon, PA, and Cleveland, OH, on the one hand, and, on the other, points in the United States (escept AK and HI), and (b) from Warrenton, MO, Newton Falls, OH, Fort Worth and San Antonio, TX, San Jose, CA, and New Haven, IN, to points in AL, IN, KS, KY, MO, OK, TN, and WI. (Hearing site: Philadelphia, PA, or Chicago, IL.)

MC 36918 (Sub-8F), filed September 13, 1978. Applicant: FASTWAY TRANSPORTATION, INC., a Delaware corporation, P.O. Box 383, 151 Morristown Road, Matawan, NJ 07747. Representative: Thomas F. X. Foley, Colts Neck Professional Plaza, State Hwy 34, Colts Neck, NJ 07722. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic bottles*, between the facilities of Hoover Beverage Bottle Division of Hoover Universal, Inc., at New Castle, DE, on the one hand, and, on the other, points in CT, MA, NY, NJ, PA, and RI. (Hearing site: Newark, NJ, or New York, NY.)

MC 41404 (Sub-150F), filed August 9, 1978. Applicant: ARGO-COLLIER TRUCK LINES CORP., P.O. Box 440, Martin, TN 38237. Representative: Mark L. Horne, (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery*, in vehicles equipped with mechanical refrigeration (except in bulk, in tank vehicles), from the facilities of E. J. Brach & Sons, at or near Atlanta, GA, to AL, FL, LA, MS, NC, SC, and TN. (Hearing site: Chicago, IL, or Atlanta, GA.)

MC 52704 (Sub-179F), filed August 17, 1978. Applicant: GLENN McCLENDON TRUCKING CO., INC., P.O. Drawer H, LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from the facilities of Union Camp Corp., at or near Tifton, GA, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk), from points in the United States (except AK and HI), to facilities of Union Camp Corp., at or near Tifton, GA. (Hearing site: Atlanta, GA.)

MC 57239 (Sub-40F), filed September 7, 1978. Applicant : RENNER'S EXPRESS, INC., P.O. Box 882, Indianapolis, IN 46206. Representative: Roland Rice, 501 Perpetual Building, 1111 E Street NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tobacco products*, from Louisville, KY, to Detroit, MI, restricted to the transportation of traffic originating at Louisville, KY. (Hearing site: Louisville, KY, or Indianapolis, IN.)

MC 63417 (Sub-166F), filed August 23, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molded pulp products, molded peat products, and expanded foam plastic products*, from Florin, CA, to points in the United States in and west of WI, IL, KY, TN, and MS (except AK, CA, and HI). (Hearing site: Roanoke, VA, or Portland, ME.)

MC 63417 (Sub-167F), filed August 28, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Insulating materials*, and (2) *materials and supplies* used in the installation of insulating materials, from Spring Hope, NC to points in DE, FL, GA, IN, KY, MD, NJ, NY, OH, PA, SC, TN, VA, WV, and DC. (Hearing site: Raleigh, NC, or Roanoke, VA.)

MC 63417 (Sub-168F), filed August 23, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded foam plastic products*, from Coldwater, MI, to Sylacauga, AL. (Hearing site: Roanoke, VA.)

MC 63417 (Sub-169F), filed August 28, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plumbers goods, vanities, and vanity cabinets*, (a) from Ford City, PA, and Salem, OH, to points in MS, and (b) from Tupelo, MS, to points in AR, LA, OK, and TX. (Hearing site: Pittsburgh, PA, or Roanoke, VA.)

MC 63417 (Sub-170F), filed August 28, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Incandescent bulbs*, and (2) *packaging materials*, between Lexington, KY, on the one hand, and, on the other, Bellevue, Cleveland, Ravenna, Warren, and Youngstown, OH. (Hearing site: Roanoke, VA, or Cleveland, OH.)

MC 65475 (Sub-18F), filed September 1, 1978. Applicant: JETCO, INC., a District of Columbia corporation, 4701 Eisenhower Avenue, Alexandria, VA 22304. Representative: J. G. Dail, Jr., P.O. Box 567, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum articles and equipment, materials, and supplies* used in the manufacture of aluminum articles (except commodities in bulk), from Scottsboro, AL, Hawesville, KY, and New Madrid, MO, to the facilities of Howmet Aluminun Corp., at or near Lancaster, PA, and (2) *scrap aluminum* (except in bulk), from Lawrence and Taunton, MA, to Baltimore, MD, and points in PA. (Hearing site: Washington, DC.)

MC 82509 (Sub-5F), filed September 14, 1978. Applicant: RICHARD C. NOERR, JR., d.b.a. METAL TRANSPORT, P.O. Box 492, Lewistown, PA 17044. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Brass rods and unfinished brass shapes* (except commodities which because of size or weight require the use of special equipment), from the facilities of Cerro Metal Products, at or near (a) Bellefonte, PA, and (b) Weyers Cave, VA, to points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, (except Chickasha), PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and DC, and (2) *waste materials*, from (Hearing site: San Francisco, CA, or Harrisburg, PA.)

MC 94265 (Sub-280F), filed September 5, 1978. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Route 460 West, Windsor, VA 23487. Representative: John J. Capo, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground clay, floor sweeping compounds, and floor sweeping absorbents* (except commodities in bulk), from the facilities used by Oil-Dri Corp., at or near Ochlocknee, GA, to points in DE, KS, IL, IN, IA, MD, MI, MN, MO, NE, OH, VA, WV, and WI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 106398 (Sub-831F), filed August 31, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel bars*, from the facilities of North Star Steel Co., at Wilton, IA, to points in AL, AZ, AR, FL, GA, LA, MS, NM, NC, OK, SC, TN, and TX. (Hearing site: Des Moines, IA.)

NOTE.—In view of the findings in MC 106398 (Sub-741) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 107295 (Sub-884F), filed September 1, 1978. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing, roofing materials, and siding* (except commodities in bulk), from the facilities of the Roofing Division of Masonite Corp., (a) at Meridian, MS, to points in IL, IA, IN, KS, MO, OH, OK, and TX, and (b) at points in Pulaski County, AR, to points in NC, OH, SC, VA, and WV, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), from points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MS, MO, NC, OH, OK, SC, TN, TX, VA, and WV, to the origins named in (1)(a) and (b) above. (Hearing site: Atlanta, GA.)

MC 107515 (Sub-1171F), filed September 4, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, 5th Floor, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meatpacking houses*, as described in sections A and C of appendix I to the report in *descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of John Morrell & Co., at or near Estherville, IA, to points in AL, MS, TN, and KY, restricted to the transportation of traffic originating at the above named origin facilities and destined to the above named destinations. (Hearing site: Chicago, IL.)

NOTE.—Dual operations are at issue in this proceeding.

MC 107515 (Sub-1172F), filed September 4, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, 5th Floor, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Manchester, NH, to points in AL, FL, GA, NC, SC, and TN. (Hearing site: Manchester, NH, or New York, NY.)

NOTE.—Dual operations are at issue in this proceeding.

MC 107515 (Sub-1173F), filed September 4, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, 5th Floor, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat*

*products and meat byproducts, dairy products, and articles distributed by meatpacking houses,* as described in sections A, B, and C of the report in descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities used by John Morrell & Co., at or near Sioux Falls, SD, to points in AL, FL, GA, MS, NC, SC, KY, and TN, restricted to the transportation of traffic originating at the above named origin facilities and destined to the named destinations. (Hearing site: Chicago, IL.)

NOTE.—Dual operations are at issue in this proceeding.

MC 107515 (Sub-1174F), filed September 4, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Fifth Floor, Lenox Tower South, 3390 Peachtree Road NE., Atlanta, GA 30326. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Floor coverings and tufted textile products,* from points in GA on and north of U.S. Hwy 78 and on and west of U.S. Hwy 441, to points in IA, MN, and WI, and (2) *such commodities* as are dealt in by department stores (except foodstuffs and commodities in bulk), from Dalton, GA, to points in MN. (Hearing site: Atlanta, GA.)

NOTE.—Dual operations are at issue in this proceeding.

MC 107678 (Sub-67F), filed September 26, 1978. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, TX 77015. Representative: David A. Sutherlund, 1150 Connecticut Avenue NW., Suite 400, Washington, D.C. 20036. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Asphalt compounds and roof coatings* (except commodities in bulk, in tank vehicles), from the facilities used by Gulf States Asphalt Co., Inc., at or near (a) Westwego, LA, and (b) Beaumont and Houston, TX, to those points in the United States in and east of ND, SD, NE, CO, NM, and AZ. (Hearing site: Houston, TX, or New Orleans, LA.)

MC 109124 (Sub-50F), filed August 10, 1978. Applicant: SENTLE TRUCKING CORP., P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Talc and Talc tailings,* in bulk, from the facilities of Windsor Minerals in Windsor County, VT, to the facilities of CertainTeed Corp. at or near Avery, OH. (Hearing site: Washington, D.C.).

MC 110012 (Sub-46F), filed August 4, 1978. Applicant: ROY WIDENER MOTOR LINES, INC., 707 North Liberty Hill Road, Morristown, TN 37814. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, D.C. 20004. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *New furniture,* and (2) *materials,* and *supplies* used in the manufacture of new furniture (except commodities in bulk, in tank vehicles), from the facilities of American Furniture Co., Inc., at Martinsville, Marion, and Chilhowie, VA, to those points in the United States in and west of MI, OH, IN, IL, MO, TN, AL, and FL (except AK and HI). (Hearing site: Washington, D.C.

MC 111720 (Sub-21F), filed August 28, 1978. Applicant: WILLIAMS TRUCK SERVICE, INC., P.O. Box 40, Sioux Falls, SD 57101. Representative: Scott E. Daniel, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses,* as described in sections A and C of appendix I to the report in descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Howard Beef Processors, Inc., at or near Howard, SD, to points in IL, MI, MN, OH, and WI, under continuing contract(s) with Howard Beef Processors, Inc., of Howard, SD. (Hearing site: Sioux Falls, SD, or St. Paul, MN.)

MC 113362 (Sub-335F), filed August 10, 1978. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, 1105½ Eighth Avenue NE., P.O. Box 429, Austin, MN 55912. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bentonite clay and lignite coal* (except commodities in bulk), from the facilities of American Colloid Co., in Crook and Weston Counties, WY, to points in AR, DE, CT, LA, ME, MD, MA, NH, NJ, NY, OK, PA, RI, TX, VT, and DC, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Denver, CO, or Chicago, IL.)

MC 113651 (Sub-285F), filed August 18, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses,* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk and hides), from Arkansas City, KS and the facilities used by John Morrell & Co., or near Wichita, KS, to points in AL, FL, GA, MS, LA, KY, NC, SC, and TN. (Hearing site: Chicago, IL.)

MC 113651 (Sub-286F), filed August 21, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses,* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk and hides), from Chicago, IL, to points in MS. (Hearing site: Memphis, TN, or Chicago, IL.)

MC 113855 (Sub-446F), filed September 6, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., a North Dakota corporation, 2450 Marion Road SE., Rochester, MN 55901. Representative: Richard P. Anderson, 502 First National Bank Building, Fargo, ND 58102. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Boilers, boiler accessories, and boiler parts,* from East Stroudsburg, PA, to points in the United States (including AK, but excluding HI). (Hearing site: Washington, DC.)

MC 114273 (Sub-465F), filed August 31, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plastic materials, resins, and chemicals* (except commodities in bulk, in tank vehicles), from Freehold, New Brunswick, and Toms River, NJ, to Chicago, IL. Condition: In view of the findings in MC 114273 (Sub-147 and 252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-466F), filed August 31, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same

address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe, fittings, valves, hydrants*, and (2) *materials and supplies* used in the installation of the commodities in (1) above, from the facilities of Clow Corp., at or near Buckhannon, WV, to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, and WI. Condition: In view of the findings in MC 114273 (Sub-147 and 252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114457 (Sub-430F), filed August 24, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Ave., St. Paul, MN 55114. Representative: James H. Willis (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *such commodities as are dealt in by distributors of petroleum products, in mixed loads with petroleum and petroleum products, emulsified petroleum sizing, and gasoline additives in containers*, from the facilities of Texaco, Inc., in Jefferson County, TX, to points in the United States in and east of MT, WY, UT, and AZ. (Hearing site: Houston, TX, or St. Paul, MN.)

MC 114552 (Sub-174F), filed August 3, 1978. Applicant: SENN TRUCKING CO., a corporation, P.O. Drawer 220, Newberry, SC 29108. Representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, SC 29201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing and building materials, and materials* used in the installation and application of roofing and building materials (except commodities in bulk), from Charleston Heights, SC, to points in AL, FL, GA, KY, NC, TN, and VA, and (2) *materials, equipment, and supplies* used in the manufacture, installation, and application of roofing and building materials (except commodities in bulk), from the destination points in (1) above to Charleston Heights, SC. (Hearing site: Columbia or Charleston, SC.)

MC 114569 (Sub-245F), filed September 21, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. BOX 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk, in tank vehicles), from the facilities of Miami Margarine Co., at or near Albert Lea, MN, to points in AL, FL, GA, NE, NJ, NY, OH, PA, and WV. (Hearing site: Des Moines, IA, or Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 115654 (Sub-104F), filed August 9, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 915 Pennsylvania Building, 13th and Pennsylvania Avenue NW., Washington, DC 2004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wrapping paper*, and (2) *scrap and waste paper*, between the facilities of Damsky Paper Co., at or near Birmingham, AL, on the one hand, and, on the other, points in GA, TN, KY, OH, IN, IL, MO, AR, LA, and MS. (Hearing site: Birmingham, AL.)

NOTE.—In view of the findings in MC 115654 (Sub-43) of which official notice is taken, the certificate to be issued here will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 116004 (Sub-50F), filed August 7, 1978. Applicant: TEXAS OKLAHOMA EXPRESS, INC., P.O. Box 47112, Dallas, TX 75247. Representative: Doris Hughes, P.O. Box 47112, Dallas, TX 75247. To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commision, commodities in bulk, and those requiring special equipment), serving the facilities of Eagle Picher Industries, Inc., at or near Joplin, MO, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Tulsa, OK, or Dallas, TX.)

MC 117574 (Sub-316F), filed August 4, 1978. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural combines*, (2) *construction and industrial equipment*, and (3) *attachments, accessories, and parts* for the commodities in (1) and (2) above, from the facilities of Allis Chalmers Corp., at (1) Independence, MO, and (2) Topeka, KS, to points in AL, AR, CT, DE, FL, GA, IN, KY, LA, ME, MA, MD, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 117574 (Sub-318F), filed August 7, 1978. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors* (except truck tractors), (2) *attachments, parts and equipment* designed for use with tractors, in mixed loads with tractors, (3) *materials, equipment, and supplies* (except commodities in bulk) used in the manufacture and distribution of the commodities in (1) and (2) above, and (4) *equipment* designed for use with the commodities in (2) above, between the facilities used by International Harvester Co., in Harrison County, MS, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, NC, SC, and TN, restricted to the transportation of traffic originating at or destined to the facilities used by International Harvester Co., in Harrison County, MS. (Hearing site: Chicago, IL, or Washington, DC.)

MC 118866 (Sub-13F), filed August 4, 1978. Applicant: PAUL L. ZAMBERLAN & SONS, INC., P.O. Box 15, Lewis Run, PA 16738. Representative: Chester A. Zyblut, 366 Executive Building, 1030 15th Street NW., Washington, DC 2005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick*, from Clearfield and Bigler, PA, to points in DE, MD, MI, NJ, NY, OH, WV, and DC. (Hearing site: Pittsburgh, PA.)

MC 118883 (Sub-6F), filed August 24, 1978. Applicant: VAN E. HAMLETT, P.O. Box 8009, Osage Street, Nashville, TN 37208. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer and fertilizer materials* (except commodities in bulk, in tank vehicles), (2) *pesticides, in containers, in mixed loads with fertilizer*, and (3) *materials, equipment, and supplies* (except commodities in bulk, in tank vehicles) used in the manufacture of fertilizer and pesticides, (1) between the facilities used by W. R. Grace & Co., at or near (a) Nashville, TN, and (b) New Albany, IN, and Woodstock, TN, (2) between the facilities used by W. R. Grace & Co., at or near Nashville, TN, and Woodstock, TN, on the one hand, and, on the other, those points in KY on west of Interstate Hwy 75, (3) from

the facilities used by W. R. Grace & Co., at or near Albany, IN, to points in TN, and those points in KY on and west of Interstate Hwy 75, and (4) from Nashville, TN, to those points in KY on and west of Interstate Hwy 75. (Hearing site: Nashville, TN.)

MC 119441 (Sub-44F), filed August 21, 1978. Applicant: BAKER HI-WAY EXPRESS, INC., P.O. Box 506, 555 Commercial Parkway, Dover, OH 44622. Representative: E. H. van Deusen, 220 West Bridge Street, P.O. Box 97, Dublin, OH 43017. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay* (except in bulk), from points in Graves and Calloway Counties, KY and Henry and Weakley Counties, TN, to points in OH and PA. (Hearing site: Louisville, KY.)

MC 119099 (Sub-23F), filed September 20, 1978. Applicant: BJORKLUND TRUCKING, INC., First Avenue NE. and 8th Street, Buffalo, MN 55313. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Chicago, Joliet, and Sterling, IL, to the facilities of Williams Steel and Hardware Co., at Minneapolis, MN, restricted to the transportation of traffic destined to the named destination. (Hearing site: Minneapolis, MN.)

MC 119656 (Sub-44F), filed August 7, 1978. Applicant: NORTH EXPRESS, INC., 219 Main Street, Winamac, IN 46996. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, over irregular routes, transporting: *Iron and steel articles*, between points in IL, IN, IA, KY, MI, OH, TN, and WI. (Hearing site: Detroit, MI, or Washington, DC.)

MC 119656 (Sub-46F), filed August 8, 1978. Applicant: NORTH EXPRESS, INC., 219 Main Street, Winamac, IN 46996. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building materials and asbestos fiber cement pipe*, from the facilities of Johns-Manville Sales Corp., at Waukegan, IL, to points in IN, KY, MI, NY, OH, and PA, and (2) *insulation board*, from the facilities of Johns-Manville Sales Corp., at Rockdale, IL, to points in IN, KY, MI, NY, OH, and PA. (Hearing site: Chicago, IL.)

MC 119974 (Sub-76F), filed August 7, 1978. Applicant: L.C.L. TRANSIT CO. a corporation, 949 Advance Street, Green Bay, WI 54304. Representative: L. F. Abel, P.O. Box 949, Green Bay, WI 54305. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* from the facilities of Miller Brewing Co., at Milwaukee, WI, to points in IL, IN, IA, MI, MN, MO, and OH. (Hearing site: Chicago, IL or Washington, DC.)

MC 121168 (Sub-8F), filed September 21, 1978. Applicant: BOOTH TRANSFER, INC., 4684 Leavenworth, P.O. Box 6076, Omaha, NE 68106. Representative: M. M. McMahon, (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meet by-products, and articles distributed by meat-packing houses*, as described in sections A and C of appendix I to the report in *descriptions in Motor Carrier Certificates*, 61, MCC 209 and 766 (except hides, and commodities in bulk, in tank vehicles), from the facilities of Palamera Beef Corp., at or near Omaha, NE, to points in CO, IL, IN, IA, KS, MN, MO, ND, SD, and WI. (Hearing site: Omaha, NE.)

MC 123285 (Sub-9F), filed September 5, 1978. Applicant: CLETEX TRUCKING, INC., P.O. Box 812, Cleburne, TX 76031. Representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in bulk, from Batesville, AR, to points in TX and OK. (Hearing site: Dallas, TX or Washington, DC.)

MC 123407 (Sub-488F), filed August 28, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Door hardware and window hardware*, from Rice Lake, WI, to points in GA and NC. (Hearing site: St. Paul, MN.)

MC 123407 (Sub-489F), filed August 28, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board* from Albuquerque, NM, to points in AL, AR, AZ, CA, CO, GA, IL, IN, KS, LA, MI, MO, MS, OH, PA, TN, TX, and WI. (Hearing site: Albuquerque, NM.)

MC 123407 (Sub-491F), filed August 28, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). . To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Asbestos, cement, and pipe* (except commodities in bulk), and (2) *accessories, materials, and supplies* used in the installation of the commodities in (1) above (except commodities in bulk), from Hillsboro, TX, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 123407 (Sub-495F), filed August 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy. 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). . To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, wood products, and millwork*, from points in MT, to points in the United States (except AK and HI). (Hearing site: Billings, MT or Portland, OR.)

MC 124078 (Sub-874F), filed September 18, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, (1) from Atlanta, GA, to points in CT, LA, MD, MA, MS, NY, PA, TX, and VA, and (2) from points in LA and TX, to Atlanta, GA. (Hearing site: Atlanta, GA.)

MC 124078 (Sub-875F), filed September 18, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Hagerstown, MD, to points in DE, NJ, NC, PA, VA, WV, and DC. (Hearing site: Nashville, TN.)

MC 124078 (Sub-876F), filed September 18, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, from Northampton, PA, to Milwaukee, WI. (Hearing site: Pittsburgh, PA.)

MC 124078 (Sub-877F), filed September 20, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry sodium silicate, dry barium carbonate, and dry strontium carbonate*, in bulk, in tank vehicles, from Cartersville, GA, to

points in OH. (Hearing site: Atlanta, GA.)

MC 124078 (Sub-878F), filed September 21, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of Land O'Lakes Agricultural Services Division, at or near Mason City, IA, to points in MN, NE, ND, SD, and WI. (Hearing site: Des Moines, IA.)

MC 124078 (Sub-879F), filed September 22, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toxaphene*, in bulk, in tank vehicles, from Brunswick, GA, to points in KS, MO, NE, and TN. (Hearing site: Atlanta, GA.)

MC 124078 (Sub-880F), filed September 25, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (*1*) *Dry corn products*, from Danville, IL, to points in the United States (except AL, AK, FL, GA, HI, IN, KY, MI, MN, MO, NE, OH, TN, and WI), and (2) *dry soybean products*, from Danville, IL, to points in the United States (except AK, HI, IN, MI, OH, and WI). (Hearing site: Chicago, IL.)

MC 124078 (Sub-881F), filed September 26, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Demopolis, AL, to points in TX and OK. (Hearing site: Birmingham, AL.)

MC 124078 (Sub-882F), filed September 26, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, (1) from points in Barrow County GA, to points in AL, LA, MS, NJ, NC, OH, PA, SC, TN, and TX, and (2) from points in LA, NJ and TX, to points in Barrow County, GA. (Hearing site: Atlanta, GA.)

MC 124078 (Sub-883F), filed September 29, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils*, in bulk, in tank vehicles, from Hartsville, SC, to points in AL, FL, MD, NJ, NY, OH, PA, TN, VA, WV, and DC. (Hearing site: Columbia, SC.)

MC 124160 (Sub-22F), filed September 13, 1978. Applicant: SAVAGE BROTHERS, INC., 585 South 500 East, American Fork, UT 84003. Representative: Lon Rodney Kump, 333 East 4th South, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ammonium nitrate and dry fertilizer*, from points in UT, to points in AZ, CO, NM, and WY. (Hearing site: Salt Lake City, UT, or Denver, CO.)

MC 124393 (Sub-2F), filed August 29, 1978. Applicant: FRANK POTTER TRUCKING CO., INC., P.O. Box 132, Boonville, MO 65233. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wax*, in tank vehicles, from Kalamazoo, MI, to Boonville, MO, under continuing contract(s) with Huebert Fiberboard, Inc., of Boonville, MO. (Hearing site: Jefferson City or Kansas City, MO.)

MC 125777 (Sub-228F), filed August 22, 1978. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, IN 46403. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime, limestone, and lime products*, in dump vehicles, from Maysville, KY, to points in IL, IN, MI, OH, PA, and WV. (Hearing site: Pittsburgh, PA).

MC 126118 (Sub-98F), filed September 26, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same adress as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages* (except commodities in bulk), from Evansville and Lawrenceburg, IN, Carthage, OH, Peoria, IL, Detroit, MI, and points in KY, to points in CA and NV. (Hearing site: San Francisco, CA, or Las Vegas, NV.)

NOTE.—Dual operations are at issue in this proceeding.

MC 126542 (Sub-8F), filed August 7, 1978. Applicant: B. R. WILLIAMS TRUCKING, INC., P.O. Box 3310, Oxford, AL 36201. Representative: John W. Cooper, Suite 200, Woodward Building, 1927 1st Avenue North, Birmingham AL 35203. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clay*, in containers, from the facilities of Donoho Clay Co., at Anniston, AL, to points in NY, PA, KY, MD, OH, IN, IL, MI, WI, IA, MO, TX, and WV, and (2) *materials, equipment*, and *supplies* used in the manufacture and packaging of clay, from points in the destination states in (1) above, to the facilities of Donoho Clay Co., at Anniston, AL, under continuing contract(s) with Donoho Clay Co., of Anniston, AL. (Hearing site: Birmingham, AL.)

MC 127187 (Sub-41F), filed August 22, 1978. Applicant: FLOYD DUENOW, INC., 1728 Industrial Park Boulevard, Fergus Falls, MN 56537. Representative: James B. Hovland, P.O. Box 1680, 414 Gate City Building, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone, limestone products, and dicalcium phosphate*, from Weeping Water, NE, to points in AZ, KS, LA, MO, NM, OK, TN, TX, and UT. (Hearing site: Minneapolis, MN.)

MC 127284 (Sub-4F), filed July 28, 1978. Applicant: DOMINION-CONSOLIDATED TRUCK LINES LTD., 775 The Queensway, Toronto, Ontario, Canada M8Z 1N2. Representative: William J. Hirsch, Attorney at Law, Suite 1125, 43 Court Street, Buffalo, NY 14202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Port Huron, MI, and the ports of entry on the international boundary line between the United States and Canada on the Detroit River, and (2) between Detroit, MI, and the ports of entry on the international boundary line between the United States and Canada on the St. Clair River restricted in (1) and (2) to the transportation of traffic originating at or destined to points in the Provinces of Quebec and Ontario, Canada. (Hearing site: Buffalo, NY.)

NOTE.—The restriction contained in the grant of authority in this proceeding is phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1978. The Commission is presently considering

whether the policy statement should be modified, and is in communication with appropriate officials of Canada regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no further force or effect.

MC 128235 (Sub-21F), filed September 5, 1978. Applicant: AL JOHNSON TRUCKING, INC., 1516 Marshall NE., Minneapolis, MN 55413. Representative: Earl Hacking, 1700 New Brighton Boulevard, Minneapolis, MN 55413. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, (1) from Omaha, NE, to Lakeville and Minneapolis, MN, (2) from La Crosse, WI, to Lakeville, MN, (3) from Fort Wayne, IN, to Minneapolis, MN, and (4) from Peoria, IL, to Moose Lake, MN. (Hearing site: Minneapolis or St. Paul, MN.)

MC 128273 (Sub-316F), filed August 29, 1978. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are used or distributed by building materials supply houses (except commodities in bulk, in tank vehicles, and commodities which because of size or weight require the use of special equipment), between Kansas City, MO, on the one hand, and, on the other, points in the United States (except AK, HI, and MO), restricted to the transportation of traffic originating at or destined to the facilities of Zea Chemical & Research, at Kansas City, MO. (Hearing site: Kansas City, MO, or Washington, DC.)

MC 129994 (Sub—31F), filed August 15, 1978. Applicant: RAY BETHERS TRUCKING, INC., 176 West Central Avenue, Murray, UT 84107. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard*, and *materials and supplies* used in the manufacture, distribution, installation of gypsum wallboard, from points in Clark County, NV, points in UT and CA. (Hearing site: Los Angeles, CA, or Las Vegas, NV.)

MC 133119 (Sub-142F), filed September 26, 1978. Applicant: HEYL TRUCK LINES, INC., P.O. Box 206, Akron, IA 51001. Representative: A. J. Swanson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, dairy products, and articles distributed by meat-packing houses*, as described in sections A, B, and C of appendix I to the report in description in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of John Morrell & Co., at (a) Siouz Falls, SD and (b) Estherville and Sioux City, IA, to points in OK, LA, and TX, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Chicago, IL, or Sioux Falls, SD.)

MC 133566 (Sub-116F), filed July 17, 1978. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative: Charles W. Beinhauer, Suite 4959, 1 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, in vehicles equipped with mechanical refrigeration, from the facilities used by Van Munching & Co., at (a) New York, NY, and (b) Newark, Elizabeth, and Secaucus, NJ, to points in CO, IA, IL, IN, KY, KS, MI, MN, MO, NE, OH, TN, and WI, restricted to the transportation of traffic moving in foreign commerce having an immediately prior movement by water and destined to the indicated destinations. (Hearing site: New York, NY, or Newark, NJ.)

MC 133566 (Sub—120F), filed August 8, 1978. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative: Charles W. Beinhauer, Suite 4959, 1 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery*, in vehicles equipped with mechanical refrigeration, from the facilities of Schrafft Candy Co., (a) at Boston, MA, and (b) in Middlesex, Norfolk, Essex, and Suffolk Counties, MA, to points in AR, CO, IA, IN, KS, LA, NE, OK, TN, and TX, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Boston, MA, or New York, NY.)

MC 133689 (Sub-230F), filed September 27, 1978. Applicant: OVERLAND EXPRESS, INC., 719 1 Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pet foods and foodstuffs* (except commodities in bulk), and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between those points in the United States in and east of ND, SD, NE, KS, MO, AR, and LA. (Hearing site: St. Paul, MN.)

MC 133689 (Sub-231F), filed September 27, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *commom carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, and (2) *articles distributed by meat packinghouses*, as described in section C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of or used by Shenson Meat Co., Coast Packing Co., Inc., and Geo. A. Hormel & Co., at Omaha, NE, to points in GA, NC, SC, and TN, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: St. Paul, MN.)

MC 134323 (Sub-105F), filed August 29, 1978. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, from the facilities of Magazine Shippers Association, Inc., at or near Bridgeport, CT, to points in AR, AL, MS, GA, FL, NC, and SC, under continuing contract(s) with Magazine Shippers Association, of Bridgeport, CT. (Hearing site: Bridgeport, CT, or Amarillo, TX.)

MC 134477 (Sub-261F), filed July 21, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1): *Foodstuffs*, and (2) *Materials, equipment, and supplies* used in the manufacture, sale, and distribution of foodstuffs, between the facilities of Miami Margarine Co., at or near Albert Lea, MN, on the one hand, and, on the other, points in AL, AR, CO, CT, DE, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and DC. (Hearing site: St. Paul, MN.)

MC 134477 (Sub-268F), filed August 28, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages, cocktail mixes, and bitters* (except malt beverages and commodities in bulk), from Minneapolis, MN,

to Denver, CO. (Hearing site: St. Paul, MN.)

MC 134477 (Sub-269F), filed August 28, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bone meal fertilizer* (except in bulk), from Reading, PA, to St. Paul, MN. (Hearing site: St. Paul, MN.)

MC 135213 (Sub-14F), filed August 30, 1978. Applicant: JOE GOOD d.b.a. GOOD TRANSPORTATION, P.O. Box 335, Lovell, WY 82431. Representative: John T. Wirth, 2310 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite and betonite products*, in containers from Greybull, WY, to points in AZ, CA, CO, ID, MT, NV, MN, OK, OR, TX, UT, and WA, under continuing contract(s) with Dresser Industries, Inc., of Houston, TX. (Hearing site: Houston, TX, or Denver, CO.)

MC 135469 (Sub-8F), filed September 21, 1978. Applicant: HAWKEYE TRANSPORT CO., a corporation, P.O. Box 126, Stanwood, IA 52337. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of Land O'Lakes Agricultural Services Division, at or near Mason City, IA, to points in MN, NE, ND, SD, and WI. (Hearing site: Des Moines, IA.)

MC 136315 (Sub-38F), filed September 5, 1978. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardwood flooring*, (1) from the facilities of Bruce Hardwood Floors, at or near Center, TX, to points in AL, AR, GA, LA, MS, and TN, and (2) from the facilities of Bruce Hardwood Floors, at or near Jackson and Nashville, TN, to Center, TX. (Hearing site: Jackson, MS, or Dallas, TX.)

Note.—Dual operations are involved in this proceeding.

MC 136343 (Sub-151F), filed August 16, 1978. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, and *equipment, materials and supplies* used in the manufacture and sale of printed matter (except commodities in bulk), between the facilities of Independent News Co., at (a) Bethany, Bloomfield, Bristol, and North Haven, CT, (b) Springfield and Lowell, MN, (c) New York, Albany, and Buffalo, NY, (d) Philadelphia, PA, (e) Atlanta, GA, and (f) on the one hand, and, on the other, points in CA, CT, DE, FL, GA, IN, IL, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, OR, PA, RI, SC, TX, VT, VA, WA, WV, and DC. (Hearing site: New York, NY, or Washington, DC.)

MC 136464 (Sub-40F), filed August 4, 1978. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sewing aids and display rocks* from Los Angeles and San Francisco, CA, to points in CT, and (2) (a) from New York, NY, to points in NJ, and (b) from New York, NY, and points in NJ, to points in MN, MI, OH, MO, and WI, under continuing contract(s) with Talon Division of Textron, Inc., of Meadville, PA. (Hearing site: Washington, DC.)

Note.—Dual operatons are involved in this proceding.

MC 136511 (Sub-25F), filed August 16, 1978. Applicant: VIRGINIA APPALACHIAN LUMBER CORP., 9640 Timberlake Road, Lynchburg, VA 24502. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts*, from those points in TN in and east of Campbell, Anderson, Knox, and Blount Counties, to points in CA, OR, WA, ID, NV, AZ, MT, WY, UT, CO, NM, TX, OK, and LA. Condition: We have taken official notice of the decision in MC 136511 (Sub-7), et al., served July 13, 1978, in which applicant was found to be unfit. Accordingly, before an appropriate fitness finding can be made, applicant must submit written evidence in the form of verified statements demonstrating that it is fit, willing, and able properly to perform the service granted in this proceeding and to conform to the requirements of the Interstate Commerce Act and Commission's regulations. (Hearing site: Knoxvile, TN.)

MC 136605 (Sub-70F), filed September 1, 1978. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *plastic pipe, asbestos cement pipe, and pipe fittings*, and (2) *accessories* used in the installation of the commodities in (1) above, from the facilities of Johns Manville Sales Corp., at or (a) near McNary, OR, and (b) Stockton, CA, to points in MT, ID, UT, and WA. (Hearing site: San Francisco, CA, or Portland, OR.)

MC 138104 (Sub-5F), filed August 14, 1978. Applicant: MOORE TRANSPORTATION CO., INC., 3509 North Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing granules*, in bulk, in dump vehicles, from the facilities of 3-M Co., at or near Little Rock, AR, to Dallas and Ennis, TX. (Hearing site: Forth Worth or Dallas, TX.)

MC 138308 (Sub-56F), filed September 26, 1978. Applicant: KLM, INC., a Texas corporation, Old Hwy 49 South, P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by discount and variety stores (except foodstuffs and commodities in bulk), from points in the United States (except AK and HI), to the facilities of Gibson Distributors, Inc., at Dallas and Seagoville, TX, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of health and beauty aids (except commodities in bulk), from points in the United States (except AK and HI), to the facilities of Gibson Distributors, Inc., at Seagoville, TX, restricted in (1) and (2) above to the transportation of traffic destined to the named destination facilities. (Hearing site: Jackson, MS, or Dallas, TX.)

MC 138635 (Sub-16F), filed August 28, 1978. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wood slat products, shades, draperies, dividers, and doors*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, from Westminster, CA, to Portland, OR. (Hearing site: Los Angeles, CA.)

Note.—Dual operations are involved in this proceeding.

MC 138741 (Sub-51F), filed August 18, 1978. Applicant: AMERICAN CEN-

TRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle over irregular routes transporting: *Lumber and lumber products*, between St. Joseph, MO, on the one hand, and on the other, points in AL, AR, CO, GA, IA, IL, KS, KY, LA, MI, MS, MO, NE, OH, OK, TN, TX, WI, and IN. (Hearing site: Kansas City, MO.)

MC 138741 (Sub-52F), filed August 21, 1978. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle over irregular routes transporting: *Lumber and lumber products*, from the facilities of Weyerhaeuser Co., at or near West Memphis, AR, to points in AL, GA, IA, IL, IN, KS, KY, LA, MS, MI, MO, NE, NY, OH, OK, TN, TX, and WI. (Hearing site: Chicago, IL.)

MC 138741 (Sub-53F), filed August 18, 1978. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle over irregular routes transporting: *Roofing and roofing materials* (except commodities in bulk, in tank vehicles), from Tuscaloosa, AL, to points in AR, GA, IN, KY, MO, MS, TX, TN, and OH. (Hearing site: Montgomery or Birmingham, AL.)

MC 138882 (Sub-130F), filed August 4, 1978. Applicant: WILEY SANDERS, INC., P.O. Drawer 707, Troy, AL 36801. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle over irregular routes transporting: *Bottles, toilet floats, and plastic articles*, from the facilities of Trio Products, Inc., at or near Thomasville, GA, to points in FL, TX, TN, LA, SC, NC, MO, KY, IL, IN, NJ, MI, OH, CA, CO, MS, and AL. (Hearing site: Montgomery, AL, or Atlanta, GA.)

MC 138882 (Sub-132F), filed August 8, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle over irregular routes transporting: (1) *Malt beverages*, from the facilities of Pabst Brewing Co., at Pabst, GA, to points in MD, NJ, VA, DE, and PA, and (2) *materials, equipment, and supplies* used in the manufacture and sale of malt beverages, from points in MD, NJ, VA, DE, and PA, to the facilities of Pabst Brewing Co., at Pabst, GA. (Hearing site: Atlanta, GA, or Birmingham, AL.)

MC 139246 (Sub-5F), filed August 1, 1978. Applicant: LEON JONES FEED & GRAIN, INC., Route 3, Cumming, GA 30130. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fish by-products, fish scrap, fish meal, and fish solubles*, from Beauford, Morehead City, and South Port, NC, to points in AL, GA, and TN. (Hearing site: Atlanta, GA.)

MC 139923 (Sub-48F), filed August 30, 1978. Applicant: MILLER TRUCKING CO. INC., P.O. Box Drawer "D", Stroud, OK 74079. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Zinc oxide and zinc dust* (except commodities in bulk), from the facilities of St. Joe Zinc Co., at or near Josephtown, PA, to points in CA and TX, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: St. Louis, MO, or Chicago, IL.)

NOTE.—Dual operations are involved in this proceeding.

MC 141197 (Sub-27F), filed August 28, 1978. Applicant: FLEMING-BABCOCK, INC., 4106 Mattox Road, Riverside, MO 64151. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, from Kansas City, MO, to points in IA, KS, MO, NE, and OK. (Hearing site: Kansas City, MO.)

MC 141197 (Sub-28F), filed August 25, 1978. Applicant: FLEMING-BABCOCK, INC., 4106 Mattox Road, Riverside, MO 64151. Representative: Tom K. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in tank vehicles, from Muncie, KS, to points in MO. (Hearing site: Kansas City, MO.)

MC 141500 (Sub-8F), filed September 13, 1978. Applicant: SUPERIOR TRUCKING CO., INC., P.O. Box 35, Kewaskum, WI 53040. Representative: Richard C. Alexander, Suite 412 Empire Building, 710 North Plankington Avenue, Milwaukee, WI 53203. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Coal and briquettes*, from Green Bay and Sheboygan, WI, to those points in IL on and north of IL Hwy 17; and (2) *petroleum coke*, from Joliet and South Chicago, IL, to Green Bay, WI, under continuing contract(s) with The C. Reiss Coal Co., of Sheboygan, WI. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 141758 (Sub-2F), filed September 15, 1978. Applicant: LYDALL EXPRESS, INC., 615 Parker Street, Manchester, CT 06040. Representative: Gerald A. Joseloff, 80 State Street, Hartford, CT 06103. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from the facilities of Lydall Eastern, Inc., at or near Covington, TN, to points in MO; and (2) *materials, equipment, and supplies* used in the manufacture of paper and paper products, from points in MO, to the facilities of Lydall Eastern, Inc., at or near Covington, TN, under continuing contract(s) with Lydall Eastern, Inc., of Manchester, CT. (Hearing site: Hartford, CT, or Washington, DC.)

MC 141759 (Sub-8F), filed September 19, 1978. Applicant: OHIO PACIFIC EXPRESS, 2385 South High Street, Columbus, OH 43207. Representative: Thomas F. Kilroy, Suite 406 Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by manufacturers of glass and glass products (except commodities in bulk), between the facilities of Anchor Hocking Corp., at or near (a) Lancaster, OH, (b) Connellsville, Monaca, and Youngwood, PA, and (c) Chester, WV, on the one hand, and, on the other, points in AR, LA, OK, and TX, under continuing contract(s) with Anchor Hocking Corp., of Lancaster, OH. (Hearing site: Columbus, OH.)

MC 141774 (Sub-15F), filed August 7, 1978. Applicant: R & L TRUCKING CO., INC., 105 Rocket Avenue, Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carbonated beverages*, (except alcoholic beverages), from Birmingham, AL, to MS, AR, and TN, and (2) *aluminum cans* and *steel cans*, from Tampa, FL, to Birmingham, AL. (Hearing site: Birmingham, AL, or Atlanta, GA.)

NOTE.—Dual operations are involved in this proceeding.

MC 141804 (Sub-120F), filed July 31, 1978. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., a NU corporation, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in the

manufacture of health products, beauty products, and personal care products, (a) from Hayward, CA, and Norman, OK, to Atlanta, GA, Dallas, TX, Lyndhurst, NJ, and Chicago, IL, (b) between Hayward, CA, and Norman, OK, and (c) from points in the United States (except AK and HI) to the facilities of Shaklee Corp. at or near (a) Hayward, CA and (b) Norman, OK, restricted (1) in (a) and (b) above to the transportation of traffic originating at or destined to the facilities of the Shaklee Corp., at or near the named points and (2) in (c) above to the transportation of traffic destined to the named destination facilities.

MC 141804 (Sub-127), filed August 14, 1978. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., a NU corporation, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Theatre chairs*, from Nashville, TN, to those points in the United States in and east of WI, IL, KY, TN, and MS. (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-128F), filed August 14, 1978. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., a NU corporation, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bicycles and bicycle parts*, from Azusa, Torrance, and City of Industry, CA, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Los Angeles or San Francisco, CA.)

MC 142157 (Sub-2F), filed June 27, 1978, previously noticed in the FEDERAL REGISTER issue of August 31, 1978. Applicant: LOBIANCO TRUCKING CO., INC., Crone Road, Rural Delivery 5, York, PA 17402. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heating and cooling equipment* which by reason of size or weight require the use of special equipment, from York, PA, to points in the United States (except AK, CT, DE, HI, MD, NJ, NY, OH, PA, DC, those points in VA on, north, and east of a line beginning at Virginia Beach, VA, and extending along U.S. Hwy 60 to its junction with U.S. Hwy 11, then along U.S. Hwy 11 to the VA-WV State line, and those in WV on and north of U.S. Hwy 50); and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above (except commodities in bulk), from the destination points named in (1) above, to York, PA. (Hearing site: Harrisburg, PA, or Washington, DC.)

NOTE.—This republication shows the commodity description in part (1) above.

MC 142559 (Sub-52F), filed September 15, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic articles* (except commodities in bulk), and (2) *materials and supplies* used in the manufacture and distribution of *plastic compounds* (except commodities in bulk), between points in the United States (except AK and HI). (Hearing site: Columbus, OH, or Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 142672 (Sub-26F), filed August 7, 1978. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric lamps, lighting fixtures, Christmas tree lamp outfits, electric cord sets, dry cell batteries, and portable battery chargers*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, from Bellevue, Bucyrus, Circleville, Cleveland, Ravenna, Warren, and Youngstown, OH, and Lexington, KY, to points in LA, OK, and TX. (Hearing site: Cleveland, OH, or Little Rock, AR.)

NOTE.—Dual operations are involved in this proceeding.

MC 143775 (Sub-16F), filed September 5, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (1) from Mayville, WI, and Hoopeston and Princeville, IL, to points in ND, SD, NE, KS, MN, IA, MO, IL, WI, MI, IN, OH, KY, AL, GA, SC, NC, VA, WV, PA, MD, DE, NJ, NY, MA, RI, CT, NH, VT, ME, and DC, and (2) from New Belledeau and St. Francisville, LA, and Turkey, NC, to points in the United States (except AK and HI). (Hearing site: Phoenix, AZ.)

NOTE.—Dual operations are involved in this proceeding.

MC 143820 (Sub-3F), August 31, 1978. Applicant: COSMO BALIO, 131 East Broad Street, Frankfort, NY 13440. Representative: Roy D. Pinsky, 345 South Warren Street, Syracuse, NY 13202. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel plates, steel sheets, and steel coils*, from Gerard, Youngstown, Warren, Steubenville, and Cleveland, OH, New Castle, DE, Detroit, MI, and Norman, OK, to the facilities of Bossert Manufacturing Corp., at Utica, NY; and (2) *steel stampings*, from the facilities of Bossert Manufacturing Corp., at Utica, NY, to Ashatabula, Newark, Kenton, and Marysville, OH, Winchester, KY, New Castle, DE, Detroit, MI, New Castle, PA, and Norman, OK, under continuing contract(s) with Bossert Manufacturing Corp., Utica, NY. (Hearing site: Syracuse or Utica, NY.)

NOTE.—The person or persons who appear to be engaged in common control of applicant and any other regulated carrier must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 144228 (Sub-5F), September 14, 1978. Applicant: BAGLE TRANSPORT LINES, INC., 9632 Palo Pinto Road, Fort Worth, TX 76116. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from points in Collin, Eastland, and Tarrant Counties, TX, to points in the United States (except TX, AK, and HI), and (2) *Materials, equipment, and supplies* used in the manufacture of iron and steel articles, from points in the United States (except TX, AK, and HI), to points in Collin, Eastland, and Tarrant Counties, TX, under continuing contract(s) in (1) and (2) above with EBAA Iron, Inc., of Eastland, TX. (Hearing site: Fort Worth, or Dallas, TX.)

NOTE.—(1) The person or persons who it appears may be engaged in common control of applicant and any other regulated carrier must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary. (2) Dual operations may be involved.

MC 144484 (Sub-1F), July 31, 1978. Applicant: FREIGHTWAYS, INC., 412 East Second Street, Eldon, MO 65026. Representative: Darrell Webery (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by manufacturers or distributors of heat transfer, refrigeration, or air-conditioning units, (2) *parts and attach-*

*ments* for the commodities in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between the facilities of Sundstrand Corp., at Camdenton, MO, on the one hand, and, on the other, points in TX, OK, KS, AR, MI, IN, TN, AL, OH, NE, ND, SD, WI, IL, MS, and GA. (Hearing site: Eldon or Jefferson City, MO.)

MC 144496 (Sub-1F), August 4, 1978. Applicant: ECKS TRUCKING, INC., 1081 Pleasant Street, Norwood, MA 02062. Representative: James F. Martin, Jr., 8 West Morse Road, Bellingham, MA 02019. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Beverages*, and (2) *materials and supplies* used in the manufacture and distribution of beverages, between Walpole, MA, on the one hand, and, on the other, points in CT, ME, NH, NJ, NY, PA, RI, and VT, under continuing contract(s) with Charles V. Zarba, Inc., d.b.a. Walpole Bottling Co., of Walpole, MA. (Hearing site: Boston, MA.)

MC 144547 (Sub-2F), filed August 22, 1978. Applicant: DURA-VENT TRANSPORT CORP., 2525 El Camino Real, Redwood City, CA 94064. Representative: Barry Roberts, 888 17th Street NW., Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wood stoves and coal stoves*, from Boston, MA, to Urbana, OH, Chicago, IL, Great Bend, KS, Petoskey, MI, Portage, WI, Memphis, TN, Fort Smith, AR, Portland, OR, Seattle, WA, and San Jose, CA, under continuing contract(s) with Southport Stoves, Inc., of Stratford, CT, (2) *masonry fireplace units, cast iron stoves, cast iron stove parts, and accessories, steel, and building materials*, from Detroit, MI, and Loudon, TN, to Salt Lake City, UT, Phoenix, AZ, Denver, CO, Albuquerque, NM, and Las Vegas, NV, under continuing contract(s) with Building Products Manufacturing Co., division of "Hutch" Manufacturing Co., of Detroit, MI, (3) *farm machinery, cast iron stoves, and steel stoves*, from Richmond, IN, to points in the United States (except AK and HI), under continuing contract(s) with Dunham Lehr, Inc., of Richmond, IN, and (4) *cast iron stoves and steel stoves*, from Richmond, IN, to points in the United States (except AK and HI), under continuing contract(s) with All Nighter Stove Works West, Inc., of Richmond, IN. (Hearing site: San Francisco, CA, or Washington, DC)

MC 144894 (Sub-1F), filed August 17, 1978. Applicant: BRANTLEY & FISHER TRANSPORT, INC., Rural Delivery No. 2, Box 401H, Absecon, NJ 08201. Representative: James H. Sweeney, P.O. Box 684, Woodbury, NJ 08096. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic bottles*, from Nashua, NH, to points in CA, IL, IN, IA, MN, ND, MO, TX, FL, and GA, under continuing contract(s) with the Bemis Co., Inc., of Nashua, NH. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 145106 (Sub-1F), filed August 8, 1978. Applicant: EDINA CARTAGE CO., a corporation, 1000 Taylor Avenue, Flat River, MO 63601. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Needles, syringes, and blood collection tubes*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), from the facilities of Sherwood Medical Industries, division of Brunswick Corp., at or near Norfolk, NE, to points in the United States (except AK and HI), under continuing contracts(s) with Sherwood Medical Industries, division of Brunswick Corp., of Norfolk, NE. (Hearing site: Washington, DC.)

MC 145116F, filed July 27, 1978. Applicant: EASTERN SUPPLY COMPANY, INC., a Delaware corporation, Route 9, Freehold, NJ 07728. Representative: Robert J. Gaughran, 64 East Main Street, Freehold, NJ 07728. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Garden and farm equipment materials, and supplies*, and (2) *agricultural commodities* otherwise exempt from economic regulation pursuant to section 203(b)(6) of the Interstate Commerce Act, when transported in mixed loads with the commodities in (1) above, between points in Monmouth County, NJ, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Brock Farms, Inc., of Freehold, NJ. (Hearing site: Newark, NJ. or New York, NY.)

MC 145144F, filed August 7, 1978. Applicant: WALL TRUCKING, INC., 22 School Street, Shrewsbury, MA 01545. Representative: John F. O'Donnell, 60 Adams Street, Milton, MA 02187. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Waste neutralized acid sludge and waste metal sludge*, except in tank vehicles, from Worcester, MA, to Waterbury, CT, and Lewiston, NY, under continuing contract(s) with Wyman-Gordon Co., of Worcester, MA. (Hearing site: Boston, MA.)

NOTE.—Applicant has filed a motion to dismiss on the grounds that the commodities are waste items, have no known use, that there is no market for these commodities, and that accordingly the commodities are not properly under the part II of the Interstate Commerce Act. This motion will be considered following the publication period.

MC 145149 (Sub-3F), filed September 26, 1978. Applicant: MATADOR SERVICE, INC., P.O. Box 2256, Wichita, KS 67201. Representative: Clyde N. Christey, Kansas Credit Union Building, Suite 110L, 1010 Tyler, Topeka, KS 66612. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Anhydrous ammonia and nitrogen fertilizer solutions*, from the facilities of Farmland Industries, Inc., near Dodge City, KS, to points in CO, NE, OK, NM, and TX; (2) *anhydrous ammonia*, from the facilities of Farmland Industries, Inc., (a) near Farnsworth, TX, to points in CO, KS, NM, and OK, (b) near Enid, OK, to points in AR, CO, KS, MO, and TX, (c) near Barnesville and Benson, MN, to points in ND, SD, MT, and WI, and (d) near Hoag, NE, to points in IA, KS, and MO, and (3) *anydrous ammonia*, from the Mapco Pipeline Terminal facilities near Conway and Clay Center, KS, to points in MO and NE. (Hearing site: Kansas City, MO.)

MC 145202F, filed August 11, 1978. Applicant: K-LINES, LTD., 3125 South 11th Street, Council Bluffs, IA 51501. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts*, and *articles* distributed by meat-packing houses, as described in sections A and C of appendix I to the report in descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), (1) from the facilities of American Beef Packers, Inc., in Pottawattamie County, IA, to points in FL and GA, under continuing contract(s) with American Beef Packers, Inc., of Oakland, IA, and (2) from the facilities of Coast Packing Co., of Omaha, Inc., at Omaha, NE, to points in AL, FL, GA, KY, LA, MS, NC, SC, and TN, under continuing contract(s) with Coast Packing Co., of Omaha, Inc., of Omaha, NE. (Hearing site: Omaha, NE.)

MC 145227 (Sub-1F), filed August 21, 1978. Applicant: ROGERS TRANSPORTATION CO., INC., 1316 South Blount Street, Raleigh, NC 27611. Representative: David H. Permar, P.O. Box 527, Raleigh, NC 27602. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from points in NC, to points in Horry,

Dillon, Marlboro, and Spartanburg Counties, SC, under continuing contract(s) with Rogers Oil Co., of Raleigh, NC. (Hearing site: Raleigh, NC.)

MC 145394F, filed August 7, 1978. Applicant: A & B FREIGHT LINE, INC., 2800 Falund Street, Rockford, IL 61109. Representative: Robert M. Kaske, 2800 Falund Street, Rockford, IL 61109. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lawn equipment and parts for lawn equipment*, from Genoa, IL, to points in IN, IA, MN, and WI, and (2) *materials and equipment* used in the manufacture of the commodities in (1) above, from points in IN, IA, MN, and WI, to Genoa, IL under continuing contract(s) in (1) and (2) above with Sycamore Manufacturing Co., of Genoa, IL. (Hearing site: Washington, DC, or Chicago, IL.)

NOTE.—Dual operations are involved in this proceeding.

MC 145409 (Sub-1F), filed September 25, 1978. Applicant: STA-GREEN TRANSPORTATION CO., INC., 321 North Anniston Avenue, Sylacauga, AL 35150. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer and fertilizer ingredients, seed, and pesticides*, from the facilities used by Parker Fertilizer Co., Inc., in Talladega County, AL, to points in the United States (except AK and HI), and (2) *equipment, materials and supplies* used in the manufacture and distribution of the commodities in (1) above, from points in the United States (except AK and HI), to the facilities used by Parker Fertilizer Co., Inc., in Talladega County, AL. (Hearing site: Birmingham, AL, or Washington, DC.)

MC 145429F, filed September 28, 1978. Applicant: MEL'S EXPRESS, LTD., P.O. Box 479, Bradford, Ontario, Canada LOG 1CO. Representative: J. G. Dail, Jr., P.O. Box 567, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Juices, beverages, and citrus products*, from the facilities of Tropicana Products, Inc., at or near Bradenton and Ft. Pierce, FL, to the ports of entry on the international boundary line between the United States and Canada and in NY and MI, restricted to the transportation of traffic destined to points in the Province of Ontario, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Tampa, FL.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect. (Hearing site: Tampa, FL.)

MC 145438F, filed September 17, 1978. Applicant: ABC TRUCK CO., a corporation, 2724 LaMotte, Marlette, MI 48453. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in and used by producers and distributors of alcoholic beverages (except commodities in bulk, in tank vehicles), between the facilities of Heublein, Inc., at or near Paducah, KY, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Heublein, Inc., of Hartford, CT. (Hearing site: Chicago, IL.)

MC 145439F, filed September 15, 1978. Applicant: DAVID STOCK, d.b.a. DAVID STOCK TRUCKING, Rural Route 1, Box 108, Newton, WI 53063. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Fredricksburg, IA, Chicago, IL, Green Bay, Hilbert, Livingston, Mayville, Merrill, Milwaukee, Monroe, and Sheboygan, WI, to the facilities of Crescent Food Co., at or near Los Angeles, CA, under continuing contract(s) with Crescent Food Co., of Los Angeles, CA. (Hearing sites: Milwaukee, WI, or Chicago, IL.)

MC 145459F, filed September 6, 1978. Applicant: SERVICE EQUIPMENT & TRUCKING, INC., P.O. Box 162, Mattoon, IL 61938. Representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, from Mattoon, IL, to Chicago, Decatur, and Villa Grove, IL, Indianapolis, IN, and St. Louis, MO. (Hearing site: Chicago, IL.)

MC 2908 (Sub-25F), filed September 14, 1978. Applicant: CAPITAL MOTOR LINES, a corporation, 520 North Court Street, P.O. Box 1427, Montgomery, AL 36102. Representative Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, transporting: (1) Over regular routes, *passengers and their baggage, and express and newspapers*, in the same vehicle with passengers, between junction U.S. Hwy 80 and AL Hwy 28, near Coatopa, AL, and junction U.S. Hwy 80 and U.S. Hwy 11, near Cuba, AL: over U.S. Hwy 80, serving all intermediate points; and (2) over irregular routes, *passengers and their baggage*, in one-way and round-trip charter operations, between points in Sumter County, AL, on the one hand, and, on the other, points in the United States (including AK, but excluding HI). (Hearing site: Meridian, MS, or Selma, AL.)

NOTE.—The person or persons who it appears may be engaged in common control between applicant and another regulated carrier must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 125156 (Sub-2F), filed August 4, 1978. Applicant: DAWSON'S CHARTER SERVICE, INC., Box 144, Sandy Spring, MD 20860. Representative: Donald J. Balsley, Jr., 1747 Pennsylvania Avenue NW., Suite 1050, Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in round-trip special and charter operations, beginning and ending at points in Anne Arundel, Howard, Montgomery, and Prince Georges Counties, MD, and extending to points in DE, FL, GA, MD, NC, NJ, NY, PA, SC, TN, VA, WV, and DC. (Hearing site: Washington, DC.)

MC 130507F, filed June 26, 1978. Applicant: A. MARGARET PARROTT, d.b.a. PARROTT'S TOURS, 2191 Black River Street, Deckerville, MI 48427. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. To engage in operations, in interstate or foreign commerce, as a *broker* at Deckerville, MI, in arranging for the transportation of: *Passengers and their baggage*, in the same vehicle with passengers, in round-trip special and charter operations, beginning and ending at points in St. Clair, Sanilac, Huron, Tuscola, Lapeer, Genesee, Saginaw, and Bay Counties, MI, and extending to points in the United States (including AK, but excluding HI.) (Hearing site: Lansing or Detroit, MI.)

NOTE.—Applicant is cautioned that arrangements for charter parties or groups

should be made in conformity with the requirements set forth in Tauck Tours, Inc., Extension—New York, NY, 54 MCC 291 (1952).

MC 130525F, filed September 6, 1978. Applicant: BLUE GRASS AUTOMOBILE CLUB, 155 Walnut Street, Lexington, KY 40501. Representative: Michael G. Paige (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Lexington, KY, in arranging for the transportation by motor vehicle, of: *Passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, between points in the United States (including AK, but excluding HI). (Hearing site: Lexington, NY.)

NOTE.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in Tauck Tours, Inc., Extension—New York, NY, 54 MCC 291 (1952).

[FR Doc. 78-30616 Filed 10-30-78; 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. 552(e)(3).

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[6740-02-M]

1

OCTOBER 26, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

DATE AND TIME: Monday, October 30, 1978, at 2 p.m. and Tuesday, October 31, 1978, at 9:30 a.m. (if necessary).

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will meet in special session to consider United Gas Pipe Line Co., Docket No. RP 71-29 (Phase II).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

[S-2189-78 Filed 10-27-78; 10:37 am]

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[6740-02-M]

2

OCTOBER 26, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

DATE AND TIME: Wednesday, November 1, 1978, at 2 p.m., and as necessary, Thursday, November 2, 1978, and Friday, November 3, 1978.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will meet in special session to begin consideration of implementing regulations under the Natural Gas Policy Act of 1978. These meetings will be for discussion only.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

[S-2190-78 Filed 10-27-78; 10:37 am]

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[6730-01-M]

3

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 49886, October 25, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., October 31, 1978.

CHANGES IN THE MEETING:

Addition of the following item to open session:

8. Agreements Nos. T-3453, T-3453-A, T-3565, T-3565-A, T-3567, and T-3567-A: Agreements regarding marine terminal facilities at San Juan, P.R. and Docket No. 76-41: Berthing of Seatrain vessels in San Juan, P.R.—Consideration or petition for stay.

Additon of the following item to closed session:

1. Docket No. 71-29: *Baton Rouge Marine Contractors, Inc.* v. *Cargill, Inc.*—Discussion of the record.

[S-2196-78 Filed 10-27-78; 3:54 pm]

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[6735-01-M]

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

OCTOBER 27, 1978.

TIME AND DATE: 10 a.m., November 3, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C. 20006.

STATUS: This meeting will be open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following proceedings:

1. Peggs Run Coal Co. Inc., Docket No. IBMA 77-38.
2. Republic Steel Corp., Docket No. IBMA 77-39.

The following items will be considered by the Commission and carried over to the next regularly scheduled meetings:

3. Proposed Rules of Procedure.
4. Proposed Rules implementing the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION:

Philip Paschall, 202-653-5610.

[S-2195-78 Filed 10-27-78; 3:48 pm]

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[6210-01-M]

5

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Monday, November 6, 1978.

PLACE: 20th Street and Constitution Avenue N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed salary structure adjustments at Federal Reserve Banks.
2. Proposed salary structures for officers of the Federal Reserve System.
3. Information on pricing of Federal Reserve services to be submitted to the Congress for consideration in connection with pending legislation dealing with fair competition among financial institutions and soundness of the commercial banking system.
4. Proposed purchases, under competitive bidding, of computer equipment within the Federal Reserve System.
5. Personnel actions (appointments, promotions, assignments, reassignments, and salary action) involving individual Federal Reserve System employees.
6. 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 27, 1978.

GRIFFITH L. GARWOOD,
*Deputy Secretary of the Board.*

[S-2194-78 Filed 10-27-78; 2:48 am]

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[7590-01-M]

6

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Wednesday, November 1 and Thursday, November 2, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

WEDNESDAY, NOVEMBER 1; 9:30 A.M.

1. Discussion of review of staff motion to withdraw its petition for review of ALAB-399 and review of ALAB-487, Consolidated Edison of New York, and related matters (approximate 1 hour, closed-exemption 10).
2. Discussion of classification of sensitive safeguards information (approximate 1 hour, closed-exemption 1).

WEDNESDAY, NOVEMBER 1; 2:30 P.M.

1. Briefing by DOE on feasibility of a nuclear siting policy based on the expansion of existing sites (approximate 1 hour, public meeting).
2. Briefing on proposed staff response to the J. Honicker petition for emergency and remedial action (approximate 1 hour, public meeting).
3. Affirmation of staff paper on burial of small quantities of radionuclides: Publication for public comment (approximate 10 minutes, public meeting).

THURSDAY, NOVEMBER 2; 9:30 A.M.

1. Joint meeting of NRC and ACRS:
a. Introduce new members.
b. Proposed participation of ACRS consultants in AS&LB hearings.
c. Proposed use of CRAC code for comparison of alternate sites.
d. Review of bases for combination of dynamic loads in nuclear facilities.
e. NRC Staff response to ACRS recommendations.
f. Nuclear powerplant reliability data system—Proposed mandatory requirement.
g. Proposed rule on licensing requirements for the storage of spent fuel in an independent spent fuel storage installation (approximate 1 hour, public meeting).
2. Briefing on discussions with HEW on the health effects of low-level radiation study (approximate ½ hour, public meeting).
3. Briefing on memorandum of understanding with EPA (approximate ½ hour public meeting).

THURSDAY, NOVEMBER 2; 1:30 P.M.

1. Commission review of supergrade audit report (approximate 1 hour, public meeting).
2. Briefing by DOE on status of INFCE (approximate 1 hour, closed-exemption 1).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
*Office of the Secretary.*

OCTOBER 25, 1978.

[S-2191-78 Filed 10-27-78; 10:37 am]

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[8010-01-M]

7

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published October 27, 1978.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, October 31, 1978.

The meeting previously scheduled for Tuesday, October 31, 1978, at 10 a.m., has been rescheduled for Monday October 30, 1978, at 3 p.m.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402(a) (8), (9)(i), and (10).

Chairman Williams and Commissioners Evans, Loomis, and Pollack determined that Commission business required the above change and that no earlier notice thereof was possible.

OCTOBER 26, 1978.

[S-2192-78 Filed 10-27-78; 10:37 am]

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[7910-01-M]

8

RENEGOTIATION BOARD.

DATE AND TIME: Thursday, November 2, 1978; 2 p.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: IBM Corp., fiscal years ended December 31, 1969 and 1970.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: October 26, 1978.

GOODWIN CHASE,
*Chairman.*

[S-2193-78 Filed 10-27-78; 10:37 am]

Federal Register

TUESDAY, OCTOBER 31, 1978
PART II




# INTERNATIONAL TRADE COMMISSION

# INTERSTATE COMMERCE COMMISSION

■

## PRIVACY ACT OF 1974

Systems of Records; Annual Publication

[7020-02-M]

# INTERNATIONAL TRADE COMMISSION

## PRIVACY ACT ISSUANCES

### Notice of Incorporation by Reference

AGENCY: United States International Trade Commission.

ACTION: Incorporation by reference of Privacy Act issuances.

SUMMARY: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation" and to publish in full the systems that this agency has amended since publication of the 1977 Compilation.

DATES: This document fulfills the annual notice requirements of the Privacy Act for 1978.

FOR FURTHER INFORMATION CONTACT: Mary Martin, Esq. (523-0359)

#### APPROVAL OF THE DIRECTOR

The notices of systems of records of this agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on October 4, 1978. Published below is the full text of systems of records that this agency has amended since publication of the 1977 Compilation.

**System name:** Employment and Financial Disclosure Records—U.S.I.T.C.

**System location:** Deputy Conselor for Employee Responsibilities and Conduct (Assistant to the General Counsel), Office of the General Counsel, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436.

**Categories of individuals covered by the system:** 1. GS Employees: All current employees of the U.S.I.T.C. at grade 13 and above, or at a comparable pay level under other authority, and U.S.I.T.C. employees below GS-13, or at a comparable pay level under other authority, who are (1) responsible for making a decision or taking an action in regard to Commission contracting or procurement, (2) responsible for conducting investigative and research activities where the decision to be made or action to be taken could have an impact on any non-Federal enterprise, or (3) responsible for exercising the authority of any supervisory employee in the absence of such employee. Certain Commission employees within this class may not be required to file confidential statements of employment and financial disclosure if a determination is made pursuant to 19 CFR 200.735-114a that (1) the duties of the position are such that the likelihood of the incumbent's involvement in a conflict-of-interest situation is remote, or (2) that the duties of a position are at such a level of responsibility that the submission of a statement of employment and financial interests is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect on the integrity of the Government. In addition, U.S.I.T.C. employees not required to file confidential statements of employment and financial interests, but who wish to voluntarily file such statements, are included.

2. Special Employees: All special employees of the U.S.I.T.C. file a Confidential Statement of Employment and Financial Interests for Special Government employees. "Special Government Employee" is defined at 18 U.S.C. 202 and includes, but is not limited to, experts, consultants and advisors hired for temporary duties either on a full-time or intermittent basis.

**Categories of records in the system:** 1. GS Employees: This system of records consists of a confidential statement of employment and financial interests. Employees of the U.S.I.T.C. required to file this statement must list the names of all corporations, companies, firms, or other business enterprises, partnerships, non-profit organizations, and educational or other institutions: (a) with which the employee is connected as an employee, officer, owner, director, member, trustee, partner, advisor, or consultant; or (b) in which the employee has any continuing financial interests, through a pension or retirement plan, shared income, or other arrangement as a result of any current or prior employment or business or professional association; or (c) in which the employee has any financial interest through the ownership of stock, stock options, bonds, securities, or other arrangements including trusts.

An employee of the U.S.I.T.C. required to file this statement must also list the names of his creditors other than those to whom he may be indebted by reason of a mortage on property which he occupies as a personal residence or to whom he may be indebted for current and ordinary household and living expenses such as household furnishings, automobiles, education, vacation and similar expenses.

Further, the U.S.I.T.C. employee required to file such a statement must list his interest in real property or rights in lands, other than property which he occupies as a personal residence. If any of the above information is to be supplied by other persons, e.g., trustee, attorney, accountant, relative, the employee must also list the names and addresses of such persons, the date upon which the employee requested that the information be supplied, and the nature of the subject matter involved.

2. Special Employees: This system of records consists of a confidential statement of employment and financial interests for special employees. The special employee must disclose all other federal agencies and other organizational segments of the U.S.I.T.C. in which he is presently employed. He must also name all corporations, companies, firms, State and local Governmental organizations, research organizations, and educational or other institutions in which he is serving as employee, officer, member, owner, trustee, director, expert, adviser, or consultant, with or without compensation.

The Special Employee must also disclose his financial interests by listing the names of all copporations, companies, firms, or other business enterprises, partnerships, non-profit organizations, and educational or other institutions in which he has any financial interest in any amount through the ownership of stock, stock options, bonds, securities, or other arrangements including trusts.

**Authority for maintenance of the system:** 1. The Confidential Statement of Employment and Financial Interests for GS-employees is required by section 402 of Executive Order 11222, dated May 8, 1965, prescribing standards of ethical conduct for Government officers and employees.

The confidential statement of employment and financial interest for special Government employees is required by section 306 of Executive Order 11222.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** These records and information in these records may be used:

a. By the Deputy Counselor for Employee Responsibilities and Conduct to determine whether or not an employee has a direct or indirect financial interest which conflicts substantially, or appears to conflict substantially, with his U.S.I.T.C. duties or responsibilities.

b. By the Deputy Counselor to determine whether a U.S.I.T.C. employee has engaged in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through U.S.I.T.C. employment.

c. For review by the Deputy Counselor. The Deputy Counselor is responsible for maintaining these records in confidence and may not disclose information from these records to other persons or agencies except as the Civil Service Commission or the Chairman of the U.S.I.T.C. may determine for good cause shown.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** These records are maintained in folders.

**Retrievability:** These records are indexed by the names of the individuals on whom they are maintained.

**Safeguards:** These records are kept in a locked filing cabinet in the office of the Deputy Counselor for Employee Responsibilities and Conduct (Assistant General Counsel), who is normally the only official with authorized access to them. However, the Statements of Employment and Financial Interest of the Deputy General Counsel (Assistant General Counsel) and of his immediate superior (the General Counsel) are submitted directly to the Counselor for Employee Responsibilities and Conduct (one of the U.S.I.T.C. commissioners).

**Retention and disposal:** These records are maintained by the Deputy Counselor while the employee is at the U.S.I.T.C. and for 5 years after the employee has left the U.S.I.T.C. Thereupon these records are destroyed.

**System manager(s) and address:** Deputy Counselor for Employee Responsibilities and Conduct (Assistant General Counsel), Office of the General Counsel, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436.

**Notification procedure:** Director, Personnel Division (same address as above).

**Record access procedures:** Director, Personnel Division (same address as above).

**Contesting record procedures:** Director Personnel Division (same address as above).

**Record source categories:** Information in this system is supplied by the individuals to whom the records pertain.

## AVAILABILITY OF 1977 COMPILATION

"Privacy Act Issuances—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country and may be examined at the central headquarters and all field offices of this agency. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

### Location of Notices in 1977 Compilation

Notices of this agency's systems of records appear in Volume I of the 1977 Compilation at page 48175 (42 FR 48175, September 22, 1977). The price of this Volume is six dollars and fifty cents.

Issued: October 16, 1978.

Kenneth R. Mason,
*Secretary.*

[FR Doc. 78-29984 Filed 10-30-78; 8:45 am]

[7035-01-M]

# INTERSTATE COMMERCE COMMISSION

## PRIVACY ACT OF 1974

### Systems of Records

Pursuant to 5 U.S.C. 552a(e)(4) as added by Sec 3 of the Privacy Act of 1974, the Interstate Commerce Commission hereby publishes the Systems of Records as currently maintained by this agency. The Systems of Records identified in the notice published in the Federal Register at 42 FR 55434 continue in effect and except for their renumbering are republished in their entirety without change.

John P. Kratzke,
Privacy Officer.

**Renumbering**

| Previous System Identification | New System Identification |
|---|---|
| ICC—I | 32-20-001 |
| ICC—II | 32-20-002 |
| ICC—III | 32-20-003 |
| ICC—IV | 32-20-004 |
| ICC—V | 32-20-005 |
| ICC—VI | 32-20-006 |
| ICC—VII | 32-20-007 |
| ICC—VIII | 32-20-008 |
| ICC—IX | 32-20-009 |
| ICC—X | 32-20-0010 |
| ICC—XI | 32-20-0011 |
| ICC—XII | 32-20-0012 |

**32-20-001**

**System name:** Operating personnel files (Nonpermanent records), ICC.

**System location:** ICC Headquarters Bureaus and Offices, Washington, D.C., and Regional Detached Offices (49 CFR 1001).

**Categories of individuals covered by the system:** ICC employees.

**Categories of records in the system:** Working papers and documents developed during the course of an individual's employment which are not permanently retained. These will include the Standard Form 7B (OF 4B), Employee Record Card, and nonofficial records generally limited to information on experience, education, training, special qualifications and skills, position descriptions, performance appraisals and conduct. The Regional Managers' files may contain duplicate copies of official documents (SF 171, SF 50, etc.).

**Authority for maintenance of the system:** Federal Personnel Manual Supplement 293-31.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** For the use of operating officials as a source of data to initiate requests for personnel actions, to plan and schedule employee training, to counsel employees on their performance, to establish a basis for proposing commendations or disciplinary actions, and to carry out their personnel management responsibilities in general. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in individual file folders.

**Retrievability:** Indexed by name.

**Safeguards:** Kept in locked file cabinets under direct control of responsible official.

**Retention and disposal:** Retained until employee leaves the agency through transfer or other separation and then forward to the Personnel Office where it is screened to insure that it contains no documents that should be permanently filed in the Official Personnel Folder, and then is destroyed.

**System manager(s) and address:**

Administrative Officer (Assistant), ICC
Headquarters Bureaus and Officers, Washington, D.C.
Regional Managers and Officer-in-charge—Detached Offices

**Notification procedure:** Same as above.

**Record access procedures:** Same as above.

**Contesting record procedures:** Same as above.

**Record source categories:** Employees and their supervisors.

**Systems exempted from certain provisions of the act:** None.

**32-20-002**

**System name:** National Defense Executive Reserve files, ICC.

**System location:** Recruitment and assignment files Bureau of Operations, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, D.C. 20423. Appointment files Personnel Office, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, D.C. 20423.

**Categories of individuals covered by the system:** Letters and/or memorandums addressed to members of the Commission's National Defense Executive Reserve or to staff involving recruitment of reservists.

**Categories of records in the system:** Letters, Memorandum or NDER Forms 1, 2, and 3, or Form BOp D11 concerning reservists' assignments or responsibilities in connection with the National Defense Executive Reserve program, letters of appointment and statement of understanding.

**Authority for maintenance of the system:** EO 11179 and EO 11490.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Maintaining management control system of the Commission's membership and staff responsibilities in connection therewith and of individuals selected to participate in the National Defense Executive Reserve program. The information in this system of records will be exchanged as a matter of routine use with the Federal Preparedness Agency, General Services Administration, in connection with both agencies' responsibilities for administering the National Defense Executive Reserve and Emergency Preparedness programs, assigned by Executive Orders Nos. 11179, dated September 22, 1964, and 11490, dated October 30, 1969. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulations, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** File folders and card file, 3 inch x 5 inch cards, basic control of quarterly computer printouts, membership listing of National Defense Executive Reserves, listing names, addresses and employment information about each reservist.

**Retrievability:** Files maintained by individual name.

**Safeguards:** Kept in locked file cabinets under control of responsible official.

**Retention and disposal:** Permanent for card file; correspondence and rosters, etc., three-year active file and then destroyed.

**System manager(s) and address:**

Recruitment and assignment files
Bureau of Operations
Assistant to the Director
Interstate Commerce Commission
12th and Constitution Avenue, NW.,
Washington, D.C. 20423

Appointment files
Director of Personnel
Interstate Commerce Commission
12th and Constitution Avenue, NW.,
Washington, D.C. 20423

**Notification procedure:** Same as above.

**Record access procedures:** Same as above.

**Contesting record procedures:** Same as above.

**Record source categories:** Employee.

**Systems exempted from certain provisions of the act:** None.

32-20-003

**System name:** Unit Medical Records, ICC.

**System location:** Occupational Health Unit, ICC 12th and Constitution Avenue, NW., Washington, D.C. 20423.

**Categories of individuals covered by the system:** ICC employees.

**Categories of records in the system:** Contains employee's Name, date of birth, address, telephone number, Bureau or Office where employed, name of person to contact in case of emergency, name of employee's personal physician. Nurse's Notes visits and treatment in the Health Unit, records pertaining to blood donations and individual records of physical examinations, laboratory test results, x-rays and other individual health records with pertinent medical opinions.

**Authority for maintenance of the system:** Federal Personnel Manual Supplement 792-1.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Maintained expressly for the well-being of employees in relation to work assignments. For use of Director of Personnel in providing counseling services to employees and agency officials. In the event that a system of records maintained by this agency to carry its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. The information contained in the system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in indivual file folders.

**Retrievability:** Indexed by name.

**Safeguards:** Kept in locked file, with access only by the Occupational Health Nurse and/or Physician.

**Retention and disposal:** Retained unitl one year after the employee leaves the agency, and then destroyed. Upon separation, will be given to employee at his request or to his personal physician, if so desired.

**System manager(s) and address:**

Occupational Health Nurse
Room 1414
Interstate Commerce Commission
12th and Constitution Avenue, NW.,
Washington, D.C 20423

**Notification procedure:** Same as above.

**Record access procedures:** Same as above.

**Contesting record procedures:** Same as above.

**Record source categories:** Employee.

**Systems exempted from certain provisions of the act:** None.

32-20-004

**System name:** Automated Personnel and Payroll System, ICC.

**System location:** Section of Systems Development, ICC, 12th and Constitution Avenue, NW., Washington, D.C. 20423.

**Categories of individuals covered by the system:** ICC employees.

**Categories of records in the system:** Contains the name, social security number, employee number, date of birth, employment status, leave status, pay status, tax status, insurance status, saving bond and charity deductions, time and attendance data, and the organization of each ICC employee.

**Authority for maintenance of the system:** 49 U.S.C. 12.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** File is used for the: Transfer of information to the Internal Revenue Service for wage, levy and tax requirements—transfer of information to the Treasury Department for completion of payroll processing—transfer of information to the American Federation of Government Employees, Graphic Arts International Union, and the Professional Association of the ICC for the processing of union dues—transfer of information to state and city revenue offices for tax unemployment processing—transfer of information to the Civil Service Commission for personnel requirements—employee separation and retirement processing—employee time attendance accounting—employee salary payment and deduction control—employee bond, charity and health benefits processing—employee leave control—employee parking assignment control—employee telephone directory—employee personnel action processing and control—Commission budget planning, monitoring and control—creation of internal management reports, summaries and work files which are located throughout the agency.

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute of particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcement implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance as set forth in legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained on magnetic tape.

**Retrievability:** Indexed by social security number.

**Safeguards:** Stored in secure computer facility under the supervision of the tape librarian.

**Retention and disposal:** Fifty-two week retention for files. A five-year retention period for year-end files. At the end of each of these periods, files are destroyed.

**System manager(s) and address:**

Chief Section of Systems Development
Room B-411
Interstate Commerce Commission
12th and Constitution Avenue, NW.,
Washington, D.C.

**Notification procedure:** Same as above.

**Record access procedures:** Same as above.

**Contesting record procedures:** Same as above.

**Record source categories:** Employee.

**Systems exempted from certain provisions of the act:** None.

32-20-005

**System name:** Case Status System (Formal Case Control), ICC.

**System location:** Section of System Development, ICC 12th and Constitution Avenue, NW., Washington, D.C. 20423.

**Categories of individuals covered by the system:** Adminstrative Law Judges and Attorney-Advisers who have been assigned to work on cases before the Commission—parties of record and parties to be advised of all proceedings.

**Categories of records in the system:** Contains the various processing stages that case passes through as it is reviewed by the Commission—contains Administrative Law Judge and Attorney-Adviser names who are responsible for various processing stages of the case—contains the names of parties of record and parties to be advised of all proceedings—contain hearing locations, when applicable—contains carrier identity.

**Authority for maintenance of the system:** Commission directive.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Provides identification of all pending cases before the Commission—identifies older cases to expedite processing—identifies cases with normal time allowances—provides an area being processed within inventory of pending cases by stage of processing—identifies the responsible Administrative Law Judge or Attorney-Adviser and organizational unit responsible for various stages of case processing—identifies parties of record and parties to be advised of all proceedings for a given case—used to produce management reports located throughout the agency. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained on magnetic tape and computer disk files.

**Retrievability:** Indexed by case and carrier identity and Administrative Law Judge or Attorney-Adviser name.

**Safeguards:** Stored in secure computer facility. Data base access is under the supervision of a data base administrator.

**Retention and disposal:** Records are maintained on each case until it has been decided. The record is then transferred to an inactive history file for permanent retention.

**System manager(s) and address:**

Chief, Section of System Development
Room B-411
Interstate Commerce Commission
12th and Constitution Avenue, NW.,
Washington, D.C. 20423

**Notification procedure:** Same as above.

**Record access procedures:** Same as above.

**Contesting record procedures:** Same as above.

**Record source categories:** Carrier(s) involved, and commission staff.

**Systems exempted from certain provisions of the act:** None.

32-20-006

**System name:** Correspondence and Management Control, ICC.

**System location:** ICC Headquarters Bureaus and Offices Washington, D.C., and Regional Detached Offices (49 CFR 1001).

**Categories of individuals covered by the system:** Names of assignments with a control slip, including due dates for either individuals or sections within various organizational elements of the Commission covering letters, memoranda, or other inquiries for which responsibility to reply exists, normal business production transactions, time frames, on special projects, and all aspects of overall correspondence and workload control, as well as individual signed records for government property accountability.

**Categories of records in the system:** The overall Commission performance monitoring system incoporates a series of subsystems which identity the various measurements of productivity which are implicit in the operation of the Commission. Maintenacne of records on the performance and the production of Branches, Sections, Offices and individual employees is necessary to enable the Commission effectively manage its work load. These records include the names of individuals assigned to specific activities, the dates of assignments, dates products received, name of signer for correspondence which is going out, and general evaluation criteria of the individual performance of the element being monitored.

**Authority for maintenance of the system:** 49 U.S.C. 12, 18

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Control of the production of the total employee force of the interstate Commerce Commission and assurance that productivity is achieved by the employees assigned individual organizational elements. Additionally, to mainatin a suspense on specific actions being levied upon an individual to assure that the response is timely, as well as qualitative. Used for control of government property assuring individual accountability.

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular NO. A-19 at any stage of the legislative coordination and clearance process as set forth in the Circular.

Disclosure may be made to a congressional office from the record of an individual in respose to an inquiry from the congressional office made at the request of that individual.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Both card, suspense special forms, and computer-related assignment records, are maintained to control the overall system. Maintained in sequence by the organizational element and/or the individual assigned to a special task, as well as cross-referenced by the number of the task involved.

**Safeguards:** Maintained at supervisory levels on an informal basis with access prohibited outside of the Commission.

**Retention and disposal:** One-year active operation and subsequently destroyed.

**System manager(s) and address:**

Managing Director
Interstate Commerce Commission
Room 2118
12th and Constitution Avenue, NW.,
Washington, D.C. 20423

**Notification procedure:** Same as above.

**Record access procedures:** Same as above.

**Contesting record procedures:** Same as above.

**Record source categories:** Employee.

**Systems exempted from certain provisions of the act:** None.

32-20-007

**System name:** Consumer Complaint System, ICC.

**System location:** Public Information and Consumer Affairs Office, ICC, 12th and Constitution Avenue, NW., Washington, D.C. 20423. Headquarters, ICC Bureau and Offices, and Regional Detached Offices (49 CFR 1001).

**Categories of individuals covered by the system:** Letters received from consumers and/or shippers regarding the operation of the ICC or carriers subject to its regulations.

**Categories of records in the system:** These records include letters on virtually every subject. They are concentrated in three areas: complaints from individual consumers on household goods shipments, complaints from travelers on rail passenger facilities, and complaints from passengers on motor passenger facilities. Additionally, information on general subjects of the operation of the Interstate Commerce Commission and, specifically, shipper complaints against carrier practices and/or tariffs are included in overall complaint files. Files generally are accessed by name of individual complaining or subject of the complaint or name of the carrier against which the complaint is tendered. Notice is given that when complaints generate an investigative file portions of this overall file are extracted and exempted under the provisions and notice provided in the publication of ICC VIII, Preliminary Investigative Files, and ICC IX, Inforcement Files.

**Authority for maintenance of the system:** 49 U.S.C. 12, 18.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To respond to complaints from individuals, to correlate information received from individuals to assure policies are developed supporting the overall public interest in the regulatory process, to provide information to carriers relative to shortcomings they are experiencing, and take informal compliance action, as well as to transfer the files to formal investigative or enforcement action, when justified. This is a public file available for public review under the terms of the Freedom of Information Act. Individuals submitting special complaint correspondence to the Commission, unless identifying their desire to remain anonymous, will not be protected from disclosure of the information contained within the complaint letter. In the event that a system of records maintained by this agency to carry its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in ths system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** In conventional file cabinets, alphabetically, by sender, and potentially by subject of complaint, dispersed for filing to office have primary operational use.

**Retrievability:** Maintained in alphabetical order, by complainant, with potential cross-index for identification of entity against which the complaint has been made, and further cross-reference by subject of complaint.

**Safeguards:** Minimal, since the files are public in nature.

**Retention and disposal:** Maintained for approximately two years and then destroyed.

**System manager(s) and address:**

Public Information Officer, ICC

12th and Constitution Avenue, NW., Washington, D.C. 20423

**Notification procedure:** Same as above.

**Record access procedures:** Same as above.

**Contesting record procedures:** Same as above.

**Record source categories:** Consumers and/or shippers.

**Systems exempted from certain provisions of the act:** None

32-20-008

**System name:** Preliminary Investigative Files, ICC.

**System location:** Bureau of Operations, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, D.C. 20423, and Regional Detached Offices (49 CFR 1001).

**Categories of individuals covered by the system:** Suspected violators of the Interstate Commerce Act or ICC orders or regulations.

**Categories of records in the system:** These files contain information indicating or alleging that an individual or entity could be in violations of the Interstate Commerce Act. Such records could be arrest records from the various states received pursuant to Public Law 89-170, which allows cooperative agreements between the states and this Commission in the provision of information. For example, these files could contain warning letters involving alleged violations, miscellaneous correspondence, newspaper clippings, records of contacts with entities or individuals by Commission personnel, copies of preliminary investigation reports, and prior enforcement actions taken by the Interstate Commerce Commission or the courts because of violations of the Interstate Commerce Act.

**Authority for maintenance of the system:** 49 U.S.C. 12

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Used employees of the Interstate Commerce Commission to administer the Act, increase compliance with orders, regulations and statutes for the regulation of surface transportation, and initiate appropriate enforcement action.

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an a individual in response to an inquiry from the congressional office made at the request of that individual.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in individual file folders.

**Retrievability:** Indexed by name of entity of individual.

**Safeguards:** Kept in locked file cabinets under direct control of responsible official.

**Retention and disposal:** Maintained for a minimum of five years and then destroyed.

**System manager(s) and address:**

Washington, D.C.:
Director, Bureau of Operations
Room 7115
Interstate Commerce Commission
12th and Constitution Ave. NW.,
Washington, D.C. 20423
Regional Detached Offices:
Regional Managers (49 CFR 1001)
Field Offices:
Officers in Charge (49 USC 1001)

**Notification procedure:** Same as above.

**Record access procedures:** Same as above.

**Contesting record procedures:** Same as above.

**Record source categories:** Author of letters.

**Systems exempted from certain provisions of the act:** Under the provisions of Section (j)(2), this file is exempted from any part of Section 5 U.S.C. 552(a), except Subsections (b), (c) (1), and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i). This material is collected in the process of investigating all potential violations of the Interstate Commerce Act, whether civil or criminal, and is exempted for the reasons expressed in 5 U.S.C. 552(b)(7). Under the provisions of Section (k)(2), this file is exempted from Subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). This material is collected in the process of investigating all potential violations of the Interstate Commerce Act, whether civil or criminal, and is exempted for the reasons expressed in 5 U.S.C. 552(b)(7).

32-20-009

**System name:** Investigative and Enforcement Records, cross-indexed, ICC.

**System location:** Bureau of Enforcement (cross-indexed and central file) Interstate Commerce Commission, 12th and Constitution

Avenue, NW., Washington, D.C. 20423, and ICC Regional Offices (investigative files with assigned geographical jurisdiction).

**Categories of individuals covered by the system:** Individual, corporation, partnership or sole proprietorship, subject to enforcement actions being taken by the Interstate Commerce Commission as a result of preliminary investigations.

**Categories of records in the system:** The central cross-index contains the name and address of individual, partnership, corporation, or sole proprietorship, and includes a cross-reference to the enforcement file containing the investigative reports, as well as other information gathered as part of the criminal prosecution and/or civil forfeiture action. The basic cross-reference file does not contain significant information other than the name and address of the entity involved, but the cross-reference to the investigative file, which is maintained by case number, does provide access based upon individual name. Individual investigative and enforcement files are maintained by Enforcement file number, both at Headquarters and Regions.

**Authority for maintenance of the system:** 49 U.S.C 12.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Used to monitor and control the progress of enforcement actions, both within the Commission for civil forfeitures and in relationship with the Department of Justice on those actions that are going through the courts. The central cross index is the only practical method for access to the appropriate file based upon any individual identifier. Actual file information is used for prosecution of civil and criminal actions. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant, records in the system of records may be referred as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, or regulation or order issued pursuant thereto. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained on folding 5 inch by 8 inch index cards.

**Retrievability:** Indexed by individual, partnership, corporation, or sole proprietorship (index). Actual files retrieved by enforcement file number.

**Safeguards:** Stored in a special room of the Bureau of Enforcement with Commission employees present during all duty hours (index).

**Retention and disposal:** Cards are maintained in the active cross-reference and indexing file while the file is open and transferred to the closed card section after the file is concluded.

**System manager(s) and address:**

Assistant Director
Bureau of Enforcement
Interstate Commerce Commission
12th and Constitution Avenue, NW.,
Washington, D.C. 20423

**Notification procedure:** Same as above.

**Record access procedures:** Same as above.

**Contesting record procedures:** Same as above.

**Record source categories:** Preliminary investigative files (ICC VIII).

**Systems exempted from certain provisions of the act:** Under the provisions of Section (j)(2), this file is exempted from any part of Section 5 U.S.C. 552(a) except Subsections (b), (c) (l) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10) and (11), and (i). This material is collected in the process of investigating all potential violations of the Interstate Commerce Act, whether civil or criminal, and is exempted for the reasons expressed in 5 U.S.C. 552(b)(7). Under the provisions of Section (k)(2) this file is exempted from Subsections (c)(3), (d), (e)(4)(G), (l) and (f). This material is collected in the process of investigating all potential violations of the Interstate Commerce Act, whether civil or criminal, and is exempted for the reasons expressed in 5 U.S.C. 552(b)(7).

**32-20-010**

**System name:** ICC employee parking permit applications for carpools, ICC.

**System location:** Section of Administrative Services, ICC, 12th and Constitution Avenue, NW., Washington, D.C. 20423.

**Categories of individuals covered by the system:** All individuals applying for, or assigned, parking facilities.

**Categories of records in the system:** ICC Form MD-21, Revised March 1975, Interstate Commerce Commission, Application for Parking Space, Contents: Carpool member names, home address, office telephone number, bureau or office, service computation date, vehicle license number, distance between residence and ICC and the name of the employer.

**Authority for maintenance of the system:** FDMR Temporary Regulations D-47, May 22, 1974.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Use is to maintain control of assigned parking spaces. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order is issued pursuant thereto. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained on 5 inch by 8 inch cards.

**Retrievability:** Indexed by location of parking space, number of carpool members and order of parking permit number.

**Safeguards:** Secured in locked metal, lateral file cabinet under the supervision of the space and services unit.

**Retention and disposal:** Cards are maintained for a three-year period and then discarded.

**System manager(s) and address:**

Chief, Building Services, Space Management Branch
Room 1315
Interstate Commerce Commission
12th and Constitution Avenue, NW.,
Washington, D.C. 20423

**Notification procedure:** Same as above.

**Record access procedures:** Same as above.

**Contesting record procedures:** Same as above.

**Record source categories:** Individuals seeking parking facilities.

**Systems exempted from certain provisions of the act:** None.

**32-20-011**

**System name:** ICC Indentification System File.

**System location:** Interstate Commerce Commission, Section of Administrative Services, 12th and Constitution Avenue, NW., Washington, D.C. 20423.

**Categories of individuals covered by the system:** A. All ICC Headquarters employees.

B. All nongovernment employees requiring access to office space occupied in the ICC Headquarters Building in Washington, D.C.

C. All ICC employees issued investigative credentials.

**Categories of records in the system:** A. name, date of birth, social security number.

B. Name, organization (firm), social security number.

C. Name, title, Bureau or Office, credential number.

**Authority for maintenance of the system:** 49 CFR 1000.5.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Control of ICC Identification System. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regualtion, rule or order issued pursuant thereto, to relevant records in the system of records may be referred, as a routine use, to the appropriate agency whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. The information contained is this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** A. 8 inch by 10 inch log book. B. 5 inch by 8 inch sheets. C. 5 inch by 8 inch sheet.

**Retrievability:** A. Indexed by date issued. B. Indexed by organization and date issued. C. Indexed by Bureau or Office and credential number.

**Safeguards:** All three segments of the identification system are stored in the Section of Administrative Services under the supervision of the Space and Services Unit.

**Retention and disposal:** Maintained two years after completion of log book, then destroyed. B. Maintained for two years after which cards are destroyed. C. Maintained until credential is returned and destroyed or marked retired upon separation of employee. Inactive records are stored two years and discarded.

**System manager(s) and address:**

Chief, Building Services, Space Management Branch
Section of Administrative Services
Interstate Commerce Commission
12th and Constitution Avenue, NW.,
Washington, D.C. 20423

**Notification procedure:** Same as above.

**Record access procedures:** Same as above.

**Contesting record procedures:** Same as above.

**Record source categories:** Employee.

**Systems exempted from certain provisions of the act:** None.

**32-20-012**

**System name:** Employee Travel Records, ICC.

**System location:** Budget and Fiscal Office, ICC, 12th and Constitution Avenue, NW., Washington, D.C. 20423.

**Categories of individuals covered by the system:** ICC employees.

**Categories of records in the system:** The record consists primarily of a series of standard and Commission forms and index file cards designed to record pertinent travel information. The information usually includes the employee's name, address, and organization, the mode, purpose, dates and places of travel, the method and amount of reimbursement and the amount of travel advance outstanding.

**Authority for maintenance of the system:** 49 U.S.C. 18.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** The records are available for any use by any person. The Commission uses these records to establish approval for travel on official business, the reimbursement of the employee for approved expenses, control of annual budget estimates, input to the Commission's internal accounting system and periodic and special reports required by agencies outside the Commission, and the compilation of information for internal management purposes. Portions of the file are made available to Commission management personnel for monitoring assigned functional and geographical areas of responsibility. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individulal.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in individual file folders.

**Retrievability:** Indexed by employee name.

**Safeguards:** Kept in locked file cabinet under supervision of Budget and Fiscal Officer.

**Retention and disposal:** Records are destroyed in accordance with GSA retention schedules.

**System manager(s) and address:**

Chief, Budget and Fiscal Office
Room 1330
Interstate Commerce Commission
12th and Constitution Avenue, NW.,
Washington, D.C. 20423.

**Notification procedure:** Same as above.

**Record access procedures:** Same as above.

**Contesting record procedures:** Same as above.

**Record source categories:** Employee.

**Systems exempted from certain provisions of the act:** None.

[FR Doc. 78-29985 Filed 10-31-78; 8:45 am]

Federal Register

TUESDAY, OCTOBER 31, 1978
PART III




# DEPARTMENT OF ENERGY

■

# IMPROVING GOVERNMENT REGULATIONS

## Semiannual Agenda

[3128-01-M]

## DEPARTMENT OF ENERGY

### IMPROVING GOVERNMENT REGULATIONS

#### Semiannual Agenda of Significant Regulations

AGENCY: Department of Energy.

ACTION: Notice of regulations under development or review.

SUMMARY: In accordance with Executive Order 12044, "Improving Government Regulations," the Department of Energy (DOE) is publishing the first semiannual agenda of DOE regulations that are under development or review as of October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Kristina Clark (Office of General Counsel), Department of Energy, Federal Building, 12th and Pennsylvania Avenue, NW., Room 5146, Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTARY INFORMATION: On March 23, 1978, the President promulgated Executive Order No. 12044, "Improving Government Regulations" (43 FR 12661, March 24, 1978). The Order set forth a number of measures which Federal agencies were to take in order to improve the process by which regulations administered by such agencies are developed and monitored. One of the objectives of the Order is to improve the degree of public participation in the regulatory development and review process, and to that end the Order requires, among other things, that each agency governed by the Order publish semiannually an agenda setting forth those of its significant regulations that are currently under development and/or review. The agenda is to describe such regulations, the need for and legal basis for the action being taken, and the status of regulations previously listed on the agenda. In addition, each item on the agenda is to include the name and telephone number of a knowledgeable agency official and, if possible, state whether a regulatory ananlysis is required. The agenda is also to include existing regulations scheduled to be reviewed for possible amendment.

Appended to this Notice is the first such regulatory agenda for the DOE. In an attempt to be as comprehensive as possible, the agenda is intended to include those DOE regulations, both significant and nonsignificant, that are under development or review as of October 13, 1978.

As a result of legislative action occurring after October 13, 1978, additional regulations may come under development or review. However, as of the time of preparation of this agenda the nature and scope of regulatory action required by this recent legislation has not been fully determined. Therefore, the agenda does not include regulations which may be developed pursuant to such legislation. DOE may publish a supplementary agenda containing this information in the near future.

The DOE is also currently developing a Departmental Order intended to implement generally the provisions of Executive Order No. 12044. That Departmental Order will, among other things, establish the procedures and criteria under which regulations will be reviewed and under which particular regulations will be determined to be significant or not significant. Although these procedures and criteria have not finally been established, the attached list of actions includes both significant and non-significant regulations that the offices within DOE having primary program responsibility have identified as being under development or review as of October 13, 1978.

Issued in Washington, D.C. on October 26, 1978.

JOHN F. O'LEARY,
*Deputy Secretary.*

CONSERVATION

1. *Program for state energy conservation plans.* DOE intends to propose changes in certain State energy conservation program measures including some technical amendments.

It has not been decided whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been published.

Authority: Energy Policy and Conservation Act, Title III, Part C, Pub. L. 94-163, as amended.

Contact: John Rivera, 202-566-7442.

2. *Weatherization assistance.* DOE has proposed amendments to existing Weatherization Assistance Regulations for the purpose of improving efficiency of program administration.

A regulatory analysis is not required.

Status: A Notice of Proposed Rulemaking has been issued.

Authority: Energy Conservation and Production Act, Title IV, Part A, Pub. L. 94-385.

Contact: Mary Bell, 202-566-3091.

3. *Industrial reporting.* DOE plans to propose several amendments to the industrial reporting program.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been published.

Authority: Energy Policy and Conservation Act, Title III, Part D, Pub. L. 94-163, as amended.

Contact: Douglas Harvey, 202-376-4648.

4. *Electric and hybrid vehicle loan guarantees.* DOE plans to amend the electric and hybrid vehicle loan guarantee program to clarify program coverage.

It has not been determined whether a regulatory analysis is requred.

Status: No notice concerning the regulation has yet been published.

Authority: Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976, as amended.

Contact: Thomas Calhoun, 202-376-4747.

5. *Electric and hybrid vehicle planning grants.* DOE will promulgate rules to establish the requirements for grant applications under the Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been published.

Authority: Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976, as amended.

Contact: Thomas Calhoun, 202-376-4747.

6. Energy conservation program for appliances. DOE plans to promulgate test procedures for heat pumps under the Energy Conservation Program for Appliances.

It has not been determined whether a regulatory analysis will be required.

Status: No notice concerning the regulation has yet been published.

Authority: Energy Policy and Conservation Act, Title III, Part B, Pub. L. 94-163, as amended.

Contact: James Smith, 202-376-4814.

7. *Municipal and industrial waste reprocessing loan guarantees.* DOE will promulgate rules enabling DOE to guarantee loans for municipal and industrial waste reprocessing.

It has not been decided whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been published.

Authority: Federal Nonnuclear Energy Research and Development Act of 1974, Section 19(y), Pub. L. 93-577, as amended.

Contact: Don Walter, 202-376-1964.

8. *Building energy performance standards.* DOE intends to propose Federal standards for new residential and commercial buildings.

A decision as to whether a regulatory analysis is needed has not been made.

Status: No notice concerning the regulation has yet been published.

Authority: Energy Conservation and Production Act, Pub. L. 94-385.

Contact: Jim Brinkley, 202-376-4888.

9. *Federal energy management and planning guidelines.* DOE will promulgate guidelines, regulations and procedures which Federal agencies will use in preparing their individual energy conservation plans.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been published.

Authority: Executive Order 11912.

Contact: Paul Brumsby, 202-376-4017.

DEFENSE PROGRAMS

1. *Revision of 10 CFR, Part 795, "Safeguarding of Restricted Data".* DOE will revise and upgrade security requirements imposed on access permittees to the level imposed on DOE and DOE contractor personnel.

A regulatory analysis is not required.

Status: No notice concerning the regulation has yet been published.

Authority: 10 CFR, Part 795.

Contact: Harvey Lyon, 301-353-5106.

2. *Proposed revision of 10 CFR, Part 710, "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Significant Quantities of Special Nuclear Material".* DOE will determine if current procedures expedite case processing and if current criteria are valid, particularly in light of recent court decisions.

A regulatory analysis is not required.

Status: No notice concerning the regulation has yet been published.

Authority: 10 CFR, Part 710.

Contact: Harvey Lyon, 301-353-5106.

ECOMOMIC REGULATORY ADMINISTRATION

CRUDE OIL

1. *Entitlements treatment for Alaska refineries.* DOE has proposed an amendment to the domestic crude oil allocation program to clarify the proper calculation of entitlements to be issued to certain refineries located in the State of Alaska, in order to avoid the potential for duplicate entitlement issuances for the same volume of crude oil.

A regulatory analysis is not required.

Status: A Notice of Proposed Rulemaking has been issued.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Robert Kane, 202-254-7200.

2. *Incentives for enhanced crude oil recovery.* By this continued rulemaking and request for comments DOE will determine whether additional price incentives are needed for tertiary enhanced recovery projects in order to provide for adequate capital commitment to such projects.

It has not been determined whether a regulatory analysis is required.

Status: DOE issued a final rule containing incentives for undertaking tertiary recovery projects. That Notice of Final Rule contained a Notice of Continued Rulemaking and Request for Comments.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Douglas Harnish, 202-254-7477.

3. *Petroleum substitute guidelines.* DOE will develop final guidelines for implementation of a program to grant entitlements benefits for petroleum substitutes.

A regulatory analysis is not required.

Status: Proposed guidelines have been issued. The final rule which the guidelines will implement has been issued.

Authority: Emergency Petroleum Allocation Act, Pub. L. 93-159, as amended.

Contact: David Welsh, 202-254-3336.

4. *Further rulemaking on entitlements for petroleum substitutes.* DOE may propose an amendment to the mandatory petroleum allocation regulations to expand the scope of the synthetic fuels which will qualify for designation as a petroleum substitute. Comments are now being received on the petroleum substitute guidelines, and will be evaluated, along with those received in response to the final rulemaking which the guidelines are intended to implement, in determining whether a further rulemaking is necessary.

It has not been determined whether a regulatory analysis is required.

Authority: Emergency Petroleum Allocation Act, Pub. L. 93-159, as amended.

Contact: David Welsh, 202-254-3336.

5. *Revision of the small refiner bias program.* An independent report was commissioned by DOE to study the current small refiner bias level under the entitlements program. DOE will propose revisions to the small refiner bias program.

A regulatory analysis will be completed.

Status: A report and a Notice of Inquiry concerning the report have been issued; hearings have been held.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

6. *Non-refining uses of price controlled crude oil.* DOE plans to amend the entitlements program to provide a mechanism to account for controlled domestic crude oil that is not covered by the program because the crude oil was not run in domestic refineries.

A regulatory analysis is not required.

Status: A notice of Inquiry and a Notice of Intent to issue a rulemaking has been issued

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Robert Kane, 202-254-7200.

7. *Simplified crude oil price control program.* DOE may propose to simplify the mechanism for controling crude oil prices by causing the entitlements program to be the primary determinant of prices paid to crude oil producers.

A regulatory analysis will be completed.

Status: A Notice of Inquiry has been issued.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Norman Breckner, 202-254-7477.

8. *Revision of crude oil supplier purchaser rule.* The 1973 freeze on supplier/purchaser relationships is being further examined to determine whether it unduly inhibits competition or unnecessarily burdens producers and purchasers of domestic crude oil.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Robert Kane, 202-254-7200.

9. *Canadian allocation program (CAP) revisions.* Amendments may be proposed to reflect the declining volumes of Canadian crude oil exports, the varying success refineries have had in finding non-Canadian supplies and the simplification of the administration and industry reporting requirements of CAP.

A regulatory analysis is not required.

Status: A Notice of Inguiry has been issued; hearings have been held.

Legal authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Robert Kane, 202-254-7200.

10. *Crude oil resellers price rule.* DOE will evalute crude oil resale price rules to determine if modifications are needed.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning this regulations has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub L. 93-159, as amended.

Contact: Ralph Rohweder, 202-254-7268.

11. *Processing agreements.* DOE is considering whether to provide further guidance to retailers and refiners concerning the treatment of crude oil processing agreements under the Mandatory Petroleum Price Regulations.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been issued.

Authority: Energy Policy and Conservation Act, Pub. L. 94-163, as amended.

Contact: Ed Mampe, 202-254-7200.

12. *Marginal well incentive pricing.* DOE is considering amending the pe-

troleum price regulations to provide production incentivies for certain lower tier crude oil from wells which produce at low rates under conditions of high operating costs.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning the regulations has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Douglas Harnish, 202-254-7477.

13. *Small stripper certification procedure.* DOE is considering the feasibility of adopting a procedure for small crude oil stripper producers to apply for a predetermination as to whether their wells qualify as stripper wells.

A regulatory analysis is not required.

Status: No notice has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 95-159, as amended.

Contact: Thomas Miller, 202-254-8580.

14. *Refinery ownership and certification regulations.* DOE is considering promulgating a regulation regarding what facilities qualify as refineries, certification procedures for refineries, and determination of refinery ownership.

A regulatory analysis is not required.

Status: No notice concerning the regulation has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Dennis Kourkoumelis, 202-254-5338.

15. *Transfer pricing and ocean transportation.* DOE is considering simplification or possible revision to standby regulatory and continuing information gathering status of rules concerning prices of future inter-affiliate transfers of imported crude oil. Relates to decontrol of refined products.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Dan Thomas, 202-254-7477.

ECONOMIC REGULATORY ADMINISTRATION

REFINED PRODUCTS

1. *Price rules for product exchanges.* DOE is revising procedures by which refiners, resellers and retailer will determine the increased costs applicable to products received in exchanges.

A regulatory analysis will be completed.

Status: A Notice of Proposed Rulemaking has been issued.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Dan Thomas, 202-254-7477.

2. *Middle distillate set-aside.* DOE is considering proposing a special rule to provide for a procedure whereby suppliers of home heating oil may be required to set aside a portion of their supplies for distribution by State energy offices in the event of emergency conditions which interrupt normal distribution systems.

A regulatory analysis is not required.

Status: No notice concerning this regulation has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: James Berry, 202-254-7477.

3. *NGL allocation revision.* DOE is amending the mandatory petrolem allocation regulations to correct various problems that appear to have arisen in the allocation of propane, butane and natural gasoline.

A regulatory analysis is not required.

Status: A Notice of Proposed Rulemaking has been issued; the Federal Energy Regulatory Commission has held hearings.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Robert Reinstein, 202-254-9766.

4. *NGL price amendments—Further rule.* DOE has issued a rule to provide gas processors with passthroughs of actual nonproduct cost increases. DOE may propose a further notice or notices on a number of additional matters raised in prior proceedings to determine if additional rulemakings are needed.

It has not been determined whether a regulatory analysis is required.

Status: No further notice concerning the regulation has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Roger Miller, 202-634-7610.

5. *Resubmissions and refiling of FEO-96, P110, and EIA-14 forms.* DOE has proposed to amend its petroleum price regulations concerning reporting requirements of refiners. Generally, it has been proposed that refiners would not be permitted to refile FEO-96 forms, FEA/DOE P110 forms, or DOE EIA-14 forms after 60 days from the date of the originial filing, except where expressly authorized by DOE regulation or order or where written permission is granted by DOE for good cause shown.

A regulatory analysis is not required.

Status: A Notice of Proposed Rulemaking has been issued; hearings have been held.

Contact: Lloyd Costley, 202-254-8034.

6. *Annual revision of fee free allocations under the mandatory oil import program.* DOE will revise the Mandatory Oil Import Program to reflect the fee-free allocation levels established by Presidential Proclamation 3279 for the next allocation year which begins on May 1, 1979.

No regulatory analysis is required.

Status: No notice concerning this regulation has yet been published.

Authority: Presidential Proclamation 3279, as amemded.

Contact: Robert Goodwin, 202-566-9380.

7. *Entitlements export sales deduction exemption for bunker use of middle distillates.* ERA has been petitioned to establish a rule that would not require an entitlements deduction under the export sales provision of § 211.67(d)(2) for middle distillates used as bunker fuels. No determination has been made at this time as to whether a notice concerning this matter will be issued.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning this regulation has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Robert Kane, 202-254-7200.

ECONOMIC REGULATORY ADMINISTRATION

DECONTROL

1. *Motor gasoline exemption.* The DOE will decide whether to propose to Congress the deregulation of motor gasoline.

A regulatory analysis or equivalent will be completed.

Status: A Notice of Proposed Rulemaking has been issued and the exemption has been considered by the Federal Energy Regulatory Commission.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: William Caldwell, 202-254-8034.

2. *Aviation fuel decontrol.* DOE has issued a proposal to exempt kerojet and aviation gasoline from the mandatory petroleum allocation and price regulations, inasmuch as recent supplies and market conditions appear to justify ending both types of controls.

Findings issued concurrently with the Notice of Proposed Rulemaking are determined by ERA to satisfy the requirement for the preparation of a regulatory analysis for significant regulations which have a major economic impact.

Status: A Notice of Proposed Rulemaking has been issued and the exemption has been considered by the

Federal Energy Regulatory Commission.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: William Caldwell, 202-254-8034.

3. *Decontrol of butane, natural gasoline, propane and natural gas liquids* (NGL's). DOE may propose rules to exempt butane, natural gasoline, propane, and NGL's from allocation and price controls.

A regulatory analysis will be completed.

Status: No notice concerning this regulation has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Gerald Emmer, 202-254-7500.

4. *SNG feedstocks.* DOE will consider whether to issue a proposal to exempt SNG feedstocks from allocation controls.

No decision has been made as to the need for a regulatory analysis.

Status: No notice concerning this regulation has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Bart House, 202-254-3905.

ECONOMIC REGULATORY ADMINISTRATION

EMERGENCY PREPAREDNESS

1. *International oil allocation.* DOE has proposed regulations to implement the oil sharing provisions of the International Energy Program. Comments received are currently being reviewed to determine the nature and scope of final standby rules on this subject.

It has not been determined whether a regulatory analysis is required.

Status: A Notice of Proposed Rulemaking has been issued.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Robert Kane, 202-254-3923.

2. *Contingency gasoline rationing plan.* DOE will promulgate a contingency rationing plan for diesel fuel and gasoline, to be implemented in the event of a severe nationwide gasoline shortage.

A regulatory analysis will be completed.

Status: A Notice of Proposed Rulemaking has been issued.

Legal authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

3. *Standby crude oil pricing and allocation regulations.* DOE has proposed changes to the crude oil pricing and allocation regulations on a standby basis, to be activated in the event of a significant supply interruption.

A regulatory analysis is not required.

Status: A Notice of Proposed Rulemaking has been issued.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Robert Kane, 202-254-3923.

4. *Standby product pricing and allocation regulations.* DOE has proposed short-term changes to the product pricing and allocation regulations on a standby basis, to be activated in the event of a significant supply interruption. Comments received are currently under review.

A regulatory analysis is not required.

Status: A Notice of Proposed Rulemaking has been issued.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Gerald Emmer, 202-254-7200.

5. *Development of long-term standby product allocation and price regulations.* DOE is considering additional standby regulations to devlop the Nation's emergency preparedness. This action is to identify and develop standby product measures to be implemented (on a long-term basis) is the event of a severe supply interruption.

A regulatory analysis will be completed.

Status: No notice concerning the regulation has yet benn published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: William Caldwell, 202-254-7200.

ECOMONIC REGULATORY ADMINISTRATION

ENFORCEMENT

1. *Revision of remedial order regulations.* DOE will revise previous Federal Energy Administration remedial order regulations to provide review of proposed orders by the DOE Office of Hearings and Appeals. The revision will provide formal procedures for review of issues raised in each remedial order proceeding prior to the issuance of orders in final form.

A regulatory analysis is not required.

Status: An interim rule is in effect.

Authority: Department of Energy Organization Act, Pub. L. 95-91.

Contact: George Breznay, 202-254-9681.

2. *Procedural regulations for investigations.* DOE will propose revisions to Part 205 of the DOE regulations to clarify the procedures for issuance of subpenas during enforcement investigations and the requirements for conducting investigative interviews pursuant to subpenas. The proposal may include modification of the appeal procedures concerning subpenas.

A regulatory analysis is not required.

Status: No notice concerning the regulation has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Jerry Weiner, 202-632-5072.

3. *Proposed amendments to the civil and criminal penalty regulations, with particular regard to the definition "Notice of Non-compliance".* In its final report dated July 13, 1977, the Task Force on Compliance and enforcement recommended at page V-5, that the FEA reconsider the present definition of Notice of Non-compliance at 10 CFR 205.203(e)(2)(B) which states that such notices are limited to Remedial and Consent Orders. Notices of Non-compliance are "notices" given to corporate officials pursuant to the Energy Policy and Conservation Act as a precondition to their being subject to criminal penalties for a willful violation of regulations promulgated under the Emergency Petroleum Allocation Act of 1973 (EPAA). The report recommended that Notices of Probable Violation (or any actual Notice of Non-compliance provided at any time) should also serve as Notices of Non-compliance (as the term had been defined previously). Pursuant to that recommendation, the DOE may propose to reopen the definition for reconsideration in order to assess whether it should be amended prospectively. The proposed rulemaking would seek to establish whether the definition should be expanded again to include Notices of Probable Violation, or to include all orders issued by the DOE pursuant to its authority under the EPAA, or should be amended in any other way.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159 as amended; Energy Policy and Conservation Act, Pub. L. 94-163, as amended.

Contact: Bryan Perilman, 202-254-8700.

ENERGY INFORMATION ADMINISTRATION

1. *Collection of foreign oil supply agreement information.* DOE will consider amending 10 CFR Part 215 which requires U.S. companies to report details of their foreign oil supply agreements. The most significant amendment would be extension of the amount of time allowed to report agreements.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been published.

Authority: Department of Energy Organization Act, Pub. L. 95-91.

Contact: Bernadette Michalski, 202-634-1160.

ENVIRONMENT

1. *Implementation of floodplain and wetlands Executive orders.* Doe is required to issue regulations with respect to floodplain management. The Office of Environment proposes to combine the floodplain regulations with related wetlands requirements into one set of procedures to be coordinated with existing NEPA regulations.

No regulatory analysis is required.

Status: A Notice of Proposed Regulation has been issued.

Authority: Executive Order 11988; Executive Order 11990.

Contact: Carol Borgstrom, 202-566-9760.

2. *DOE NEPA regulations.* DOE has proposed regulation for compliance with the National Environmental Policy Act.

A regulatory analysis is not required.

Status: A Notice of Proposed Rulemaking has been issued.

Authority: National Environmental Policy Act.

Contact: Robert Stern, 202-566-9760.

OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

1. *Comprehensive EEO regulations for all federally assisted DOE programs and activities.* EEO will develop comprehensive regulations to implement the Equal Employment Opportunity Requirements for all federally assisted DOE programs and activities.

A Regulatory analysis is not required.

Status: No notice concerning the regulation has yet been published.

Authority: Rehabilitation Act of 1973, Sec. 504; E.O. 11914; Title VI of 1964 Civil Rights Act.

Contact: Marion Bowden, 202-376-4663.

GENERAL COUNSEL

1. *Proposed regulations on standards of conduct for Department of Energy employees.* DOE is preparing regulations prescribing standards of conduct for employees of DOE as mandated by DOE Organization Act, section 601-608.

No regulatory analysis is required.

Status: A Notice of Proposed Regulation has been issued.

Authority: DOE Organization Act, section 601-608.

Contact: Ralph D. Goldenberg.

2. *Privacy Act regulations.* DOE will promulgate regulations to implement DOE compliance with 5 U.S.C. 552(a), Privacy Act of 1974. The rulemaking will provide Department-wide regulations to replace Privacy Act regulations implemented by FEA and ERDA which are presently in force.

A regulatory analysis is not required.

Status: No notice concerning the regulations has yet been published.

Authority: Department of Energy Organization Act, Pub. L. 95-91 and authorities incorporated by reference in 5 U.S.C. 552(a).

Contact: William Luck, 202-566-9296.

2. *DOE licensing regulations.* The resolution governs licensing of inventions owned or controlled by the Department of Energy. The regulation is needed to provide guidence to the public or procedures for obtaining nonexclusive and exclusive licenses and on standards under which such licenses may be granted and the terms and conditions of the licenses.

A regulatory analysis is required.

Status: No notice concerning this regulation has yet been published.

Authority: Federal Nonnuclear Energy Research and Development Act of 1974 42 U.S.C. 5908(g); the Atomic Energy Act of 1954 as amended, 42 U.S.C. 2186 and general authorities available to the Department due to transfer of functions from other agencies under the DOE Organization Act and other acts.

Contact: Robert Marchick, 301-353-4970.

3. *DOE administrative patent and copywrite infringement claims.* The regulations will provide policy and procedures for filing and processing administrative claims alleging infringement of U.S. patents and copy rights by or on behalf of the Department of Energy. The regulation is needed to provide guidance to the public as to requirements and procedures that will be followed in settling, denying, or otherwise disposing of administrative infrigement claims.

A regulatory analysis is required.

Status: No notice concerning this regulation has yet been published.

Authority: Department of Energy Organization Act 42 U.S.C. 7261, Energy Reorganization Act 42 U.S.C. 5817; Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(g), 2223.

Contact: Jack Lever, 301-353-5093.

4. *Regulations for implementation of the Foreign Gifts and Decorations Act.* DOE will propose regulations to establish procedures and policies relating to the acceptance, use and disposition of gifts and decorations from foreign governments.

A regulatory analysis is not required.

Status: No notice concerning this regulation has yet been published.

Authority: Foreign Gifts and Decorations Act 5 U.S.C. 7342, as amended, Pub. L. 95-105 6977.

Contact: Ralph Goldenbery, 301-353-5285.

OFFICE OF PROCUREMENT AND CONTRACTS MANAGEMENT

1. *DOE organizational conflicts of interest.* The regulation will provide policies, procedures, and contract clauses concerning organizational conflicts of interest, such as bias and unfair competitive advantage. The regulation is needed to aid in identifying or mitigating potential organizational conflicts of interest before entering into contracts, agreements and other arrangements.

A regulatory analysis is not required.

Status: A Notice of Proposed Rulemaking has been issued.

Authority: Department of Energy Organization Act, Pub. L. 95-91, Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93-577), as amended by Pub. L. 93-39; Federal Energy Administration Act of 1974 (Pub. L. 93-275), as amended by Pub. L. 95-70.

Contact: Martin Kestenbaum, 353-4541.

2. *DOE procurement regulations.* The regulation, along with the Federal Procurement Regulations, governs procurement by the Department of Energy. The regulation is needed to provide a wide range of implementation necessary to the Department's extensive procurement activities.

A regulatory analysis is not required.

Status: A Notice of Proposed Rulemaking has been issued.

Authority: Department of Energy Organization Act, and general authorities available to the Department due to the transfer of functions from agencies conducting substantial procurement (e.g., the Atomic Energy Act of 1954, the Energy Reorganization Act of 1974, and the Federal Nonnuclear Energy Research and Development Act of 1974).

Contact: Martin Kestenbaum, 353-4541.

3. *DOE assistance regulation.* The regulation provides general financial assistance policies and procedures (Subpart A General), and applicable to grants (Subpart B). The regulation is needed to provide guidance to the public as to what requirements must be met and what standards will be followed in making grant awards.

A regulatory analysis is not required.

Status: A Notice of Proposed Rulemaking has been issued.

Authority: Department of Energy Organization Act, section 644, and general authorities available to the Department due to the transfer of functions from other agencies (e.g. the Federal Nonnuclear Energy Research and Development Act of 1974).

Contact: Carl Blakely, 301-353-4692.

4. *DOE assistance regulation (Subpart C—Cooperative Agreements).* The regulation will provide polices and procedures concerning the use of cooperative agreements to award financial assistance. The regulation is needed to provide guidance to the public as to what requirements must be met and

what standards will be followed in entering into cooperative agreements.

A regulatory analysis is not required.

Status: No notice concerning the regulation has yet been published.

Authority: Department of Energy Organization Act, section 644, and general authorities available to the Department due to the transfer of functions from other agencies (e.g. the Federal Nonnuclear Energy Research and Development Act of 1974).

Contact: Carl Blakely, 301-353-4692.

5. *DOE assistance regulation—Loans, Loan Guarantees, Price Supports, Other Incentives* (Subparts D, E, F). The regulation will provide policies and procedures concerning the use of loans, loan guarantees, price supports, and other methods to award financial assistance. The regulation is needed to provide guidance to the public as to what requirements must be met and what standards will be followed in entering into agreements.

A regulatory analysis is not required.

Status: No notice concerning this regulation has been published.

Authority: Department of Energy Act, section 644, and general authorities available to the Department due to the transfer of functions from other agencies (e.g. the Federal Nonnuclear Energy Research and Development Act of 1974).

Contact: Carl Blakely, 301-353-4692.

6. *DOE property management regulation.* The regulation, along with Federal Property Management Regulations (FPMR), will generally govern the management of property of the Department. The regulation is needed to provide implementation of the FPMR necessary to manage the property for which the Department is responsible.

A regulatory analysis is not required.

Status: No notice concerning this regulation has been published.

Authority: Department of Energy Act, section 644, and general authorities available to the Department due to the transfer of functions from agencies which had substantial property for which they were responsible (e.g. the Atomic Energy Act of 1954, the Energy Reorganization Act of 1974, and the Federal Nonnuclear Energy Research and Development Act of 1974).

Contact: Francis Roche, 301-353-3703.

RESOURCE APPLICATIONS

1. *OCS bidding regulations.* DOE is drafting proposed regulations to establish bidding systems to be used in the sale of oil and gas leases on the Outer Continental Shelf (OSC), and to provide coordination between DOE and Department of Interior in their implementation.

A regulatory analysis will be completed.

Status: No notice concerning the regulation has yet been published.

Authority: Department of Energy Organization Act, section 302(b)(2) Pub. L. 95-91.

Contact: Robert Kalter, 202-566-9421.

2. *Initial geothermal bidding system regulations.* DOE is drafting proposed regulations establishing the bidding system to be used for the sale of geothermal leases on Federal lands. The regulations will also establish the procedures to be followed by DOE and Department of Interior in carrying out their responsibilities regarding geothermal lease sales.

A regulatory analysis will be completed.

Status: No notice concerning the regulation has yet been published.

Authority: Department of Energy Organization Act, section 302(b)(2), Pub. L. 95-91.

Contact: Robert Kalter, 202-566-9421.

3. *Royalty oil regulations.* DOE is preparing proposed regulations regarding the disposal of Government royalty oil taken in kind pursuant to section 302(b)(5) of the DOE Organization Act. These regulations would continue in a slightly modified form a program established and administered by the Department of Interior for the disposal of Government royalty oil.

A regulatory analysis will be completed.

Status: No notice concerning the regulation has yet been published.

Authority: Department of Energy Organization Act, section 302(b)(5), Pub. L. 95-91.

Contact: Robert Kalter, 202-566-9421.

4. *Revision of geothermal loan guaranty regulations.* DOE intends to analyze, simplify, and amend the geothermal loan guarantee regulations, including environmental review procedures.

A regulatory analysis will be completed.

Status: No notice concerning the regulation has yet been published.

Authority: Department of Energy Organization Act, Pub. L. 95-91.

Contact: Larry Falick, 202-566-6719.

5. *Power rate adjustment procedures.* Procedures will be established for Federal power authorities to contact their customers and encourage participation in rate-setting procedures. Procedures for public hearings conducted in consumers' communities will be developed.

A regulatory analysis is not required.

Status: No notice concerning the regulation has yet been published.

Authority: Bonneville Project Act of 1927, as amended.

Contact: Daniel Ogden, 202-566-9615.

6. *Sequential bidding regulations.* DOE is preparing proposed regulations to establish a new bidding process, known as sequential bidding, for use in certain Outer Continental Shelf (OCS) oil and gas lease sales. The purpose of these regulations is to increase competition by increasing both the number of participants in an OCS lease sale and the number of bids submitted.

A regulatory analysis will be completed.

Status: No notice concerning the regulation has yet been published.

Authority: Department of Energy Organization Act, section 302(b)(1), Pub. L. 95-91.

Contact: Robert Kalter, 202-566-9421.

7. *Loan guarantees for alternative fuel demonstration facilities.* DOE will promulgate rules enabling DOE to guarantee loans for alternative fuel demonstration facilities.

It has not been decided whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been published.

Authority: Federal Nonnuclear Energy Research and Development Act of 1974, section 19(b), Pub. L. 93-577, as amended.

Contact: Michael Perper, 202-376-9052.

8. *Post-sale competitive review regulations.* DOE is preparing proposed regulations to establish a process by which the Secretary of the Interior would perform a competitive review of bids for Outer Continental Shelf oil and gas leases prior to their award to the highest qualified responsible bidder. The purpose of the regulation is to foster competition for Federal leases.

A regulatory analysis will be completed.

Status: No notice concerning the regulation has yet been published.

Authority: Department of Energy Organization Act, section 302(b)(1), Pub. L. 95-91.

Contact: Robert Kalter, 202-566-9421.

9. *Coal regulations.* DOE is in the initial stages of analysis prior to preparation of regulations concerning bidding systems, competition and diligence. The purpose of these regulations would be to foster competition and establish diligence requirements.

Status: No notice concerning the regulation has yet been published.

Authority: Department of Energy Organization Act, section 302(b) (1), (2), (3), Pub. L. 95-91.

Contact: Robert Kalter, 202-566-9421.

10. *University coal research laboratories grants.* DOE will promulgate

rules which set forth criteria for selecting institutions to receive grants to establish university coal research laboratories.

A regulatory analysis is not required.

Status: No notice concerning the regulation has yet been published.

Authority: Surface Mining Control and Reclamation Act of 1977, Title 8, Pub. L. 95-87.

Contact: Richard Stephens, 202-376-9188.

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Federal Register

TUESDAY, OCTOBER 31, 1978
PART IV




# DEPARTMENT OF AGRICULTURE

## Food and Nutrition Service

■

# SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

## Proposed Rulemaking

[3410-30-M]

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

[17 CFR Part 225]

### SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department is issuing proposed regulations for the Summer Food Service Program for Children as required by section 13 of the National School Lunch Act, as amended. It is intended that interested parties be given an opportunity to comment on these regulations prior to the publication of final regulations which is required by January 1.

DATE: To be assured of consideration, comments must be received on or before November 20, 1978.

ADDRESS: Written comments should be sent to Mr. Jordan Benderly, Acting Director, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250. Copies of all written comments received will be available for inspection by the public during normal business hours in room 3300B Auditor's Building, 14th Street and Independence Avenue SW., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Mr. Benderly at the above address or by telephone at 202-447-8211.

SUPPLEMENTARY INFORMATION: The Summer Food Service Program for Children is authorized by section 13 of the National School Lunch Act, as amended by Pub. L. 95-166, approved November 10, 1977. That section requires, in part, that the Department issue proposed regulations for the summer program annually by the first day of November. Final regulations must be issued by January 1 of each year.

Based on a year's experience administering the summer program under regulations issued on March 28, 1978 (43 FR 13020) and comments and suggestions received from various sources, including a national program meeting held in October of this year for the purpose of soliciting public comment, the Department has determined it appropriate to propose certain changes in program regulations. The following describes the proposed changes.

#### Definitions

*Food service management company.* It has been suggested that the term "vendor" (meaning a commercial provider of meals) be defined in regulations in place of or in addition to "food service management company." This latter term has the traditional meaning of a firm which provides management services in addition to meals. The Department recognizes the fact that most sponsors' food service contracts are with vendors not food service management companies. It is acknowledged that there is the potential for confusion based on the use of references to food service management companies in the act and regulations and a distinction made in industry between that term and vendor. Therefore, the Department proposes to include the definition of vendor within the definition of food service management company to point out the distinction. All references to food service management companies in the regulations thereby include vendors.

*Rural.* As a result of the legislative rural outreach mandate, the Department and many States conducted outreach last year. However, the Department has been criticized for not defining "rural" and not providing more guidance and assistance to the States in this area. This year the Department is proposing a definition of rural, establishing more specific objectives and developing a rural outreach plan. Special outreach attention will be directed to migrants and American Indians. The Department will provide information to the States to assist them in formulating and implementing rural outreach efforts. In addition, new provisions in the proposed rule, specifically in the management and administration plan require the State to detail its proposed activities in rural areas.

*Areas in which poor economic conditions exist/migrants.* Due to the nature of the migrant population, the Department recognizes the need to simplify documentation of program eligibility for the children of migrant workers. Therefore, it is proposed that the definition of "areas in which poor economic conditions exist" be expanded so that eligibility for the children of migrant workers may be based upon documentation provided by recognized migrant organizations, and may serve to support the eligibility of the children, as a group.

Another proposed provision to lessen the documentation requirement allows sponsors with the same sites for 2 consecutive years to submit new documentation every other year, rather than every year.

#### Responsibilities of State Agencies

*Sponsor visits.* Changes are proposed for State agency preoperational visits to sponsors. The first change would require the State agency to determine which applicant sponsors, aside from those which have never previously participated in the program, should receive preoperational visits. The purpose of this proposed change is to give the State agencies flexibility in determining when such visits are necessary. Last year this visit was required for all sponsors which would earn more than $50,000 in program reimbursement. However, the Department feels that the size of the sponsor's program in and of itself should not determine the need for a preoperational visit.

*Facility inspections.* A second provision would require each State agency, during the first 4 weeks of program operations, to provide for inspections of all program preparation facilities in the State. If a State agency cannot conduct these inspections, the 1 percent health inspection and meal quality test funds may be used for this purpose to contract out these inspections.

*Sponsor/food service management company contract.* Two new provisions are proposed in the sponsor and food service management company contract. The first would require the sponsor to pay the food service management company for all meals delivered in accordance with the contract. Sponsors have always had this contractual obligation, and this provision will serve to clarify this obligation as a regulatory requirement as well.

The second provision would require all nongovernmental sponsors whose contract or aggregate amount of contracts with one food service management company would exceed $10,000 to establish a special account for the deposit of payments by the State agency for operating costs. A separate special account would be required for each company under contract with a sponsor. Both parties to the contract would formally agree to an equitable distribution of the funds deposited to the account.

*Food service restrictions.* Under program regulations in effect last year, only residential camps were exempted from the requirement to serve supper beginning no later than 6 p.m. The proposed regulations would allow for State agencies to waive this requirement for any site, provided that special arrangements are made by the sponsor and the State agency to monitor these sites.

*Training requirements.* Proposed regulations expand the training requirements and require that State agencies make training available to food service management company representatives and health inspectors which will participate in the program in each State. While food service management companies and health departments are not required to attend this training, the Department believes that they would benefit from doing so.

Such training must occur prior to the beginning of program operations.

*Use of small and minority-owned business.* In keeping with the legislative intent that sponsors make efforts to utilize small and minority-owned businesses as sources of supplies, State agencies are to encourage sponsors to use such businesses. To assist the States in this activity, the Department will provide information to State agencies on sources of financial and technical assistance for such businesses and suggests that State agencies familiarize themselves with local resources and assistance so that they can carry out this requirement in a meaningful fashion.

*Audit requirements.* State agencies continue to be responsible for audits of each sponsor on an every-other-year basis, in accordance with Federal Management Circulars. For those sponsors receiving less than $50,000 in program reimbursement, it is proposed that the cost of auditing them be borne solely by the State agency and be considered a legitimate State administrative expense. The Department believes that such sponsors do not receive enough program funds to cover the cost of such an audit.

*Statistical sampling.* The Department continues to support the use of statistical sampling techniques in the program. As in the past, the Department's Office of Audit will conduct statistical sampling in selected areas. In addition, the Department is proposing to require that State agencies conduct statistical sampling in a select number of the Nation's largest cities. It is in the large cities that the biggest problems with program operations have occurred in the past. These problems, if uncorrected, can lead to substantial dollar losses. The Department's principal interest in using statistical sampling is as a monitoring and management tool, not simply as a billing device. These selected State agencies would be required to have a system whereby adverse findings generated by sampling would be immediately communicated to sponsors and translated into corrective action. These States would consider sampling as one factor, along with other considerations, in the settlement of claims. The Department would expect greater weight to be given to sampling results in settling a claim in instances where a sponsor ignored the results and failed to institute corrective action after being duly notified, than in circumstances where a sponsor acted promptly to correct its deficiencies.

The Department recognizes that extensive training in this technique at all levels is essential if it is to work successfully. The Department is prepared to offer training to those State agencies that will be required to conduct sampling, and to all other State agencies that elect to use sampling.

### Program Management and Administration Plan

3*Additional provisions.* The Department has received several suggestions regarding this plan. In an effort to be responsive to these concerns several changes have been proposed in this section. Provisions have been added which require the State to define its priority areas of program expansion, its plan and schedules for training food service management company representatives and health inspectors, and its procedures for soliciting and insuring that timely comments or recommendations made by interested parties regarding this plan receive full consideration. The latter provision is primarily intended to serve as a method of providing for public involvement in the development of the plan. Plan approval for the upcoming summer will be delegated to the FNS Regional Offices and specific approval deadline dates will be established to facilitate timeliness of the complete process.

### Payment and Use of State Administrative Funds

*Assured funding level.* The Department believes it is in the best interest of the program to facilitate advance planning to the greatest degree possible. Therefore, an assured administrative funding level to the States is proposed. This level would be an amount equal to the lesser of 80 percent of administrative funds earned based on program payments actually made within the State during the prior fiscal year, or, 80 percent of the estimated amount of administrative funds which could be earned in the current fiscal year, assuming, of course, that the State's actual expenditures equal or exceed that level. The States would be assured of receiving no less than this level unless FNS determines that the State failed to meet its responsibilities as contained in the regulations or did not make a good faith effort to implement its plan.

### Administrative Payments

The Department has proposed a method of funding sponsors for administrative costs which is based on budgets submitted by sponsors to the State agencies. The concept outlined in regulations is a new approach and has not been tested either on a selected basis or nationwide. Hence, comments are solicited on the specific proposal included in regulations, as well as the additional approaches discussed below. Comments on these approaches and other approaches which may surface during the comment period will be fully considered before final regulations are issued.

*Sponsor budget approach.* Under this approach, a State would be required to vary the rate of reimbursement it pays to individual sponsors, based on their individual needs. Under this approach, States would earn a total amount of money for distribution for sponsor administrative costs, and would then divide these funds up according to individual sponsor's needs as reflected in sponsor administrative budgets. Thus, while the State would earn a certain amount for each lunch served, it would pay some sponsors more per lunch than this amount, while others wuld receive less per lunch than this amount. (The total reimbursement that a State provided to all its sponsors for administrative costs could not, of course, exceed the total amount that the State earned.)

States would need to evaluate sponsor administrative budgets carefully, and have justification for the varying rates assigned. This approach allows flexibility to States to meet the needs of those sponsors who must incur higher administrative costs in order to run the program successfully.

That approach would require skilled administration by States. It would work best if all sponsor budgets were reviewed simultaneously, but this is not always entirely possible. States would also need to plan for contingencies if a sponsor which had been provided a lower-than-average rate served fewer meals than planned, while a sponsor given a higher-than-average rate served more meals than planned. Some mid-course adjustments in the rates provided to sponsors might be necessary in such a circumstance, in order that a State have sufficient funds to make its reimbursement payments.

States would be required, rather than simply permitted, to vary reimbursement rates. The basic purpose of this approach would be undermined if a State, instead of budgeting skillfully, simply assigned a uniform rate to all sponsors.

In conjunction with this approach, the Department would endeavor to provide guidance to State agencies to assist States in determining those categories of sponsors that may need higher administrative reimbursement rates. The Department is currently completing a study mandated by Public Law 95-166 which is intended to evaluate reimbursement levels for operating and administrative costs to determine if adjustments are needed. Based on the results of the study, if appropriate, FNS will provide State agencies with guidance regarding those types of sponsor characteristics that may justify higher administrative cost payment. State agencies may then

use this guidance in determining sponsor payments. As an example, if the study so indicated, final regulations could specify that factors such as the following should be considered when assigning higher levels to certain sponsors for operating and administrative costs:

(1) Whether the sponsor will prepare meals on-site or contract with a food service management company.

(2) The proposed number of sites to be operated by the sponsor and the location of such sites.

(3) Resources available from other sources to finance the food service program.

### Additional Approaches To Sponsor Administrative Payments

#### *Consumer Price Index Set-Aside*

This approach is a variation of the approach described above. Once again, States would earn a total amount of money and would distribute it according to sponsors' individual needs. Rates of reimbursement would again vary by sponsor. The principal difference is that under this approach, there would be a *minimum* per-meal reimbursement. So long as a sponsor's approved administrative budget (and actual costs), at least equalled this minimum, sponsors would receive reimbursement at least at this level.

The minimum reimbursement levels would be the reimbursement rates in effect during the summer of 1978, i.e., 7.25 cents per lunch and supper, 3.75 cents per breakfast, and 2.00 cents per snack. The State earning factors would be somewhat higher because they would be computed by indexing this past summer's reimbursement rates in accordance with the change in the food away from home series of the Consumer Price index for the 12-month period ending November 30, 1978. Thus, for every sponsor to which the State assigned the minimum rate, the State would have a small amount of funds available (the difference between last summer's rates and the new rates), to provide a higher payment to another sponsor which the State had determined to need additional assistance. This would allow States some flexibility to provide increased payments to sponsors needing such payments, while protecting other sponsors by providing a floor below which States could not reduce their payment rates. States would, of course, have less flexibility than under the first approach.

States would still need to practice the same type of skillful budgeting as would be required under the first alternative. States would still need to balance various sponsor budgets, and the number of meals served, to assure that they remained within the amount of funds available on a statewide basis.

The Department would plan, as under the first approach, to provide guidance as to sponsor characteristics to be considered in assigning higher rates of reimbursement, provided that the FNS study now nearing completion sufficiently identifies these characteristics.

#### *Discretionary Additional Payments Approach*

Under this approach, a State would not assign to a sponsor a reimbursement rate that was below the statewide earning factor unless the sponsor's administrative budget or actual costs dictated a lower rate. The State would earn ¾ cent per lunch and supper, ½ cent per breakfast, or ¼ cent per supplemental food beyond the statewide earning factor for every meal served. The aggregate amount of the additional reimbursement would constitute a pool of money which States could use to augment the administrative budgets of certain sponsors.

The assignment of such additional reimbursement would be up to the State. As in the Consumer Price Index Set-Aside Approach, this approach would allow States some flexibility to provide increased payments to sponsors needing such payments, while protecting other sponsors by providing a floor below which States could not reduce their payment rates. States would, again, have less flexibility than under the Sponsor Budget Approach, and would still need to practice skillful budgeting. This approach requires a slightly higher level of Federal expenditures which the Department may not be able to provide.

#### *Assigned Additional Payments Approach*

Under this approach, a State would not assign to a sponsor a reimbursement rate that was below the statewide earning factor, unless the sponsor's administrative budget or actual costs dictated a lower rate. These sponsors in need of additional reimbursement could receive higher rates, but these rates could not exceed the statewide earning factor by more than ¾ cent per lunch or supper, ½ cent per breakfast, or ¼ cent for supplemental food. This approach resolves the budgeting complexities otherwise faced by States, but in so doing it has two significant consequences: (1) It restricts the additional assistance that any sponsor may receive, and (2) it requires a slightly higher level of Federal expenditure, which the Department may not be able to provide.

Under this approach, as under the previous three alternatives, guidance would be made available concerning sponsor characteristics that may justify higher payment rates, if such guidance can be derived from the results of the study.

### Summary

The following summary illustrates each of the four approaches. The summary assumes, for the sake of illustration, that the basic statewide per meal earning factor for 1979 is 7.75 cents per lunch, as opposed to last summer's rate of 7.25 cents per lunch, in view of the adjusted CPI. Total reimbursement to sponsors in a State cannot exceed the total amount earned by the State.

Under the Sponsor Budget Approach, which is contained in the body of these proposed regulations, a State would earn 7.75 cents per lunch. Out of these funds, the State would pay some sponsors more than 7.75 cents per lunch and others less than 7.75 cents per lunch. There would be no minimum or maximum limit on the rate a State could provide any individual sponsor.

Under the CPI Set-Aside, the State would again earn 7.75 cents per lunch, and would again vary rates by sponsor. Sponsors would receive no less than 7.25 cents per lunch (last summer's rate). The State would use the difference to pay some sponsors more than 7.75 cents per lunch.

Under the Discretionary Additional Payment Approach, sponsors would receive 7.75 cents per lunch unless their administrative budget or costs failed to justify this level. States would also be allowed to make additional payments to sponsors needing additional assistance. There would be no limit on the rate a State could provide any such sponsor.

Under the Assigned Additional Payment Approach, sponsors would receive 7.75 cents per lunch unless their administrative budget or costs failed to justify this level. States would also be allowed to make additional payments to sponsors needing additional assistance, but total reimbursement to these sponsors could not exceed 8.25 cents per lunch.

### Developmental Projects

The Department will also consider several developmental projects in selected areas. The purpose of the projects would be to test the feasibility of requiring that State agencies vary levels of payments to certain categories of sponsors by certain specified amounts. Comments on the desirability of such projects are welcome.

### Funding Evaluations

Last year's regulations provided for FNS to conduct initial and mid-program evaluations of State administrative costs. The Department believes

that these evaluations are still necessary but proposed regulations give FNS more latitude in determining when to conduct such evaluations. Programmatic evaluations should be an ongoing responsibility of FNS and the two proposed fiscal evaluations should be viewed as one component of the evaluation process.

FOOD SERVICE REQUIREMENTS

*Supplemental meal.* The Department has received a few suggestions that the supplemental meal, as currently structured is not adequately covered by existing reimbursement rates. The Department has also received suggestions in the past that the portion sizes for the supplemental meal may not be appropriate. The Department is not making any changes in the portion sizes of, or reimbursement rates for, the supplement as this time, but is seeking further comment on this matter. If public comment and the results of the Department's food cost study so indicate, the Department will seriously consider making appropriate changes in final regulations.

COMMENT PERIOD

The Department is providing for a 20-day comment period on these regulations. It is recognized that this period of time is shorter than that normally allotted but legislation mandates that final regulations be published by January 1. Administering agencies at all levels must have an adequate amount of time to plan and prepare for the summer program. A delay in the issuance of regulations results in severe timing problems and hence the Department believes that it is in the best interest of the program and that the public will not be adversely affected by this shortened period. This determination has been made by Gene P. Dickey, Deputy Administrator, Special Nutrition Programs, Food and Nutrition Service, USDA.

Accordingly, the Department is issuing a proposed Part 225 as follows:

## PART 225—SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

### Subpart A—General

Sec.

225.1 General purpose and scope.
225.2 Definitions.
225.3 Administration.

### Subpart B—State Agency Provisions

225.4 Procedures for approval of sponsors and sites.
225.5 Responsibilities of State agencies.
225.6 Program management and administration plan.
225.7 Payment and use of State administrative funds.
225.8 Payments to State agencies and use of Program funds.

### Subpart C—Sponsor Provisions

225.9 Requirements for participation.
225.10 Food service requirements.
225.11 Food service management companies.
225.12 Program payments.
225.13 Program payments procedures.
225.14 Claims against sponsors.

### Subpart D—Miscellaneous Provisions

225.15 Procurement provisions.
225.16 Prohibitions.
225.17 Free meal policy.
225.18 Other provisions.
225.19 Program information.

AUTHORITY: Sec. 2, Pub. L. 95-166, 91 Stat. 1325 (42 U.S.C. 1761); Sec. 7, Pub. L. 91-248, 84 Stat. 211 (42 U.S.C. 1759a).

## Subpart A—General

### § 225.1 General purpose and scope.

This part announces the policies and prescribes the regulations under which the Secretary will carry out a Summer Food Service Program for Children to assist States through grants-in-aid to initiate, maintain, and expand nonprofit food service programs for children during the summer months and at other approved times. The food service to be provided under the program is similar to that provided under the National School Lunch and School Breakfast Programs and is intended to serve as a substitute for those programs for children who are on school vacation, except that it is primarily directed toward children from needy areas.

### § 225.2 Definitions.

(a) "Act" means the National School Lunch Act, as amended.

(b) "Administrative costs" means costs incurred by a sponsor related to planning, organizing, and managing a food service under the program (excluding interest costs and operating costs).

(c) "Advance payments" means financial assistance made available to a sponsor for its operating costs or administrative costs prior to the end of the month in which such costs will be incurred.

(d) "Areas in which poor economic conditions exist" means (1) the local areas from which a site draws its attendance in which at least 33⅓ percent of the children are eligible for free or reduced price school meals under the National School Lunch Program and the School Breakfast Program, as determined by information provided from departments of welfare, zoning commissions, census tracts, and recognized migrant organizations, by the number of free and reduced price lunches or breakfasts served to children attending public and nonprofit private schools located in the areas of program sites, or from other appropriate sources, or (2) an enrollment program in which at least 33⅓ percent of the children are eligible for free or reduced price school meals as determined by statements of eligibility based on the size and incomes of the families of the children enrolled.

(e) "Camps" means (1) residential summer camps which offer a regularly scheduled food service as part of an organized program for enrolled children and which serve up to four meals a day, and (2) nonresidential programs which offer a regularly scheduled organized cultural or recreational program for enrolled children and which serve such children four meals a day or three meals consisting of a breakfast, lunch and supper.

(f) "Children" means (1) persons 18 years of age and under, and (2) persons over 18 years of age who are determined by a State educational agency or a local public educational agency of a State to be mentally or physically handicapped and who participate in a public school program established for the mentally or physically handicapped.

(g) "Costs of obtaining food" means costs related to obtaining agricultural commodities and other food for consumption by children. Such costs may include, in addition to the purchase price of agricultural commodities and other food, the cost of processing, distributing, transporting, storing, or handling any food purchased for, or donated to, the Program.

(h) "Continuous school calendar" means a situation in which all or part of the student body of a school are on a vacation for periods of 15 continuous school days or more during the period October through April.

(i) "Department" means the U.S. Department of Agriculture.

(j) "Fiscal year" means the period beginning October 1 of any calendar year and ending September 30 of the following calendar year.

(k) "FNS" means the Food and Nutrition Service of the Department.

(l) "FNSRO" means the appropriate FNS Regional Office.

(m) "Food service management company" means a commercial enterprise or a nonprofit organization which contracts with a sponsor to manage any aspect of the food service. References to food service management companies in the Act and in this part shall include vendors which contract with a sponsor to prepare unitized meals, with or without milk.

(n) "Income accruing to the program" means all moneys (other than program payments) received by a sponsor for use in the program from Federal, State and local governments; from food sales to adults, and from any other source, including cash donations or grants.

(o) "Meals" means food which is served to children at a food service site and which meets the nutritional requirements set out in this part.

(p) "Milk" means fluid types of pasteurized flavored or unflavored whole milk, lowfat milk, skim milk, or cultured buttermilk which meet State and local standards for such milk. In Alaska, Hawaii, American Samoa, Guam, Puerto Rico, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands of the United States, if a sufficient supply of such types of fluid milk cannot be obtained, reconstituted or recombined milk may be used. All milk should contain vitamins A and D at the levels specified by the Food and Drug Administration and consistent with State and local standards for such milk.

(q) "Needy children" means children from families whose income is at or below the applicable Secretary's Income Poverty Guideline for Determining Eligibility for Free and Reduced Price Meals.

(r) "OIG" means the Office of the Inspector General of the Department.

(s) "Operating costs" means the cost of operating a food service under the program, including (1) cost of obtaining food, (2) labor directly involved in the preparation and service of food, (3) cost of nonfood supplies, and (4) rental and use allowances of equipment and space, but excluding (i) the cost of the purchase of land, acquisition or construction of buildings, (ii) alteration of existing buildings, (iii) interest costs, (iv) the value of inkind donations, and (v) administrative costs; less income accruing to the program.

(t) "Private nonprofit" means tax exempt under the Internal Revenue Code of 1954, as amended.

(u) "Program" means the Summer Food Service Program for Children authorized by section 13 of the Act.

(v) "Program funds" means financial assistance made available to State agencies for the purpose of making program payments.

(w) "Program payments" means financial assistance in the form of startup payments, advance payments or reimbursement to sponsors for operating and administrative costs.

(x) "Rural" means any county which is not a part of a Standard Metropolitan Statistical Area as defined by the Office of Management and Budget.

(y) "Secretary" means the Secretary of Agriculture.

(z) "Session" means a specified period of time during which an enrolled group of children attend camp.

(aa) "Site" means a physical location at which a sponsor provides or will provide a food service for children and at which children consume meals in a supervised setting.

(bb) "Special account" means an account between applicable sponsors and food service management companies with a State or federally insured bank in which operating costs payments are deposited by the State agency and released only in accordance with the terms of the special account agreement.

(cc) "Sponsors" means public or private nonprofit (1) camps and (2) nonresidential institutions which provide a year round service to the community, or provide a food service for the children of migrant workers, or provide a food service for a significant number of needy children which would not otherwise have reasonable access to the program. Such camps and institutions shall develop special summer or school vacation programs providing food service similar to that available to children during the school year under the National School Lunch and School Breakfast Programs. (Sponsors are referred to in the Act as "service institutions.")

(dd) "Start-up payments" means financial assistance made available to a sponsor for administrative costs to enable it to effectively plan a food service and to establish appropriate management procedures therefor.

(ee) "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(ff) "State agency" means the State educational agency or an alternate State agency that has been designated by the Governor or other appropriate executive or legislative authority of the State and approved by the Department to administer the program within the State.

### § 225.3 Administration.

(a) Within the Department, FNS shall act on behalf of the Department in the administration of the program.

(b) Within the States, responsibility for the administration of the program shall be in the State agency, except that FNSRO shall administer the program in any State where the State agency is not permitted by law or is otherwise unable to disburse Federal funds paid to it under the program to any sponsor in the State. Each State agency shall notify the Department by each November 1 as to whether or not it intends to administer the program.

(c) Each State agency desiring to take part in the program shall enter into a written agreement with the Department for the adminsitration of the program in the State in accordance with the provisions of this part. Such agreement shall cover the operation of the program during the period specified therein and may be extended by consent of both parties.

(d) When the Secretary determines that the State is not operating the program in accordance with the provisions of this part, he shall, through FNSRO, assume the administration of the program in the State as provided for in § 225.18(b).

(e) FNSRO shall, in the States in which it administers the program, assume all responsibilities of State agencies set forth in this part.

## Subpart B—State Agency Provisions

### § 225.4 Procedures for approval of sponsors and sites.

(a) The State agency shall determine the eligibility of applicant sponsors applying for participation in the program in accordance with the applicant sponsor eligibility criteria outlined in § 225.9(a).

(b) The State agency shall not approve the application of any applicant sponsor, identifiable through its organization or principals as a sponsor which participated previously and was seriously deficient in its program operations. In the event that an applicant sponsor's application is denied, the State agency shall inform such applicant sponsor of the procedure to request a review of the denial. The official making the determination of denial must notify the applicant sponsor in writing stating all of the grounds on which the State agency based the denial. Serious deficiencies, which are grounds for nonapproval include, but are not limited to, any of the following:

(1) Noncompliance with the applicable bid procedures and contract requirements of program regulations;

(2) The submission of false information to the State agency;

(3) Failure to return to the State agency any startup or advance payments which exceeded the amount earned for serving eligible meals, or failure to submit all Claims for Reimbursement in any prior year: *Provided, however,* That failure to return any advance payments of Claims for Reimbursement which are under dispute from any prior year shall not be grounds for disapproval in accordance with this paragraph.

(4) Program violations at a significant proportion of the sites which include, but are not limited to, the following:

(i) Noncompliance with the between meal time requirements;

(ii) Failure to maintain adequate records;

(iii) Failure to adjust meal orders to conform to variations in the number of participating children;

(iv) The simultaneous service of more than one meal to each child;

(v) The claiming of program payments for meals not served to participating children;

(vi) Service of a significant number of meals which did not include required quantities of all meal components;

(vii) Excessive instances of off-site meal consumption;

(viii) Continued use of food service management companies that are in violation of health codes.

(c) Pending the outcome of a review of a denial of an application for program participation, the State agency shall proceed to approve other applicants in accordance with its responsibilities under paragraph (h) of this section, without regard to the application under review.

(d) The State agency shall not approve the application of any applicant sponsor which submits fraudulent information or documentation when applying for program pariticpation or knowingly withholds information which may lead to the disapproval of its application. Complete information regarding the disapproval of an applicant sponsor on the basis of fraudulent submission of information shall be submitted by the State agency to OIG.

(e) The State agency shall develop, in accordance with the requirements of this part and such other guidance as furnished by the Department, a site information sheet, on which applicant sponsors shall provide, for each site, information to demonstrate or describe:

(1) An organized and supervised system for serving meals to attending children;

(2) The type or types of meals to be served and the times of service;

(3) Arrangements, within acceptable standards prescribed by the State or local health authorities, for delivery and holding of meals until time of service, and if there are excess meals, arrangements for storing them until they are served;

(4) Arrangements for food service during periods of inclement weather;

(5) Access to a means of communication for making adjustments as needed in the number of meals delivered in accordance with the number of children attending daily at each site;

(6) The geographic area to be served by the site; and

(7) The percentage of children served by the site who meet the eligibility requirements for free or reduced price school meals.

(f) The State agency shall, when evaluating proposed sites, insure that:

(1) If not a camp, the proposed site serves an area in which poor economic conditions exist;

(2) The number of meals, by type, proposed to be served to children at the site does not exceed the number of children residing in the area to be served, or, if applicable, the number enrolled; and

(3) The area which the site proposes to serve is not or will not be served in whole or in part by another site, unless it can be demonstrated to the satisfaction of the State agency that each site will serve children not served by any other site in the same area for the same meal and that the total number of meals, by type, served to children at all sites does not exceed the number of children residing in the area.

(g) The State agency shall not approve any applicant sponsor to operate more than 200 sites or to serve an average daily attendance of more than 50,000 children unless it can demonstrate to the satisfaction of the State agency that it has the capability of managing a program of that size.

(h) The State agency shall use the following order of priority in approving sponsors to operate sites which propose to serve the same area or the same enrolled children:

(1) Applicant sponsors which are public or nonprofit private schools and other applicant sponsors which have demonstrated successful program performance in a prior year;

(2) Applicant sponsors which propose to prepare meals at their own facilities or which operate only one site;

(3) Applicant sponsors which propose to utilzed local school food facilities for the preparation of meals;

(4) Other sponsors which have demonstrated ability for successful program operations; and

(5) Applicant sponsors which plan to integrate the program with Federal, State, or local employment or training programs.

(i) State agencies may approve the application of an otherwise eligible applicant sponsor which does not provide a year-round service to the community which it proposes to serve under the program only if it is a residential camp, or an applicant sponsor which provides a food service for the children of migrant workers, or when a failure to do so would deny the program to an area in which poor economic conditions exist, or if a significant number of needy children will not have reasonable access to the program: *Provided, however,* That such an applicant sponsor shall not be approved to operate more than 50 sites. The State agency may approve applicant sponsors which provide a food service for the children of migrant workers to operate more than 50 sites if the State agency determines that such sponsors have adequate capabilities and facilities and have provided services to migrant communities in prior years. State agencies, when approving the applications of such applicant sponsors shall take particular care to insure that such applicant sponsors are timely in their program planning and thoroughly prepared to assume and carry out all program responsibilities.

(j) Applicant sponsors which qualify as camps shall be approved for reimbursement only for meals served free to children enrolled who meet the eligibility requirements for free and reduced price school meals.

**§ 225.5 Responsibilities of State agencies.**

(a) *State agency personnel.* Each State agency shall provide sufficient qualified consultative, technical, and managerial personnel to administer the program and monitor performance and to measure progress toward achieving program goals. The State agency shall assign specific program responsibilities to such personnel so as to insure that all applicable requirements under this part are met. All administrative personnel shall be employed and available for program duties at least 30 days prior to the State agency's sponsor application deadline date and all field staff personnel shall be employed and available at least 15 days prior to the beginning of program operations: *Provided, however,* That the State agency shall hire additional personnel subsequent to these dates if, due to unanticipated program growth or program irregularities, additional personnel are needed. State agencies may submit to FNSRO written requests for exceptions to these hiring dates. Such requests shall include information in sufficient detail for FNSRO to determine that the exception is necessary for and will not adversely affect optimal program administration and operation.

(b) *Program assistance.* Each State agency shall provide program assistance as follows:

(1) Each State agency shall visit, prior to the approval of the application, all applicant sponsors which have not participated in the program in the previous year and all applicant sponsors which participated in the previous year and have been determined by the State agency to need a preoperational visit. Grounds for such a visit include, but are not limited to, sponsors with sites which were terminated for cause in the previous year and sponsors which had sites in violation of the meal service requirements in the previous year. These visits shall be utilized to provide the State agency the opportunity to further assess the applicant sponsor's potential for successful program operations, assess information submitted on the application, and assure the State agency that the appli-

cant sponsor is aware of its responsibilities under the program.

(2) Each State agency shall, prior to approval, visit each new proposed nonschool site located in cities whose total elementary and secondary public school enrollment exceeds 75,000 for the purpose of evaluating its suitability for the food service proposed.

(3) Each State agency shall, prior to approval of any site with a proposed average daily attendance of more than 300 children, visit each such site to evaluate its capability of serving the number of children expected: *Provided, however,* That the State agency may elect to not carry out such a preapproval evaluation if the site has been used under the program in a prior year and the State agency has documentation on file which supports the capability of the site and gives evidence of successful prior program operations at the site.

(4) Each State agency shall review during the first 4 weeks of operations, all sponsors which operate 10 or more sites, and, at a minimum, an average of 15 percent of the sites of such sponsors, to insure compliance with program regulations and with the Department's nondiscrimination regulations (Part 15 of this title) and other applicable instructions as issued by the Department.

(5) In addition to the review requirements described in paragraph (b)(4) of this section, each State agency which expects to receive more than $250,000 in State administrative funds shall meet additional review requirements for all sponsors which operate 10 or more sites and which are located in cities whose total elementary and secondary public school enrollment exceeds 75,000. These additional requirements shall be to conduct reviews of an average of 75 percent of nonschool sites, and 25 percent of school sites, during the first 4 weeks of operation. In determining which sites shall be reviewed under this paragraph and under paragraph (b)(4) of this section, the State agency shall consider, at a minimum, whether or not the site has been used in prior years, the performance of the site in prior years, the performance of other sites operated by the same sponsor in both prior years and the current year and the performance of the applicable sponsor in prior years and in the current year.

(6) Each State agency shall, in addition, review 80 percent of the remaining sponsors, and an average of 10 percent of the remaining sites of such sponsors, at least once during the period of program operations.

(7) In the conduct of reviews, each State agency shall develop a monitoring system to insure that sponsors, including site personnel, and the appropriate food service management company, if applicable, promptly receive a copy of the review reports and are promptly notified of violations which might result in a program disallowance. Sponsors and site personnel shall be afforded every opportunity to make necessary corrections in a timely manner. In cases where corrective action of sites is not taken in accordance with this paragraph, and such sites are canceled, each State agency shall insure that food service management companies are notified of all sites which are canceled within a reasonable time.

(8) Documentation of program assistance and results of such assistance shall be maintained on file by the State agency.

(9) Each State agency shall during the first 4 weeks of program operations, provide for inspections of all facilities in its State in which food is prepared to be served in the program. Funds provided for in § 225.8(i) may be used for this purpose.

(c) *Program availability.* Each State agency shall, by February 1 of each fiscal year, announce the purpose, eligibility criteria, and availability of the program throughout the State, through appropriate means of communication. As part of this effort, each State agency shall compile a listing of potential sponsors which have not previously participated in the program, and shall contact such potential sponsors. State agencies shall identify rural areas which qualify for the program and actively seek eligible applicant sponsors to serve such areas. States shall identify priority outreach areas in accordance with FNS guidance, for targeting outreach efforts in such areas.

(d) *Financial management system for sponsors.* Each State agency shall establish a financial management system which is in compliance with attachment G of the Office of Management and Budget Circular A-102, under which sponsors shall maintain and report the information required in this part. The system shall also be consistent with the cost principles found in Federal Management Circular 74-4 and any applicable instruction issued by FNS.

(e) *Payment of claims.* A State agency may make full or partial reimbursement upon receipt of a claim for reimbursement from a sponsor, but shall first make any necessary adjustments in payments.

(f) *Sponsor and food service management company contract.* Each State agency shall develop a standard form of contract for use by sponsors in contracting with food service management companies. The contract shall expressly and without exception provide that:

(1) The sponsor shall provide to the food service management company a list of State agency approved food service sites and shall notify the food service management company of all sites which have been approved or canceled subsequent to the submission of the initial approved site list. Such notification shall be provided within the time limits mutually agreed upon in the contract;

(2) The food service management company shall maintain such records (supported by invoices, receipts, or other evidence) as the sponsor will need to meet its responsibilities under this part, and shall report to the sponsor promptly at the end of each month, at a minimum;

(3) The food service management company shall have State or local health certification for the facility in which it proposes to prepare meals for use in the program and it shall insure that health and sanitation requirements are met at all times. In addition, the food service management company shall provide for meals which it prepares to be periodically inspected by the local health department or an independent agency to determine bacteria levels in the meals being served. Such levels shall conform to the standards which are applied by the local health authority with respect to the level of bacteria which may be present in meals served by other establishments in the locality. Results of such inspections shall be submitted to the sponsor and to the State agency;

(4) The meals served under the contract shall conform to the cycle menus and meal quality standards and food specifications approved by the State agency upon which the bid was based;

(5) The books and records of the food service management company pertaining to the sponsor's food service operation shall be available for inspection and audit by representatives of the State agency, of the Department, and the U.S. General Accounting Office at any reasonable time and place, for a period of 3 years from the date of receipt of final payment under the contract;

(6) The sponsor and the food service management company shall operate in accordance with current program regulations;

(7) The food service management company shall be paid by the sponsor for all meals delivered in accordance with the contract and this part, and shall not be paid for departures from the contract such as meals which are delivered to nonapproved sites or for meals which are delivered to approved sites outside of the agreed upon delivery time, are spoiled or unwholesome at the time of delivery, or do not otherwise meet the meal requirements and meal quality standards and food

specifications contained in the contract;

(8) Unitized meals shall be delivered in accordance with a delivery schedule prescribed in the contract;

(9) Increases and decreases in the number of meal orders shall be made by the sponsor, as needed, within a prior notice period mutually agreed upon;

(10) All meals served under the program shall meet the requirements of § 225.10;

(11) In cases of nonperformance or noncompliance on the part of the food service management company, the company shall pay the sponsor for any excess costs the sponsor incurs by obtaining meals from another source; and

(12) Each nongovernmental sponsor whose contract or aggregate amount of contracts with one food service management company exceeds $10,000 shall establish a special account for the deposit of payments by the State agency for operating costs. A separate special account as provided for in § 225.9(i) shall be established for each food service management company under contract with a sponsor.

(g) *Advance and startup payment procedures.* Each State agency shall inform sponsors of the procedure whereby, they may apply for advance program payments and advance administrative costs payments as provided for in § 225.13 and, where applicable, each State agency shall inform sponsors of the procedure whereby they may apply for startup payments provided for in § 225.12(c).

(h) *Use of onsite facilities or school food service facilities.* State agencies shall make a positive effort to encourage sponsors to use the sponsors' own facilities or the facilities of public or nonprofit private schools to the maximum extent feasible, in the preparation, service, and delivery of meals under the program.

(i) *Sponsor application deadline date.* Each State agency shall establish and inform all applicant sponsors of a deadline date for submission of a written application for participation in the program: *Provided, however,* That State agencies shall approve the application of an otherwise eligible applicant sponsor submitted after the date established by the State agency, when the failure to do so would deny the program to an area in which poor economic conditions exist or a significant number of needy children will not have reasonable access to the program. The State agency shall inform potential sponsors inquiring after the sponsor application deadline date of the possibility of approval if the sponsor qualifies under these terms. The State agency must act on all applications within 30 days after the sponsor application deadline date: *Provided, however,* That the 30 days may be extended upon approval by FNS. In the case of applicant sponsors which apply after the deadline date and qualify in accordance with the terms of this paragraph, the State agency shall act on such applications as soon as possible after receipt.

(j) *Meal service restriction.* (1) A State agency shall restrict to one meal service per day (i) any site determined to be in violation of the meal service requirements as set forth in this paragraph when corrective action is not taken within a reasonable time as determined by the State agency, and (ii) all sites under a sponsor if more than 20 percent of the sponsor's sites are determined to be in violation of the meal service requirements as set forth in this paragraph. If such action results in children not receiving any meals under the program, the State agency shall make every reasonable effort to locate another source of meal service for such children. In addition, the State agency shall not approve the service of more than one meal per day at any site unless each type of meal is delivered separately within 1 hour of the beginning of the meal service or facilities capable of holding hot or cold meals within the temperatures required by State or local health regulations are available at the site..

(2) Meals which may be served under the program shall be breakfast, lunch, supper, and supplemental food served between such other meals. Only camps may be approved to serve supplemental food and also participate in the special milk program (7 CFR Part 215), provided that those camps keep separate records for each program. Except for camps, sponsors shall be approved to serve only up to three meals a day at each site, provided that at least one of the three meals is a supplement. Residential camps shall be approved to serve up to four meals a day, and nonresidential camps shall be approved to serve four meals a day or three meals consisting of a breakfast, lunch, and supper, provided that camps have the administrative capability and where applicable, the food preparation and holding facilities, and provided that the service period of different meals does not coincide or overlap. No sponsor shall be reimbursed for meals served outside of the meals service limitations contained in the subparagraph. No sponsor shall be approved for more than two supplements a day.

(3) Three hours shall elapse between the beginning of one meal service, including supplements, and the beginning of another, except that 4 hours shall elapse between the service of a lunch and supper when no supplement is served between lunch and supper. The service of supper shall begin no later than 6 p.m.: *Provided, however,* That a State agency may consider a waiver of this requirement for extenuating circumstances. Such waivers shall be granted only when the State agency and the sponsor insure that special arrangements shall be made to monitor these sites. In no case may the completion of supper end later than 8 p.m. None of the preceding time restrictions of this subparagraph shall apply to residential camps. The duration of the meal service shall be limited to 2 hours for lunch or supper and 1 hour for all other meals. Meals served outside of the period of approved meal service shall not be eligible for program payments. Any permanent changes in meal service pereiods must be approved by the State agency. Each sponsor shall serve only the type or types of meals for which it is approved in its agreement with the State agency.

(k) *Records and reports.* (1) Each State agency shall maintain current accounting records of its program operations which will adequately identify funds authorizations, obligations, unobligated balances, assets, liabilities, income, and expenditures for administrative costs and operating costs. The records may be kept in their original form or on microfilm, and shall be retained for a period of 3 years after the date of submission of the final financial status report, except that, if audit findings have not been resolved, the records shall be retained beyond the 3-year period as long as required for the resolution of any issues raised by the audit. (2) No later than September 30 of each year, the State agency shall provide the Department with information on the scope of program operations within the State, including information on program levels in rural areas. (3) Each State agency shall report information on the use of program funds and on program operations to FNS on forms provided by FNS, as instructed by FNS.

(l) *Investigations.* Each State agency shall promptly investigate complaints received or irregularities noted in connection with the operation of the program, and shall take appropriate action to correct any irregularities. State agencies shall maintain on file all evidence relating to such investigations and actions. The Department may make investigations at the request of the State agency, or where the Department determines investigations are appropriate

(m) *Commodity distribution information.* A list of sponsors which are to receive food commodities, with accompanying information on the average daily number of eligible meals to be served by such sponsors, shall be prepared not later than June 1 of each

year by the State agency. Such a list shall contain only the names of sponsors which will prepare the meals to be served at their sites and the names of sponsors which have entered into an agreement with a school or school district for the preparation of meals to be served under the program. If the State agency is other than the agency of the State which handles the distribution of food commodities donated by the Department, this information shall be forwarded to the agency of the State which handles the distribution of donated commodities. The State agency shall be responsible for promptly revising the information to reflect additions or deletions of sponsors and for providing such adjustments in participation data as are determined necessary by the State agency. Availability of commodites and other foods which are not donated commodities but are in plentiful supply shall be summarized and made available to all sponsors upon the approval of their application for participation.

(n) *Training.* Each State agency shall plan for and carry out program training for sponsors, food service management company respresentatives, and health inspectors which will participate in the program in that State. Each State agency shall, prior to program operations, insure that the sponsor's supervisory personnel responsible for the food service receive training in all necessary areas of program administration and operations. Such training shall be structured and scheduled to reflect the fact that individual sponsors or groups of sponsors require different levels and areas of program training. State agencies are encouraged to utilize sponsors which have previously participated in the program in such training, and to train site personnel regarding their responsibilities. Training should be made available at convenient locations. Each State agency shall make available, prior to the beginning of program operations, training in all necessary areas of program administration for representatives from all food service management companies and each health department which will participate in the program in the current year.

(o) *Program materials.* Each State agency shall develop and make available in a timely manner all necessary program materials so that applicant sponsors have sufficient time to adequately prepare for their participation in the program.

(p) *Procurement provisions.* State agencies shall require sponsors to adhere to the procurement provision set forth in § 225.15 in addition to any other procurement provisions contained in this part. In addition, State agencies shall encourage sponsors to use small and minority-owned businesses, as sources of supplies and services. The Department will provide guidance on technical and financial assistance available to such businesses.

(q) *Management evaluation and audits.* (1) Each State agency shall insure that the requirements of this part are met and upon approval of applicant sponsors' applications whose total claims for reimbursement are expected to exceed $50,000 shall provide those sponsors with an audit guide to be used in the conduct of the audit required by § 225.9(k) and any other guidance necessary to enable them to comply with the requirements set out in § 225.9(k). The audit guide developed by the State agency shall, at a minimum, contain the standards set forth in the audit guide issued by the Department for the program.

(2) In accordance with the plan submitted under § 225.6(a)(14), the State agency shall provide for audits, at least once every 2 years, of all sponsors within the State. The audit requirement outlined in § 225.5(q)(1) may be included by the State to meet a portion of the requirement contained in this section. In addition, any audit of an organization which is conducted in accordance with the program audit guide and includes the program covered by this part may be included to meet a portion of the audit requirement contained in this section. The State agency shall provide for audits of sponsors whose total claims for reimbursement are expected to be less than $50,000 and the cost of such audits shall be considered an allowable State administrative expense. In no case may States require that sponsors earning less than $50,000 pay for the cost of such audits, in whole or in part. These audits shall be conducted by State agency internal auditors, State Auditors General, State Comptrollers, other comparable independent State audit groups, Certified Public Accountants or State licensed public accountants.

(3) Each State agency shall coordinate its monitoring review findings under paragraph (b) of this section and the audit reports provided for under § 225.9(k). Each State agency shall insure that monitoring is conducted to result in a representative review of the sponsor's operations under the program.

(4) While OIG shall rely to the fullest extent feasible upon State-sponsored audits, it shall, whenever it considers necessary, (i) make audits on State-wide basis, (ii) perform on-site test audits, and (iii) review audit reports and related working papers of audits performed by or for State agencies.

(5) State agencies shall provide FNS and OIG with full opportunity to conduct management evaluations (including visits to sponsors) and audits of all operations of the State agency. Each State agency shall make available its records, including records of the receipts and expenditures of funds upon a reasonable request by FNS or OIG. OIG shall also have the right to make audits of the records and operations of any sponsor.

(6) The Department shall require State agencies to utilize statistical sampling procedures in audits, management evaluations, and other monitoring activities conducted in a select number of large cities that shall be chosen by the Department. State agencies may elect to utilize statistical sampling procedures in other areas. Such statistical sampling must be conducted in accordance with guidelines issued by the Department. The Department will provide training on these procedures to all State agencies, as requested. Whenever statistical sampling procedures are used, State agencies shall establish a system for prompt communication of adverse findings to sponsors and for corrective action by sponsors. State agencies that are required to use statistical sampling shall also consider sampling results as one factor in the settlement of claims. Greater weight should generally be given sampling results, when assessing claims, in instances where a sponsor has failed to take corrective action, after being notified of the results and their potential consequences, than in instances where a sponsor has acted promptly to correct its deficiencies.

(7) Use of program audit guide available from OIG is encouraged. When this guide is utilized, OIG will coordinate its audits with State-sponsored audits to form a network of intergovernmental audit systems.

(8) In conducting management evaluations or audits for any fiscal year, the State agency, FNS or OIG may disregard overpayment which does not exceed $35 or, in the case of State agency administered programs, does not exceed the amount established under State law, regulations, or procedures as a minimum for which claims will be made for State losses generally. No overpayment shall be disregarded, however, where there are unpaid claims for the same fiscal year from which the overpayment can be deducted, or where there is substantial evidence of violation of criminal law or civil fraud statutes.

(r) *Food specifications and meal quality standards.* Each State agency shall, with the assistance of the Department, develop and make avialable to all sponsors minimum food specifications and model meal quality standards, which shall become part of the

contracts between sponsors and food service management companies.

(s) *Food quality and preparation facility inspection procedures.* Each State agency shall, with the funds authorized in § 225.8(i), establish a procedure for inspections of food preparation facilities and food service sites. The procedures for carrying out work such as inspections and testing shall be consistent with procedures used by local health authorities. Copies of the results of the inspections of the facilities of food service management companies shall be provided to the company, the sponsor, and the State agency.

(t) *Food service management company registration.* (1) Each State agency shall by February 1 provide to all food service management companies which participated in the program in either of the prior years in that State a notification of mandatory registration. Such notification shall contain at a minimum (i) a statement of the requirement for registration with the State agency as a prerequisite to participation in the program during the applicable fiscal year, (ii) a summary of those items which are required to be submitted in the application for registration as set forth in paragraph (u)(2) of this section, (iii) an enumeration of the specific criteria developed by the State agency upon which registrant eligibility shall be based, and (iv) other relevant information necessary to make application for registration. In addition, each State agency shall, by the same date, issue through the appropriate media a notification of mandatory registration and information necessary to make application for registration.

(2) By March 15 each food service management company which desires to participate in the program within the State during such fiscal year shall submit an application for registration to the State agency. At a minimum, registration shall require (i) submission of name and mailing address and any other names under which such food service management company presently or in the past 2 years has marketed its services, (ii) a certification that the food service management company meets applicable State and local health, safety, and sanitation standards, (iii) disclosure of past and present company owners, directors and officers, and their relationship, if any, to any sponsor or food service management company which participated in the program in the past 2 years, (iv) records of contract terminations, disallowances, and health, safety, and sanitation code violations related to prior program participation during the past 2 years, (v) records of any other contract terminations and health, safety, and sanitation code violations during the past 2 years, (vi) the address or addresses of the company's food preparation and distribution facilities which will be used in the program and the local officials responsible for the operation of such facilities, (vii) the number of meals which may be prepared in each preparation facility in a 24-hour period for use in the program, (viii) a certification that the food service management company will operate in accordance with current program regulations, and (ix) a statement that the food service management company understands that it will not be paid for meals which are delivered to nonapproved sites or for meals which are delivered to approved sites outside of the agreed upon delivery time or meals that do not meet the meal requirements and food specifications contained in the contract between the sponsor and the food service management company.

(3) No food service management company shall be registered by the State agency if the State agency determines that the company lacks the administrative and financial capability to perform under the program or if it is identifiable through its organization or principals as a food service management company which participated in the program during any previous year and was seriously deficient in its program operation. Serious deficiencies which are grounds for nonregistration include, but are not limited to, any of the following:

(i) Noncompliance with the applicable bid procedures, contract requirements, or program regulations;

(ii) Submission of false information to the State agency;

(iii) Failure to conform meal deliveries to meal orders;

(iv) Delivery of a significant number of meals which do not meet contract requirements;

(v) Failure to maintain adequate records;

(vi) Significant health code violations which were not corrected upon reinspection;

(vii) Failure to deliver meals; or

(viii) The conviction of any officer, owner, partner, or manager of the company for a crime in connection with a prior program operation.

(4) The State agency shall provide for inspections prior to registration of all food service management companies' food preparation facilities listed on the applications for registration, except those located outside the State. The State agency shall promptly notify FNSRO of the name and location of any out-of-State facility, and FNSRO shall insure that such facility is inspected prior to registration. The purpose of the inspection is to evaluate each facility's suitability for preparation of meals for use in the program. The State agency may waive this inspection requirement if a facility was registered last summer and operated in accordance with program requirements.

(5) The State agency shall notify in writing each food service management company which applied for registration of its determination on the application within 30 days after receipt of the complete application. The State agency shall inform any food service management company whose application for registration has been denied of the procedures to request a review of the denial as provided for in paragraph (w) of this section. The official making the determination of denial must notify the food service management company in writing, stating all the grounds on which the State agency based the denial.

(6) By April 15 of the current year, each State agency shall forward to the Department, on a form provided by FNS, information on all food service management companies which applied for registration to the State agency and their registration status. The Department shall allow any food service management company to review any information concerning that company which was submitted to FNS as required by this paragraph.

(7) A State agency shall consider a food service management company's application for registration submitted after March 15 of the current year, if the State agency determines that the lack of registration could result in an area in which poor economic conditions exist not being served or a significant number of needy children not having reasonable access to the program.

(8) Each State agency shall require food service management companies submitting applications for registration to certify that the information submitted on the form is true and correct and that the food service management company is aware that misrepresentation may result in prosecution under applicable State and Federal statutes.

(u) *Bid opening monitoring.* Each State agency shall have a representative present at all procurement bid openings of sponsors which expect to receive more than $100,000 in program payments.

(v) *Sponsor certifications.* Each State agency shall require applicant sponsors submitting program applications, site information sheets, program agreements or claims for reimbursement, and sponsors requesting advance payments, to certify that the information submitted on these forms is true and correct and that the sponsor is aware that deliberate misrepresentation or withholding of information may result in prosecution under appli cable State and Federal statutes.

(w) *Sponsor and food service management company hearing procedures.* (1) Each State agency shall establish a procedure to be followed by an applicant requesting a review of a denial of an applicant sponsor's application for participation, a sponsor's approved level of administrative costs, a denial of a request by a sponsor for an advance payment, a denial of a claim by a sponsor for reimbursement, a denial of a sponsor's site or a denial of a food service management company's registration.

(2) At a minimum the procedure shall provide that:

(i) The denied applicant be advised in writing of the grounds upon which the State agency based the denial;

(ii) The denied applicant be advised in writing that the request for review must be made within a specified time. The State agency may establish this period of time at not less than 1 week nor more than 2 weeks from the date of receipt of the letter of denial;

(iii) The denied applicant be afforded the opportunity to review any information upon which the denial was based;

(iv) The hearing official be an official other than the one directly responsible for the original determination;

(v) The review be held within 2 weeks of the date of the receipt of the request for review;

(vi) The applicant may refute the charges contained in the letter of denial either in person or by mailing written documentation to the reviewing official. The applicant may retain legal counsel, or may be represented by another person;

(vii) Within 3 days after the applicant's hearing, or within 3 days after receipt of written documentation, the reviewing official must make a determination based on a full review of the administrative record; and

(viii) The State agency must inform the applicant of the determination of the review by certified mail, return receipt requested. The determination by the State reviewing official is the final administrative determination to be afforded an applicant.

(x) *Advance payment estimates.* Each State agency shall, when determining the amount of advance operating costs payments to be made to each sponsor under § 225.13(d) make the best possible estimate based on the amount requested by the sponsor and any other data available to the State agency.

(y) *Sponsor's budget approval process.* Each State agency shall, based on guidance provided by the Department, develop a budget approval procedure for the purpose of determining amounts of administrative costs payments to be made to sponsors. As part of this procedure State agencies shall require each sponsor to submit a detailed administrative budget which the State shall evaluate to determine the level of administrative payments for which the sponsor is eligible. State agencies shall vary the levels of such payments taking into consideration (1) whether or not proposed administrative expenses are both allowable and reasonable; (2) variables such as the proposed number of sites, the location of sites, whether food will be prepared onsite or by a food service management company, and any other factors which are unique to a sponsor or group of sponsors, and (3) the availability of funding from other sources. State agencies shall be required to the extent practicable and within the funding limitations found in § 225.8(c) to meet the reasonable and necessary administrative expenses of each sponsor as set forth in the sponsor's budget. State agencies which fail to vary the levels of administrative costs payments to sponsors shall provide justification to FNS that the administrative expenses among sponsors within the State do not differ.

**§ 225.6 Program management and administration plan.**

(a) Not later than February 15 of each fiscal year, each State agency shall submit to FNSRO a program management and administration plan for that fiscal year. The plan shall have the original signature of the chief official (Commissioner or Superintendent) of the State agency. Approval of the plan by FNS shall be a prerequisite to the payment of program funds, or to the donation by the Department of any commodities for use in the program. The plan shall include the following information at a minimum:

(1) How the State plans to use program funds and funds from within the State to the maximum extent practicable to reach needy children, including needy children in rural areas. The State should clearly define its methods for assessing need, the total number of children reached by the program last year, its priority areas for program expansion, and its plans and schedule for informing potential sponsors of the availability of the program;

(2) Estimated number and type of sponsors expected to participate and estimated number of sites and average daily attendance, and a description of the estimating methods used, including data on the number of sponsors which participated in the prior year;

(3) Estimated amount of program funds, by month, needed for operating costs payments to sponsors;

(4) Estimated amount of program funds, by month, needed for administrative costs payments to sponsors;

(5) The State's plans and schedule for providing technical assistance and training for sponsors, food service management company representatives and health department officials, including the number of such training sessions planned and number of reviews planned, including data on the number of reviews conducted in the prior fiscal year;

(6) The State agency budget, by month and function on the use of State administrative funds, including, but not limited to staffing (part-time and full-time), salaries, travel and per diem;

(7) The State's plan to comply with the Department's standards for disbursing administrative costs payments to sponsors;

(8) The actions to be taken by the State agency to maximize the use of onsite meal preparation and the use of school food service facilities;

(9) The actions to be taken by the State to insure compliance with the requirements of the Department's regulations respecting nondiscrimination (7 CFR Part 15);

(10) The States plan for monitoring and inspecting sponsors, sites, and food service management companies and for insuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently;

(11) The State's plan for timely and effective action on program violations;

(12) The State's plan and schedule for submission and approval of sponsor applications;

(13) The State's plan for determining the amounts and timing of program payments to sponsors and for disbursing such payments;

(14) The State's plan for insuring fiscal integrity by auditing sponsors as provided under § 225.5(q), including data on the number of audits performed in the prior fiscal year;

(15) The State's plan and procedure for registering food service management companies;

(16) The State's procedures for granting a hearing and prompt determination to any sponsor wishing to appeal a State's ruling denying its application for program participation, its site participation, its approved level of administrative costs, program advance payments, or program reimbursement and the State's procedure for granting a hearing and prompt determination to any food service management company wishing to appeal a State's ruling denying the food service management company registration in the State;

(17) The State's plan for utilizing the funds provided for under § 225.8(i) to provide for health inspections and

meal quality tests, including the estimated number and frequency of such inspections and tests and a description of the arrangements made by the State with the agencies which will perform these services;

(18) The amount of non-Federal funds made available to the State through direct State appropriations for the program;

(19) An explanation of significant deviations in last year's actual program operations and administration from that proposed in the plan for last year; and

(20) The State's procedures for soliciting and insuring that timely coments or recommendations made by interested parties regarding this plan receive full consideration.

(b) The State agency shall give the Governor, or his delegated agency, the opportunity to comment on the relationship of the program management and administration plan to comprehensive and other State plans and programs and to those of affected areawide or local jurisdictions. A period of 45 days from the date of receipt of the program management and administrtion plan shall be afforded to make such comments.

(c) All plans shall be approved or acted on by March 15, or if it is submitted late, within 30 days following receipt of the plan. In cases where the plan initially submitted is not approved, the State agency and the approval authority shall work together to insure that changes to the plan, in the form of amendments, shall be submitted so that the plan shall be approved within 60 days following the initial submission of the plan.

**§ 225.7 Payment and use of State administrative funds.**

(a) For each fiscal year, the Secretary shall pay to each State agency for administrative expenses incurred in the program an amount equal to (1) 20 percent of the first $50,000 in program funds properly payable to the State in the preceding fiscal year; (2) 10 percent of the next $50,000 in program funds properly payable to the State in the preceding fiscal year; (3) 5 percent of the next $100,000 in program funds properly payable to the State in the preceding fiscal year; and (4) 2 percent of any remaining funds properly payable to State in the preceding fiscal year: *Provided, however,* That FNS may make appropriate adjustments in the level of State administrative funds to reflect changes in program size from the preceding fiscal year as evidenced by information submitted in the State program management and administration plan and any other information available to FNS.

(b) State administrative funds paid to any State shall be used by State agencies to employ personnel, including travel and related expenses, and to supervise and give technical assistance to sponsors in their initiation, expansion, and conduct of any food service for which program funds are made available. State agencies may also use administrative funds for such other administrative expenses as set forth in their approved program management and administration plan.

(c) Not later than October 1 of each fiscal year, the Secretary shall make available to each State agency by letter of credit an initial allocation of State administrative funds for use in the fiscal year beginning on that October 1 and in an amount not to exceed one-third of the State administrative funds which are determined in accordance with the formula set forth in paragraph (a) of this section. For States which did not receive any program funds during the fiscal year immediately preceding the fiscal year for which the initial allocation is being made, the amount to be made available by October 1 of each fiscal year shall be determined by the Department.

(d) An additional amount of State administrative funds shall be made available upon the receipt and approval by FNS of the State's program management and administration plan. The amount of such funds, plus the initial allocation, shall not exceed three-fourths of the State administrative funds which are determined in accordance with the formula set forth in paragraph (a) of this section and based on the estimates set forth in the approved program management and administration plan.

(e) The balance of State administrative funds shall be paid to each State agency as soon as practicable after the conduct of the second funding assessment provided for in paragraph (g) of this section, and shall be in an amount equal to that obtained by applying the formula set forth in paragraph (a) of this section to the State's actual program size as determined by information obtained during the second funding assessment, less the amounts paid under paragraphs (c) and (d) of this section. As provided for in paragraph (g) of this section, further adjustments in the levels of State administrative funding paid or payable to a State may be made.

(f) Notwithstanding the levels of payments provided for in this section, each State agency shall at the time FNS approves the State's management and administration plan, be assured of receiving State administrative funding in an amount equal to the lesser of 80 percent of that obtained by applying the formula set forth in paragraph (a) of this section to the total amount of program payments made within the State during the prior fiscal year, or, 80 percent of that obtained by applying the formula to the estimated amount of program funds as contained in the management and administration plan. The State agency shall be assured that it will receive no less than these levels unless FNS determines that the State agency has failed or is failing to meet its responsibilities as contained in this part.

(g) FNSRO shall at the times it deems most appropriate conduct assessments of the need for program and State administrative funding within each State agency. At a minimum, such funding assessments shall be made at least twice during each fiscal year. The first of these assessments shall be conducted prior to the beginning of sponsor operations when FNSRO determines that there is adequate information available at the State agency upon which a reasonable projection of program size can be made. Based on information obtained during the initial assessment, FNS may make adjustments in the level of State administrative funding paid or payable to the State agency to reflect changes in the size of the State's program as compared to that contained in its management and administration plan. The second assessment shall be conducted at some time during the period of program operations, but not later than August 1, or when information is available on the actual size of program operations. Immediately following such assessment, any remaining payment of State administrative funds shall be made to the State agency. Such payment may reflect adjustments in the level of State administrative funding, based on the information collected in the second assessment. FNS shall not decrease the amount of a State's administrative funds unless the State did not make reasonable efforts to administer the program as it proposed in its management and administration plan, or unless the State incurred expenses that were not necessary.

(h) In no event may the sum of the amounts properly payable under this section for a fiscal year exceed the total amount of expenditures incurred by the State agency for its administrative costs in the same fiscal year. Each State agency shall report to FNS information on the use, in the prior year, of program funds and State administrative funds, on a form provided by FNS, not later than November 30 of each fiscal year. FNS shall make, prior to November 15 of each fiscal year, any adjustments necessary in the letter of credit to reflect actual expenditures in the prior fiscal year.

§ 225.8 Payments to State agencies and use of Program funds.

(a) Upon approval of the State's program management and administration plan, the Secretary shall make available by letter of credit to the State agency program funds to be used to make start-up payments, where applicable, to sponsors as provided for in § 225.12(c).

(b) Not later than April 15, May 15, and July 1 of each fiscal year the Secretary shall make available to each State agency by letter of credit program funds to be used by the State agency to make advance operating costs payments to sponsors in the months for which letter of credit is issued. The amount of each of these payments shall be equal to 65 percent of the amount derived by multiplying the number of operating days in the month times the average daily attendance by meal type as estimated in the State's approved program management and administration plan, times the maximum allowable rates payable to sponsors for operating costs payments as set forth in § 225.12(e).

(c) Not later than April 15, May 15, and July 1 of each fiscal year the Secretary shall make available, by letter of credit, program funds to be used by the State agency to make advance administrative costs payments to sponsors. The amount of each of these payments shall be equal to one-third of the sum of the products obtained by multiplying: the estimated nuimber of breakfasts times 3.75 cents; the estimated number of lunches times 7.25 cents; the estimated number of suppers times 7.25 cents; and the estimated number of supplemental meals times 2.00 cents. The estimated number of meals shall be those which are contained in the approved program management and administration plan. FNS may make appropriate changes in the amounts of these payments based on information obtained during the conduct of the funding assessments provided for in § 225.7(g) and any other information available to FNS upon which determinations as to actual program size may be made.

(d) For sponsors which operate under a continuous school calendar, the Secretary shall make available program funds by letter of credit to the State agencies to make advance payments to sponsors in an amount equal to the amount needed by the State agencies to make advance program payments and advance administrative costs payments to such sponsors, as set forth in the State's approved program management and administrative plan, on the first day of the month prior to the month during which the food service will be conducted.

(e) The Secretary shall make available any remaining program funds due, no later than 60 days following receipt of valid claims from sponsors by the State agency. Any funds advanced to a State agency for which valid claims have not been established within 180 days after the sponsor's operation shall be deducted from the next monthly payment to the State.

(f) Program funds shall be used by State agencies to make program payments to sponsors in connection with meals served to children in accordance with the provisions of this part.

(g) Each State agency shall release to FNS any program funds which it determines are unobligated as of Septemgber 30 of each fiscal year. Release of funds by the State agency shall be made as soon as practicable, but in no event later than 30 days following demand by FNS, and shall be accomplished by an adjustment in the State agency's letter of credit.

(h) The State agency may use in carrying out special developmental projects an amount up to 1 percent of program payments made in any fiscal year: *Provided, however,* That such projects have been included in the State's program management and administration plan and have been approved in writing by FNS.

(i) By April 15 of each fiscal year, the Secretary shall make available by letter of credit to each State agency an additional amount equal to 1 percent of program funds estimated to be needed by the State agency for program payments in the State's approved program management and administration plan and any amendments thereto for the current fiscal year. These funds shall be used solely to enable State or local health departments of other governmental agencies charged with health inspection function, to carry out health inspections and meal qualtity tests: *Provided, however,* That, if such agencies cannot perform such inspecitons or tests, the State agency may use such funds to contract with an independent agency to conduct either the inspection or the meal quality tests, or both. An adjustment may be made in the amount provided for in this paragraph based on the evaluation required in § 225.7(e) if such an adjustment is warranted. Program funds so provided but not expended or obligated shall be returned to the Department by September 30 of the same fiscal year.

### Subpart C—Sponsor Provisions

§ 225.9 Requirements for participation.

(a) No applicant sponsor shall be eligible to participate in the Program unless it:

(1) Demonstrates financial and administrative capability for program operations and accepts final financial and administrative responsibility for total program operations at all sites at which it proposes to conduct a food service;

(2) Has not been seriously deficient in operating the Program in prior years;

(3) Will conduct a regularly scheduled food service for children from areas in which poor economic conditions exist or qualifies as a camp;

(4) Has adequate supervisory and operational personnel for overall monitoring and management of each site, including adequate personnel to visit all sites at least once in the first week of operation under the program, to promptly take such actions as are necessary to correct deficiencies found at the time of the initial visit, to review food service operations at every site at least once during the first 4 weeks of program operations, and thereafter to maintain a reasonable level of site monitoring. During these visits and reviews a monitoring form developed by the State agency shall be completed by the monitor;

(5) Provides an ongoing year-round service to the community which it proposes to serve under the program except as provided for in § 225.4(i);

(6) Certifies that all sites have been visited and have the capability and the facilities for the meal service planned for the number of children anticipated to be served;

(7) Is a public or private nonprofit entity;

(8) If not a camp, provides documentation that its food service will serve children from an area in which poor economic conditions exist. If a camp, certifies that it will collect family-size and income information to support its Claim for Reimbursement; and

(9) If a summer school, is open to serve children in addition to those enrolled in the accredited school program or is a school serving children outside of the summer school hours.

(b) Applicant sponsors shall make written application to the State agency for participation in the Program as sponsors. Such application shall be made on a timely basis in accordance with the requirements of § 225.5(i).

(c) Each applicant sponsor shall submit, as part of the application, a site information sheet, as developed by the State agency, for each site where a food service operation is proposed.

(d) Applications shall include information in sufficient detail to enable the State agency to determine whether the applicant sponsor meets the criteria for participation in the program as set forth in paragraph (a) of this section and the extent of program payments needed, including requests for advance payments and start-up payments, if applicable, and adminis-

trative and operating budget, staffing and monitoring plan.

(e) Each applicant sponsor shall submit to the State agency, as part of the application for participation, a complete administrative budget for State agency review and approval. The budget shall contain a detailed itemization of the projected administrative expenses which a sponsor expects to incur during the operation of the Program, and shall include information in sufficient detail to enable the State agency to effectively determine the amount of administrative moneys needed by a sponsor to effectively and efficiently operate under the program. A sponsor's approved administrative budget shall be subject to subsequent review by the State agency for adjustments in projected administrative costs.

(f) Each applicant sponsor shall submit to the State agency, along with its application, a plan for and a synopsis of its invitation to bid for food service, if a bid is required under § 225.11, and a copy of its letter of engagement with a certified public accountant or an independent State or local government accountant if required under paragraph (k) of this section. In addition, the selected accountant shall within the first 2 weeks of operation under the Program, submit a copy of the management letter to the sponsor and to the State agency.

(g) Each applicant sponsor, except a camp, shall submit, along with its site information sheet, documentation supporting the eligibility of each site as serving an area in which poor economic conditions exist. For those sites at which applicant sponsors will serve children of migrant workers, the documentation requirement may be met by providing the State agency with data from a recognized migrant organization, which supports eligibility for those children as a group. When a sponsor proposes to serve a site which it served in the previous year, documentation from the previous year may be used to support the eligibility of the site. Therefore, for such sites applicant sponsors shall only be required to obtain new documentation every other year. Camps shall submit to the State agency, prior to filing their claims for reimbursement for each session or at such time as specified by the State agency, family-size and income information which documents the number of children enrolled in each session whose family incomes meet the eligibility requirements for free or reduced price school meals.

(h) Sponsors approved for participation in the Program shall enter into written agreements with the State agency, or in those States in which FNSRO administers the program, sponsors shall enter into written agreements with the Department. Such agreements shall provide that the sponsor shall:

(1) Operate a nonprofit food service during any period from May through September for children on school vacation or at some other time or times during the year for children on school vacation under a continuous school calendar system;

(2) Serve meals which meet the requirements and provisions set forth in § 225.10 during a period designated as the meal service period by the sponsor, and serve the same meals to all children;

(3) Serve meals without cost to all children, except that camps may charge for meals served to children who are not eligible for free or reduced price school meals;

(4) Issue a policy statement in accordance with § 225.17;

(5) Hold training sessions for its administrative and site personnel with regard to program duties and allow no site to operate until site personnel have attended such training sessions. Training of site personnel, at a minimum, shall include: purpose of the program, site eligibility, recordkeeping, site operations, meal pattern requirements, and duties of a monitor. Each sponsor shall ensure that its administrative personnel attend State agency training provided to sponsors under § 225.5(n) and sponsors shall provide training throughout the summer to ensure that administrative and site personnel are thoroughly knowledgeable in all requisite areas of program administration and operation and are provided with sufficient information to enable them to carry out their program responsibilities;

(6) Provide for an audit under any program agreement for which it may receive over $50,000 in program payments, as outlined in § 255.9(k);

(7) Claim reimbursement only for the type or types of meals specified in the agreement and served without charge to children at approved sites during the approved meal service period; except that camps shall claim reimbursement only for the type or types of meals specified in the agreement and served without charge to children who are eligible for free or reduced price school meals. No permanent changes may be made in the time of any meal service period until such changes are approved by the State agency;

(8) Submit claims for reimbursement in accordance with procedures established by the State agency, and those stated in § 225.13(a);

(9) Maintain, in the storage, preparation and service of food, proper sanitation and health standards in conformance with all applicable State and local laws and regulations;

(10) Purchase, in as large quantities as may be efficiently utilized in the program, foods designated as plentiful by the State agency or the Department;

(11) Accept and use, in as large quantities as may be efficiently utilized in the program, such foods as may be offered as a donation by the Department;

(12) Have access to facilities necessary for storing, preparing, and serving food;

(13) Maintain a financial management system as prescribed by the State agency;

(14) Maintain on file documentation of site visits in accordance with paragraph (a)(4) of this section;

(15) Upon request, make all accounts and records pertaining to the Program available to State, Federal, or other authorized officials for audit or administrative review, at a reasonable time and place. Such records shall be retained for a period of 3 years after the end of the fiscal year to which they pertain, except that, if audit findings have not been resolved, the records shall be retained beyond the 3-year period as long as required for the resolution of any issues raised by the audit; and

(16) Maintain children on site while meals are consumed.

(i) In addition to the provisions described in paragraph (h) of this section, all agreements between State agencies and sponsors shall provide that all nongovernmental sponsors whose contract or aggregate amount of contracts with one food service management company exceeds $10,000 shall agree to set up a special account with a State or federally insured bank for the deposit of program payments for operating costs payable to the sponsor by the State. The special account agreement must specify that any disbursement of monies from the account must be authorized by both the sponsor and the food service management company. The special account agreement may contain other terms as are agreed to by both sponsor and food service management company, *Provided, however,* That such terms are not inconsistent with the terms of the contract between the sponsor and the food service management company. A copy of the special account agreement shall be submitted to the State agency and another copy maintained on file by the sponsor. Any charges made by the bank for the account described in this section shall be considered an allowable sponsor administrative cost.

(j) Upon notificiation of their approval, sponsors selected for participation in the program shall submit evidence to the State agency that they have advised the appropriate health

department of their intention to provide a food service during a specific period at specific sites. Such evidence shall be in the form of a letter to the health department.

(k) Each sponsor whose total program payments under any Program agreements are expected to exceed $50,000 shall have an audit conducted of its program claims and the supporting documentation for those claims by an independent certified public accountant or an independent State or local government accountant and shall submit to the State agency a copy of the letter of engagement with the accounting firm or individual which is to conduct the audit. The sponsor's final claim for reimbursement under the agreement shall not be eligible for payment until the audit has been completed and the results have been reviewed by the State agency. The cost of the audit may be considered an administrative cost. All such audits shall be subject to review by the Department.

(l) Sponsors shall not claim reimbursement under Parts 210, 215, 220, or 226 of this chapter, or any other federally funded program for meals served under the program.

(m) Each sponsor shall, to the maximum extent feasible, utilize either its own food service facilities, or obtain meals from a school food service facility. If the sponsor obtains meals from a school food service facility the applicable requirements of this part shall be embodied in a written agreement between the sponsor and the school.

(n) Sponsors shall operate the food service in accordance with the provisions of this part and any instructions and handbooks issued by FNS under this part or issued by the State agency which are not inconsistent with the provisions of this part.

### § 225.10 Food service requirements.

(a) Except as otherwise provided in this section and any appendices to this part, each meal served in the program shall contain, as a minimum, the indicated food components:

(1) A breakfast shall contain:

(i) One-half pint (1 cup) of milk as a beverage or on cereal or used in part for each purpose,

(ii) One-half cup serving of fruit or vegetable, or both, or full-strength fruit or vegetable juice, and

(iii) One slice of whole-grain or enriched bread; or an equivalent quantity of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour; or ¾ cup (volume) or 1 ounce (weight), whichever is less, of whole-grain or enriched or fortified cereal, or an equivalent quantity of any combination of these foods.

(2) A lunch or supper shall contain:

(i) One-half pint (1 cup) of milk as a beverage,

(ii) Two ounces (edible portion as served) of cooked lean meat, poultry, or fish; or 2 ounces of cheese; or one egg; or ½ cup of cooked dry beans or peas; or 4 tablespoons of peanut butter; or an equivalent quantity of any combination of the above-listed foods. To be counted in meeting this requirement, these foods must be served as a main dish or in a main dish and one other menu item,

(iii) A three-fourths cup serving consisting of two or more vegetables or fruit, or both. Full-strength vegetable or fruit juice may be counted to meet not more than one-fourth cup of this requirement,

(iv) One slice of whole-grain or enriched bread, or an equivalent quantity of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour.

(3) Supplemental food shall contain two of the following four components:

(i) One-half pint (1 cup) of milk,

(ii) One ounce of meat or meat alternate,

(iii) Eight fluid ounces of full-strength fruit or vegetable juice (juices shall not be served when milk is served) or one cup of fruit or vegetable,

(iv) One slice of whole-grain or enriched bread, or an equivalent quantity of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour; or three-fourths cup (volume) or one ounce (weight), whichever is less, of whole-grain or enriched or fortified cereal, or an equivalent quantity of any combination of these foods.

(b) The quantities of food specified in subparagraphs (1) and (2) of paragraph (a) of this section are approximate amounts of food to serve 10 to 12 year-old boys and girls. Greater or lesser amounts of these foods may be served if participating children are older or younger and if the sponsor can demonstrate to the satisfaction of the State agency that it has the capability of controlling portion size so as to insure that variations in portion size are in accordance with the age levels of the children served.

(c) If emergency conditions prevent a sponsor normally having a supply of milk from temporarily obtaining delivery, the State agency may approve the service of breakfast, lunches, suppers, or supplemental food without milk during the emergency period.

(d) The inability of a sponsor to obtain a supply of milk on a continuing basis shall not bar it from participation in the Program. In such cases the State agency may approve the service of meals without milk, provided that an equivalent amount of canned, whole dry, or nonfat dry milk is used in the preparation of the components of all meals. In addition, the State agency may approve the use of nonfat dry milk in meals served to children participating in activities which make the service of fluid milk impracticable, and in locations which are unable to obtain fluid milk. Such authorization shall stipulate that nonfat dry milk be reconstituted at normal dilution and under sanitary conditions consistent with State and local health regulations.

(e) In American Samoa, Guam, Puerto Rico, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands and the Northern Mariana Islands, the following variations from the meal requirements are authorized: A serving of a starchy vegetable, such as ufi, tanniers, yams, plaintains, sweet potatoes, or a serving of enriched rice or enriched or whole-grain cereal products such as macaroni, dumplings, or noodles may be substituted for the bread requirement.

(f) Substitutions may be made by sponsors in paragraph (a) of this section if individual participating children are unable, because of medical or other special dietary needs, to consume such food. Such substitutions shall be made only when supported by a statement from a recognized medical authority which includes recommended alternate foods. Such statements shall be kept on file by the sponsor.

(g) FNS may approve variations in the food components of the meals on an experimental or a continuing basis for any sponsor where there is evidence that such variations are nutritionally sound and are necessary to meet ethnic, religious, economic, or physical needs.

(h) Sponsors approved to serve children under 1 year of age shall be required to comply with the applicable meal patterns contained in the Child Care Food Program regulations (7 CFR Part 226).

### § 225.11 Food service management companies.

(a) Any sponsor may contract with a food service management company for the preparation of unitized meals, with or without milk. Sponsors may, prior to issuance of bids, submit in writing to the State agency, requests for exceptions to unitizing certain components of a meal. Such requests shall include sufficient reasons for the State agency to determine that the exception is necessary to effectively meet the meal requirements of this part. Each State agency shall notify the sponsor in writing of its determination in a timely manner. Any sponsor may contract with a food service management company to operate its entire blood service: *Provided, however,* That a sponsor that so employs a

food service management company shall remain responsible for assuring that the food service operation is in conformity with its agreement with the State agency and all applicable provisions of this part. Sponsors may contract only with food service management companies registered with the State in which the sponsor will operate, as provided for under § 225.5(t). A food service management company entering into a contract with a sponsor under the program shall not subcontract for the total meal, with or without milk, or for the assembly of the meal. Any sponsor entering into a contract with a food service management company shall use the standard form of contract established by its State agency. For sponsors which are public institutions, sponsors desiring to contract only for the management of the program, and sponsors whose contract with a food service management company will not exceed $10,000 this may be their existing or usual form of contract if such form of contract has been submitted to and approved by the State agency. In any event, sponsors shall adhere to the procurement standards set forth in § 225.15. Each proposed additional provision to the established form of contract shall be submitted to the State agency for approval.

(1) In the absence of any State or local law, sponsors whose proposed contracts are subject to competitive bidding procedure shall, at a minimum, insure that:

(i) All proposed contracts shall be publicly announced at least once, not less than 14 days prior to the opening of bids, and the announcement shall include the time and place of the bid opening;

(ii) The bids shall be publicly opened;

(iii) All bidders shall be notified at least 14 days prior to the opening of the bids of the time and place of the bid opening; and

(iv) The State agency is notified at least 14 days prior to the opening of the bids, of the time and place of the bid opening.

(2) In addition, sponsor shall, at a minimum, when advertising for bids adhere to the following requirements:

(i) The invitation to bid shall not specify a minimum price;

(ii) The invitation to bid shall contain a cycle menu approved by the State agency upon which the bid shall be based;

(iii) The invitation to bid shall contain food specifications and meal quality standards approved by the State agency upon which the bid shall be based;

(iv) The invitation to bid shall not specify special meal requirements to meet the ethnic or religious needs unless such special requirements are necessary to meet the needs of the children to be served;

(v) Neither the invitation to bid nor the contract shall provide for loans or any other monetary benefit or term or condition to be made to sponsors by food service management companies;

(vi) Nonfood items shall be excluded from the invitation to bid, except where such items are essential to the conduct of the food service;

(vii) A copy of the health certification required in this section and a copy of the food service management company registration determination issued by the State agency shall be submitted by the food service management company with each bid;

(viii) Sponsors shall submit to the State agency copies of all bids received and the reason for selecting the food service management company chosen;

(ix) All bids totaling $100,000 or more shall be submitted to the State agency for approval before acceptance. All bids in an amount which exceeds the lowest bid shall be submitted to the State agency for approval before acceptance. State agencies shall respond to a request for approval within 5 working days of receipt.

(b) Copies of all contracts between sponsors and food service management companies, along with a certification of independent price determination, shall be submitted to the State agency prior to the beginning of program operations.

(c) Each food service management company which submits a bid over $100,000 shall obtain a bid bond in an amount not less than five (5) percent nor more than ten (10) percent, as determined by the sponsor, of the value of the contract for which the bid is made. A copy of the bid bond shall accompany each bid.

(d) Each food service management company which enters into a food service contract for over $100,000 with a sponsor shall obtain a performance bond in an amount not less than ten (10) percent nor more than twenty-five (25) percent of the value of the contract as determined by the State agency. Any food service management company which enters into more than one contract with any one sponsor shall obtain a performance bond covering all contracts if the aggregate amount of such contracts exceeds $100,000. Sponsors shall require the food service management company to furnish a copy of the bond within ten days of the awarding of the contract.

(e) Food service management companies shall obtain bid bonds and performance bonds only from surety companies listed in the current Department of the Treasury Circular 570.

(f) Failure by a sponsor to comply with the provisions of this section shall be sufficient grounds for the State agency to terminate participation by the sponsor in accordance with § 225.18(b).

**§ 225.12 Program payments.**

(a) Program payments shall be made to sponsors only after execution of and in accordance with the terms of the agreement with the State agency or the Department. No program payments shall be made for meals served at a site before the sponsor has received written notification of approval for the site from the State agency.

(b) Reimbursement shall be made to camps only for meals served to children whose eligibility is documented on the basis of family size and income information. Any nonresidential camp reduced to less than four meals per day under § 225.5(j)(1) shall continue to receive reimbursement for only those meals served to children eligible for free or reduced priced school meals.

(c) Sponsors which have executed an agreement may, at the discretion of the State agency, receive start-up payments not earlier than 2 months before beginning food service operations. Start-up payments shall not exceed 20 percent of the amount estimated by the State agency to be needed by a sponsor to administer the Program in accordance with the sponsor's approved administrative budget, as provided for under § 225.9(e). Start-up payments shall be deducted from the first advance payment made to a sponsor for allowable administrative costs.

(d) Payments to all sponsors for administrative costs shall, within the total amount of funds available to the State for sponsor administrative costs as prescribed by § 225.8(c), equal the full amount of administrative costs as approved in the sponsor's budget by the State agency. A sponsor's administrative budget shall be subject to subsequent review by the State agency, and based on such a review, the State agency may make adjustments in the level of administrative costs payments to the sponsor which reflect a change in the level of the sponsor's administrative function or the quality of the sponsor's administrative effort. No sponsor shall receive administrative costs payments in excess of actual administrative expenditures.

(e) Payment to a sponsor for operating costs shall not exceed 92.75 cents for each lunch or supper, 51.50 cents for a breakfast and 24.25 cents for supplemental food: *Provided, however,* That the total program payments paid to a sponsor for operating costs do not exceed the lesser of:

(1) The above rates times the meals by type actually served to eligible children during the Program operation, or

(2) The actual operating costs.

(f) Sponsors shall maintain accurate records to justify the operating costs and administrative costs claimed. Sponsors who wish to claim only for the costs of obtaining food shall maintain accurate records to justify their food costs. In no instance shall Program payments for the costs of obtaining food exceed the per meal operating costs payment rates.

(g) Sponsors shall plan for and prepare or order meals on the basis of participation trends, with the objective of providing only one meal per child at each meal service. Records of participation and of preparation or ordering of meals shall be maintained to demonstrate positive action toward this objective. In recognition of the fluctuation in participation levels which makes it difficult to precisely estimate the number of meals needed and to reduce the resultant waste, any excess meals that are prepared or ordered may be served to children and may be claimed for reimbusement unless the State agency determines that the sponsor has failed to plan and prepare or order meals with the objective of providing only one meal per child at each meal service. In monitoring the number of meals served at a site, the State agency shall withhold reimbursement for those meals served to children which exceed the number of children being served by the site when the State agency determines that the sponsor has not complied with the provisions of this paragraph.

**§ 225.13 Program payment procedures.**

(a) To be reimbursed under this part, each sponsor shall submit claims for reimbursement to the State agency monthly by the 10th day following the period of operations covered by the claim. Claims may be submitted more frequently at the discretion of the State agency. Sponsors whose final period of operation is less than 10 days in duration shall submit a combined claim covering the final period and the period immediately preceding the final period. The State agency shall not be responsible for acting upon any claim for reimbursement which is not received by the State agency within 30 days after the close of the sponsor's food service operations, except where the State agency determines that the claim has been filed late because of circumstances beyond the control of the sponsor. Appropriate payments may then be made if the claim submitted by the sponsor is valid.

(b) Claims for Reimbursement shall include data in sufficient detail to justify the reimbursement claimed and to enable the State agency to provide the required information for program reports. In submitting a claim for reimbursement, in addition to the certification requirements set forth in § 225.5(v), each sponsor shall certify that records are available to support the claim.

(c) Not later than June 1, July 15, and August 15 of each fiscal year, or in the case of sponsors which operate under a continuous school calendar, the first day of each month of operation, the State agency shall forward advance operating costs payments to each sponsor if a request for such payment was received from the sponsor no later than 30 days prior to the date for each such payment: *Provided, however,* That the State agency shall not release the second month's advance operating costs payment to any sponsor which has not certified that it has held training sessions for its own personnel, including site personnel, with regard to program duties and responsibilities: *And provided, further,* That no advance operating costs payment shall be made for any month in which the sponsor will serve meals under the Program for less than 10 days. Requests by sponsors for advance operating costs payments received less than 30 days preceding the applicable payment date shall be paid by the State agency within 30 days of receipt.

(d) Each month's advance operating costs payment to any sponsor shall be in an amount equal to: (1) The total operating costs payment for meals served by such sponsor in the same calendar month of the preceding calendar year, or (2) 50 percent of the amount determined by the State agency to be needed by the sponsor for meals, if the sponsor contracts with a food service management company or (3) 65 percent of the amount determined by the State agency to be needed by the sponsor for meals for that month, if the sponsor prepares its own meals, whichever amount is greater: *Provided, however,* That the advance operating costs payment may not exceed the total amount estimated by the State agency to be needed by the sponsor for meals to be served in the month for which the advance operating costs payment is made.

(e) Not later than June 1 and July 15 of each fiscal year, or in the case of sponsors which operate under a continuous school calendar, the first day of each month of operation, the State agency shall forward advance administrative costs payments to each sponsor if a request for such payment was received from the sponsor no later than 30 days prior to the date for each such payment: *Provided, however,* That (1) the State agency shall not release the second month's advance administrative cost payment to any sponsor until the sponsor has certified that it is operating the number of sites for which the administrative budget was approved, and that there has been no significant change in its project administrative costs since approval of the administrative budget, (2) no advance administrative costs payment shall be made for any month in which the sponsor will operate under the program for less than 10 days, and (3) in the case of a sponsor that operates less than ten (10) days in June but at least ten (10) days in August, the second month's advance administrative costs payment shall be made on August 15. Requests by sponsors for advance administrative costs payments received less than 30 days preceding the applicable payment date shall be paid by the State agency within 30 days of receipt.

(f) Each sponsor's first month's advance administrative costs payment shall be in an amount equal to one third of the amount established by the State agency to be needed by the sponsor to administer the program. Each sponsor's second month's advance administrative costs payment shall be in an amount equal to one-third of the amount established by the State agency to be needed by the sponsor to administer the Program. In the case of sponsors which will operate ten (10) days or more in only one month and thereby will qualify for only one advance administrative costs payment the State agency shall provide an advance administrative costs payment of no less than one-half and no more than two-thirds of the amount established by the State agency to be needed by the sponsor as indicated in its approved administrative budget. The State agency shall forward any remaining payment due to a sponsor no later than 45 days following receipt of valid claims: *Provided however,* That the State agency shall not pay any sponsor for its final claim until the sponsor has certified that it did operate all sites approved in the administrative budget and that there has been no significant change in the projected administrative costs since the preceding claim or, in the case of sponsors which will receive only one month's advance, that there has been no significant change in the projected administrative costs since payment of the initial advance administrative costs payment. The total program payment paid to a sponsor for administrative costs shall not exceed the lesser of: (1) The approved administrative budget and any amendments thereto or (2) actual expenditures incurred for administrative costs.

(g) The sum of any advance operating costs payment and any advance administrative costs payment to a sponsor for one month shall not exceed $40,000: *Provided, however,* That a State agency may make advance payments totalling more than $40,000 to a sponsor for a given month if the State

determines that a larger payment is necessary for the effective operation of the program and the sponsor demonstrates sufficient administrative and management capability to justify a larger payment.

(h) Any prior program payment which is under dispute or which is part of a demand for recovery under § 225.14(a) or § 225.14(d) shall be deducted from any advance operating costs payment or advance administrative costs payment.

(i) If the State agency has reason to believe that a sponsor will not be able to submit a valid Claim for Reimbursement covering the period for which advance operating costs payments and advance administrative costs payments have been made the subsequent month's advance operating costs payment and advance administrative costs payment shall be withheld until such time as the State agency has received a valid claim. Sponsors shall repay advance program payments which are not subsequently deducted from a valid claim for reimbursement upon demand by the State agency. Any interest earned by a sponsor on advance operating costs payments and advance administrative costs payments shall be returned to the State agency. In States where FNSRO administers the program, such interest shall be returned to FNS.

**§ 225.14 Claims against sponsors.**

(a) State agencies shall disallow any portion of a claim for reimbursement and promptly recover any program payment made to a sponsor that was not properly payable under this part. State agencies shall use their own procedures to disallow claims and recover overpayments already made. This shall include court actions, where appropriate. However, the State agency shall notify the sponsor of the reasons for any disallowance or demand, and allow the sponsor full opportunity to submit evidence on appeal as provided for in § 225.5(w). If, in the determination of FNS, a State agency has acted in conformity with the provisions of this part and has made every reasonable effort to recover any overpayment, the State agency shall not be liable for failure to collect an overpayment.

(b) The State agency shall maintain all records pertaining to action taken under this section. Such records shall be retained for a period of 3 years after the date of the submission of the final financial status report, except that, if audit findings have not been resolved, the records shall be retained beyond the 3-year period as long as required for the resolution of any issues raised in the audit.

(c) The amounts recovered by the State agency from sponsors may be utilized, first, to make program payments to sponsors for the period for which the funds were initially available, and second, to repay any State funds expended in the payment of claims for reimbursement under the program not otherwise repaid. Any amounts recovered which are not so utilized shall be returned to FNS in accordance with the requirements of this part.

(d) When a State agency disallows a claim for reimbursement or a portion of a claim, or makes a demand for refund of an alleged overpayment, it shall notify the sponsor of the reasons for such disallowance or demand, and the sponsor shall have full opportunity to submit evidence as provided for in § 225.5(w) or to resubmit a claim for any amount disallowed or demanded.

(e) If a State agency has reason to believe that a sponsor or food service management company has engaged in unlawful acts with respect to program operation, evidence found in audits, investigations or other reviews shall be a basis for nonpayment of claims for reimbursement.

## Subpart D—Miscellaneous Provisions

**§ 225.15 Procurement provisions.**

(a) This section provides standards for use by sponsors in establishing procedures for the procurement of food, supplies, goods, and other services with program payments. These standards are furnished to insure that such goods and services are obtained in an effective manner and in compliance with the provisions of applicable Federal laws and Executive orders.

(b) The standards contained in this section do not relieve the sponsor of the contractual responsibilities arising under its contracts. The sponsor is the responsible authority, without recourse to the State agency and the Department regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into under the program. This includes but is not limited to: disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State, or Federal authorities as may have proper jurisdiction.

(c) Sponsors may use their own procurement regulation which reflect applicable State and local law, rules and regulations: *Provided*, That procurements made with program payments adhere to the provisions outlined in the Office of Management and Budget Circulars A-102 and A-110 and to the standards set forth as follows:

(1) The sponsor shall maintain a code or standards of conduct which shall govern the performance of its officers, employees, or agents in contracting with and expending program payments. The officers, employees, or agents, of a sponsor shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors on their own behalf or for others. To the extent permissable by State or local laws, rules or regulations, such standards shall provide for penalties, sanctions, or other disciplinary actions to be applied for violations of such standards by either the sponsor's officers, employees, or agents, or by contractors or their agents.

(2) All procurement transactions, regardless of whether negotiated or advertised and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. The sponsor shall be alert to organizational conflicts of interest or noncompetitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade.

(3) All sponsors shall establish procurement procedures which provide for, as a minimum, the following procedural requirements:

(i) Proposed procurement actions shall be reviewed by sponsor's officials to avoid purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(ii) Invitations for bids or requests for proposals shall be based upon a clear and accurate description of the technical requirements for the material, product, or service to be procured: Such description shall not, in competitive procurements, contain features which unduly restrict competiton. "Brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement, and, when so used, the specific features of the name brand which must be met by offerors should be clearly specified.

(iii) Positive efforts shall be made by the sponsors to utilize small business and minority owned business as sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts to be performed utilizing program payments.

(iv) The type of procuring instruments used (i.e., fixed price contracts, cost reimbursable contracts, purchase orders, incentive contracts, etc.), shall be appropriate for the particular procurement and for promoting the best interest of the program. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(v) Formal advertising, with adequate purchase description, sealed

bids, and public openings shall be the required method of procurement unless negotiation pursuant to paragraph (3)(vi) below is necessary to accomplish sound procurement. However, procurements of $10,000 or less need not be so advertised unless otherwise required by State or local law or regulations. Where such advertised bids are obtained the awards shall be made to the responsible bidder whose bid is responsive to the invitation and is most advantageous to the sponsor, price and other factors considered. (Factors such as discounts, transportation costs and taxes may be considered in determining the lowest bid.) Invitations for bids shall clearly set forth all requirements which the bidder must fulfill in order for his bid to be evaluated by the sponsor. Any or all bids may be rejected when it is in the sponsor's interest to do so, and such rejections are in accordance with applicable State and local law, rules, and regulations.

(vi) Procurements may be negotiated it it is impracticable and unfeasible to use formal advertising. Generally, procurements may be negotiated by the sponsor if:

(1) The public exigency will not permit the delay incident to advertising; or

(2) The material or service to be procured is available from only one person or firm: (All contemplated sole source procurements where the aggregate expenditure is expected to exced $5,000 shall be referred to the State agency for prior approval); or

(3) The aggregate amount involved does not exceed $10,000; or

(4) The contract is for personal or professional services, or for any service to be rendered by a university, college or other educational institutions; or

(5) No acceptable bids have been received after formal advertising; or

(6) The purchases are for highly perishable materials, for materials or services where the prices are established by law, if procured at the lowest applicable price for technical items or equipment requiring standardization and interchangeability of parts with existing equipment for experimental, developmental or research work, for supplies purchased for authorized resale, and for technical or specialized supplies requiring substantial initial investment for manufacture; or

(7) Otherwise authorized by law, rules, or regulations. Notwithstanding the existence of circumstances justifying negotiaton, competition shall be obtained to the maximum extent practicable.

(vii) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources, or accessibility to other necessary resources.

(viii) Procurement records or files for purchases in amounts in excess of $10,000 shall provide at least the following pertinent information: Justification for the use of negotiation in lieu of advertising, contractor selection, and the basis for the cost or price negotiated.

(ix) A system for contract administration shall be maintained to assure contractual conformance with terms, conditions, and specifications of the contract or order, and to assure adequate and timely followup of all purchases.

(d) The sponsor shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts and subcontracts:

(1) Contracts shall contain contractual provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.

(2) All contracts in amounts which are in excess of $10,000 shall contain suitable provisions for termination by the sponsor, including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(3) All contracts awarded by sponsors and their contractors or subcontractors having a value of more than $10,000 shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

(4) Where applicable, all contracts awarded by sponsors in excess of $2,500 which involve the employment of mechanics or laborers shall include a provision for compliance with sections 103 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workday of 8 hours and a standard workweek of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the workweek.

(5) Contracts or agreements, the principal purpose of which is to create, develop, or improve products, processes or methods, or for exploration into fields which directly concern public health, safety, or welfare, or contracts in the field of science or technology in which there has been little significant experience outside of work funded by Federal assistance, shall contain a notice to the effect that matters regarding rights to inventions, and materials generated under the contract or agreement are subject to the regulations issued by the Department and the sponsor. The contractor shall be advised as to the source of additional information regarding these matters.

(6) All negotiated contracts (except those of $10,000 or less) awarded by sponsors shall include a provision to the effect that the State agency, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts, and transcriptions.

(7) Contracts and subcontracts of amounts in excess of $100,000 shall contain a provision which requires the recipient to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970. Violations shall be reported to the State agency and the regional office of the Environmental Protection Agency.

### § 225.16 Prohibitions.

(a) The value of benefits and assistance available under the program shall not be considered as income or resources of recipients and their families for any purpose under Federal, State, or local laws, including, but not limited to, laws relating to taxation, welfare, and public assistance programs.

(b) Expenditure of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under the Act and a certification to this effect shall become part of the agreement provided for in § 225.3(c).

### § 225.17 Free meal policy.

(a) The State agency shall require each applicant sponsor to develop, at the time the applicant sponsor applies for program participation, a written policy statement concerning free meals to be used uniformly at all sites under its jurisdiction as required in

this section. Applicant sponsors shall not be approved for participation unless the free meal policy statement has been approved.

(b) A sponsor which serves all meals free to attending children shall develop a policy statement which consists of an assurance to the State agency that all children are served the same meals at no separate charge, regardless of race, color, or national origin, and that there is no discrimination in the course of the food service.

(c) A camp which serves meals at no separate charge to attending children shall develop a policy statement which consists of an assurance to the State agency that all children are served the same meals at no separate charge, regardless of race, color, or national origin and that there is no discrimination in the course of the food service.

(d) A camp which charges separately for meals shall develop a policy statement for determining eligibility for free meals which shall include the following:

(1) The specific criteria to be used in determining eligibility for free meals. The camp's standards of eligibility shall be in conformity with the State's family size and income standards for free and reduced price school meals.

(2) A description of the method or methods to be used in accepting applications from families for free meals.

(3) A description of the method or methods to be used to collect payments from those children paying the full price of the meal which will protect the anonymity of the children receiving a free meal.

(4) An assurance that the camp will establish a hearing procedure which provides: (i) A simple, publicly announced method for a family to make an oral or written request for a hearing; (ii) an opportunity for the family to be assisted or represented by an attorney or other person in presenting its appeal; (iii) an opportunity to examine, prior to and during the hearing, the documents and records presented to support the decision under appeal; (iv) that the hearing shall be held with reasonable promptness and convenience to the family and that adequate notice shall be given to the family as to the time and place of the hearing; (v) an opportunity for the family to present oral or documentary evidence and agreements supporting its position without undue interference; (vi) an opportunity for the family to question or refute any testimony or other evidence and to confront and cross-examine any adverse witnesses; (vii) that the hearing shall be conducted and the decision made by a hearing official who did not participate in making the decision under appeal; (viii) that the decision of the hearing official shall be based on the oral and documentary evidence presented at the hearing and made a part of the hearing record; (ix) that the family and any designated representatives shall be notified in writing of the decision of the hearing official; (x) that a written record shall be prepared with respect to each hearing, which shall include the decision under appeal, any documentary evidence and a summary of any oral testimony presented at the hearing, the decision of the hearing official, including the reasons therefor, and a copy of the notification to the family of the decision of the hearing official; and (xi) that such written record of each hearing shall be preserved for a period of 3 years and shall be available for examination by the family or its representatives at any reasonable time and place during such period.

(5) An assurance that there will be no identification of free meal recipients and no discrimination against any child on the basis of race, color, or national origin.

(e) The hearing procedure prescribed under paragraph (d)(4) of this section shall be followed when a camp challenges the eligibility of any child for a free meal. During the pendency of the challenge, the child shall continue to receive the free meal to which he is entitled under the eligibility standards announced by the camp based upon the information supplied in the application made by the family.

(f) Each sponsor shall make available on an annual basis to the information media serving the area from which the sponsor draws its attendance a public release announcing the availability of free meals to children. Each camp shall make available on an annual basis to all participants an announcement of the availability of free meals to children meeting the approved eligibility criteria. The public announcement must also state that meals are available to all children in attendance without regard to race, color, or national origin.

### § 225.18 Other provisions.

(a) *Grant closeout procedures.* Grant closeout procedures for the program shall be in accordance with Attachment K of the Office of Management and Budget Circular A-110 (41 FR 32016, July 30, 1976), or Attachment L of the Office of Management and Budget Circular A-102 (42 FR 45828, September 12, 1977), whichever is applicable.

(b) *Termination for clause.* The Department may terminate a State agency's participation in the program in whole, or in part, whenever it is determined that the State agency has failed to comply with the conditions of the program. The Department shall promptly nptify the State agency in writing of the termination and reason for the termination, together with the effective date and shall allow the State 30 days to respond. In instances where the State does respond the Department shall inform the State of its final determination no later than 30 days after the State responds. A State agency shall terminate a sponsor's participation in the program by written notice whenever it is determined by FNS or the State agency that the sponsor has failed to comply with the conditions of the program. When participation in the program has been terminated for cause, any funds paid to the State agency or a sponsor or any recoveries by FNS from the State agency or by the State agency from a sponsor shall be in accordance with the legal rights and liabilities of the parties.

(c) *Termination for convenience.* The Department and the State agency may terminate the State agency's participation in the program in whole, or in part, when both parties agree that the continuation of the program would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The State agency shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations, as possible. The Department shall allow full credit to the State agency for the Federal share of the noncancellable obligations properly incurred by the State agency prior to termination. A State agency may terminate a sponsor's participation in accordance with this paragraph.

(d) *State requirements.* Nothing contained in this part shall prevent a State agency from imposing additional operating requirements which are not inconsistent with the provisions of this part: *Provided, however,* That such additional requirements shall not deny the program to an area in which poor economic conditions exist, and shall not result in a significant number of needy children not having access to the program. The State agency shall, prior to imposing any additional requirements, receive approval from FNSRO.

### § 225.19 Program information.

Persons desiring information concerning the program may write to the appropriate State agency or regional office of FNS as indicated below:

(a) In the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont: New England Regional Office, FNS, U.S. Department of Agriculture, 33

North Avenue, Burlington, Mass. 01803.

(b) In the States of Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, One Vahlsing Center, Robbinsville, N.J. 08691.

(c) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, FNS, U.S. Department of Agriculture, 1100 Spring Street NW., Atlanta, Ga. 30309.

(d) In the States of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin: Midwest Regional Office, FNS, U.S. Department of Agriculture, 536 South Clark Street, Chicago, Ill. 60605.

(e) In the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming: Mountain Plains Regional Office, FNS, U.S. Department of Agriculture, 2420 West 26th Avenue, Room 430D, Denver, Colo. 80211.

(f) In the States of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas: Southwest Regional Office, FNS, U.S. Department of Agriculture, 1100 Commerce Street, Room 5-C-30, Dallas, Tex. 75242.

(g) In the States of Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, the Northern Mariana Islands, and Washington: Western Regional Office, FNS, U.S. Department of Agriculture, 550 Kearny Street, Room 400, San Francisco, Calif. 94108.

(Catalog of Federal Domestic Assistance Programs No. 10.559.)

NOTE.—A draft impact analysis statement has been prepared and can be obtained by contacting Jordan Benderly, Acting Director, Child Care and Summer Programs Division, FNS, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-9072.

The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Dated: October 27, 1978.

BARBARA COLEMAN,
*Acting Administrator,*
*Food and Nutrition Service.*

[FR Doc. 78-30906 Filed 10-30-78; 8:45 am]

federal register

TUESDAY, OCTOBER 31, 1978
PART V




# DEPARTMENT OF ENERGY

## Economic Regulatory Administration

■

# "TRANSFER" OR "PLANT GATE" PRICING OF NATURAL GAS LIQUIDS BY GAS PROCESSORS AND REFINERS

[3128-01]

Title 10—Energy

## CHAPTER II—FEDERAL ENERGY ADMINISTRATION [1]

[Docket No. ERA-R- 77-5]

## PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

### "Transfer" or "Plant Gate" Pricing of Natural Gas Liquids by Gas Processors and Refiners

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Suspension of effective date of amendment; notice of public hearing concerning certain rulemaking petitions.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby suspends until further notice the effective date of that portion of amendment No. 1 to subpart K of the Mandatory Petroleum Price Regulations (10 CFR 212.161 et seq.), issued on September 14, 1978 (43 FR 42984, Sept. 21, 1978), which would delete the phrase, "including transfers between affiliated entities," from the provisions of 10 CFR 212.161(a). All other amendments to subpart K set forth in the above-cited notice become effective as scheduled on November 1, 1978.

The ERA also hereby gives notice of a public hearing to receive comments upon certain matters raised in recent petitions for rulemaking concerning the subject of "transfer" or "plant gate" pricing of natural gas liquids under subpart K, namely, whether the prohibition on "transfer pricing" under subpart K should be eliminated or modified, and allegations of procedural deficiencies in deleting the phrase in question. In addition to gas processors, ERA hopes to hear from independent marketers of natural gas liquid products and consumer groups and other members of the public.

Nothing in this notice or in the issuance of this notice is to be construed as a revision or modification of the agency's previously stated position that "transfer" pricing is not permitted under the current provisions of subpart K.

DATES: Hearing dates: Washington, D.C. hearing: December 7, 1978, 9:30 a.m., and continued if necessary at 9:30 a.m., at the same location of the next day or days.

Requests to speak by November 24, 1978, 4:30 p.m.

ADDRESSES: Requests to speak to: Public Hearing Management, Docket No. ERA-R-77-5, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461. Washington, D.C. hearing: 2000 M Street NW., Room 2105, Washington, D.C. 20461

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Comment Procedures) Economic Regulatory Administration, 2000 M Street NW., Room 2214B, Washington, D.C. 20461, 202-254-5201.

Rue Dann (Media Relations), Department of Energy, 2000 M Street NW., Room 6308E Washington, D.C 20461, 202-254-8690.

Nancy E. Williams (Office of Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street NW., Room 8222, Washington, D.C. 20461, 202-632-8494.

Cliff G. Russell or Kristina Clark, (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue NW., Room 5138, Washington, D.C. 20461, 202-566-9567.

SUPPLEMENTARY INFORMATION:

I. Background and general purpose of this proceeding.
II. Hearing procedures.

### I. Background and General Purpose of this Proceeding

On September 14, 1978 (43 FR 42984, September 21, 1978), we issued a final rule amending portions of subpart K of the mandatory Petroleum Price Regulations (10 CFR 212.161 et seq.). Subpart K generally governs the pricing of natural gas liquids (NGLs) and natural gas liquid products (NGL products) produced in natural gas processing plants. The principal purpose of the final rule was to provide specific rules for the calculation and passthrough of allowable processing and marketing costs in NGL and NGL product prices.

As part of the final rule, we adopted an amendment to 10 CFR 212.161 which, among other things, deleted the phrase, "including transfers between affiliated entities," from the provisions of § 212.161(a). This was done, for the reasons generally set forth in 43 FR 42984, at 42994-42996, primarily to clarify the application of the existing regulations. We recognized the possibility that there might be some policy reasons for making a prospective change to the regulations to permit "transfer" or "plant gate" pricing, but we did not believe that we had adequate information upon which to assess the reasons pro and con or the impact of such a change.

Since the issuance of the September 14 notice, we have received several petitions for rulemaking concerning the "transfer price" issue. These petitions in effect request us to stay the effective date of the deletion of the phrase, "including transfers between affiliated entities," and to initiate further rulemaking proceedings to adopt a "transfer" or "plant gate" price approach.

The petitions assert various reasons for their requests. Some assert that the interpretation embodied in the September 14 notice is erroneous, or that in any event the issue should be decided in the context of pending formal requests for interpretation. Some also allege that they were unaware that the "transfer pricing" issue was under consideration in this proceeding, and that they therefore did not have adequate opportunity to comment on the subject. They also allege that the use of a "transfer price" is pervasive throughout the industry, and that a failure to permit transfer or plant gate pricing would have a number of undesirable effects, including aggravation of price disparities in the NGL industry, reduction in NGL supplies, and disruption of royalty or "net-back" arrangements, among other things.

You may inspect and copy the pertinent petitions at the ERA Office of Public Information, Room B-110, 2000 M Street NW., Washington, D.C. 20461 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. We have received petitions from the following parties to date: Gulf Oil Corp., dated October 20, 1978; Standard Oil Co. (Indiana), dated October 24, 1978; MAPCO Inc., et al., dated October 24, 1978; and Exxon Co., U.S.A., dated October 26, 1978.

These matters deserve public discussion. We are therefore scheduling a hearing for the receipt of public comment upon certain matters raised in these petitions, in order to assess what if any further action on our part may be appropriate. In addition to gas processors, we specifically invite independent NGL product marketers and consumer groups to participate.

In connection with our decision to conduct a hearing on these matters, we have determined to, and do hereby, suspend until further notice the effective date of that portion of the September 14 amendments that would delete the phrase, "including transfers between affiliated entities," from § 212.161(a). All other provisions adopted in the September 14 notice become effective as scheduled on November 1, 1978.

Our purpose in suspending the effective date of the particular language change discussed above is merely to assure gas processors, who have alleged that substantial confusion and uncertainty within the industry will result in the absence of this action,

[1] Chapter II will be renamed at a later date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

that we did not, and did not intend to, establish a new substantive rule concerning transfer pricing in our September 14 notice. We adhere to the position that the prior regulations did not permit transfer pricing, and we are therefore of the view that the particular language change was unnecessary. Accordingly, neither the amendment deleting this phrase nor the suspension of the effective date of this amendment represents a substantive change. However, because it has been represented to us that the action we took has caused confusion and uncertainty, we have decided to suspend the effective date of this amendment until we have had adequate opportunity to evaluate the petitioners' assertions of the desirability of a change in Subpart K to permit "transfer pricing" and their allegations of procedural deficiencies in deleting the phrase in question.

## II. Hearing Procedures

### A. Procedure for requests to make oral presentations

The times and places for the hearings are indicated in the "DATES" and "ADDRESSES" section of this notice. If necessary to present all testimony, hearings will be continued at 9:30 a.m. of the next business day following the first day of the hearing.

You may make a written request for an opportunity to make an oral presentation at the hearings. The request should contain a phone number where you may be contacted through the day before the hearing. Since it may be necessary to limit the number of persons making such presentations, you should be prepared to describe your interest in this proceeding, and why you are a proper representative of a group or class or persons that has such an interest, and to give a concise summary of your proposed oral presentation.

We will notify each person selected to be heard before 4:30 p.m., November 29, 1978. Persons scheduled to speak at the hearings must bring 100 copies of their statement to the appropriate address indicated in the "ADDRESSES" section of this notice before December 6, 4:30 p.m., for the Washington, D.C. hearing.

### B. Conduct of the hearings

We reserve the right to select the persons to be heard at these hearings; to limit, consistent with this notice, the subjects on which they may be heard; to schedule their respective presentations; an to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

We will designate a DOE official to preside at the hearings, which will not be judicial or evidentiary-type in nature. Questions may be asked only by those conducting the hearings. We will base our decisions on all information available to the DOE. At the conclusion of all initial oral statements, each person who has made an oral statement may make a rebuttal statement. The rebuttal statements wil be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearings. Such questions must be submitted to the address indicated above for requests to speak, for the location concerned, three days before the hearings. If you wish to ask a question at the hearings, you may submit it, in writing, to the presiding officer. We will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

The presiding office will announce any further procedural rules needed for the proper conduct of the hearing.

We will have transcripts of the hearings made and we will retain the entire record of the hearings, including the transcripts, and make them available for inspection at the ERA office of Public Information, Room B-110, 2000 M Street NW., Washington, D.C., between the hours of 8 a.m and 4:30 p.m, Monday through Friday. You may purchase a copy of the transcript from the reporter.

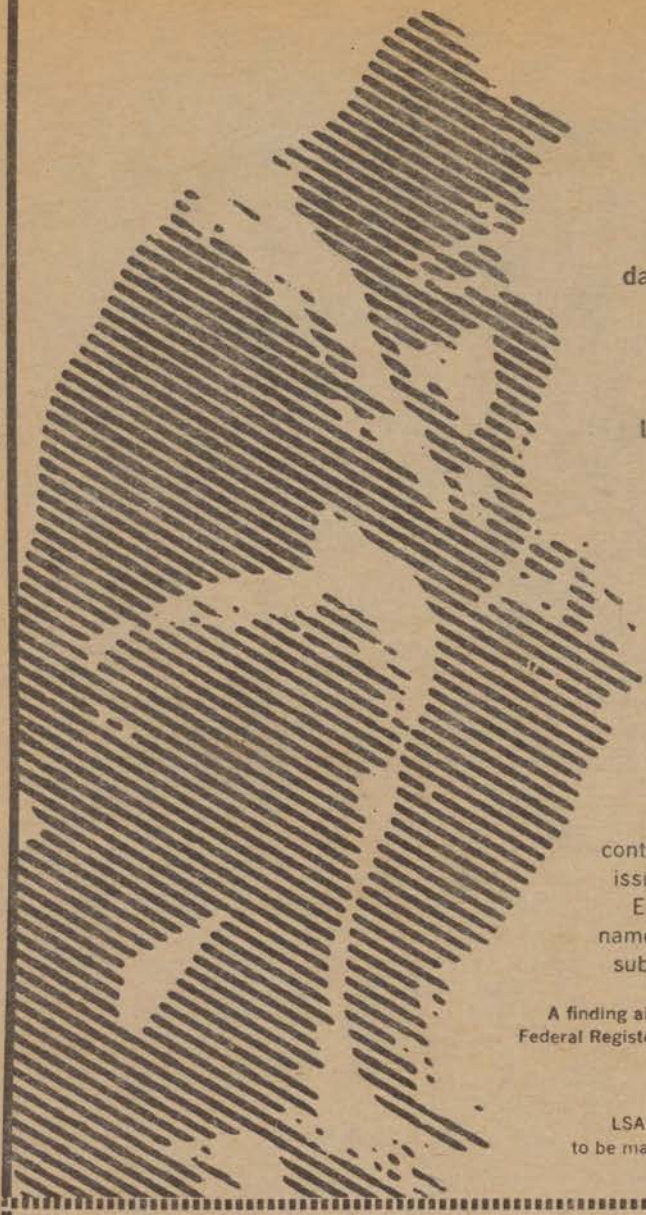
In the event that it becomes necessary for us to cancel or postpone the hearing, we will make every effort to publish advance notice in the Federal Register of such cancellation or postponement. Moreover, we will notify all persons scheduled to testify at the hearings. However, it is not possible to give actual notice of cancellations or schedule changes to persons not identified to us as participants. Accordingly, persons desiring to attend a hearing are advised to contact us on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267.)

Issued in Washington, D.C., October 30, 1978.

David J. Bardin,
*Administrator, Economic Regulatory Administration.*

[FR Doc. 78-30951 Filed 10-30-78; 11:28 am]



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