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Monday	Tuesday	Wednesday	Thursday	Friday
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	CSC			CSC
	LABOR			LABOR

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

Comments on this trial program are invited and will be received through May 7, 1976. Comments should be submitted to the Director of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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4700 9879

PROPOSED RULES:

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3500 9363
3520 9363

PUBLIC LAND ORDERS:

5572 8975
5573 9345
5574 9548
5575 9548

45 CFR

99 9062
100d 10436
148 10200
160f 9882
177 8975
1221 10228
1228 8791
1501 8790

PROPOSED RULES:

1067 9376
1600 9571
1604 10629
1605 10629
1606 10630

46 CFR

160 10437
163 10437
401 8775
503 9153
510 9548
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537 9549
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PROPOSED RULES:

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146 9188

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0 9550
1 ..... 9345, 9550
2 ..... 9154, 10065
15 9345
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73 ..... 8777, 8779, 10066, 10224
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97 8780

PROPOSED RULES:

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15 9189
73 ..... 8799, 9190, 9191, 9567, 9568, 10231
87 10232
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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.

Title 7—Agriculture

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

[Lemon Reg. 30]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period March 14–20, 1976. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.330 Lemon Regulation 30.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 USC 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this section to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons continues good this week. Average f.o.b. price was $5.40 per carton the week ended March 6, 1976, compared to $5.28 per carton the previous week. Track and rolling supplies at 100 cars were down 5 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on March 9, 1976.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period March 14, 1976, through March 20, 1976, is hereby fixed at 235,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

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

Dated: March 10, 1976.

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

[FR Doc.76-7423 Filed 3-11-76;11:48 am]

Title 9—Animals and Animal Products

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

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY AND ANIMAL PRODUCTS)

PART 73—SCABIES IN CATTLE

Areas Quarantined

These amendments quarantine a portion of Kearney County in Nebraska and a portion of Luna County in New Mexico because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas as contained in 9 CFR Part 73, as amended, will apply to the areas quarantined.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies is hereby amended as follows:

In § 73.1a, paragraph (b) relating to the State of Nebraska is amended and a new paragraph (e) relating to the State of New Mexico is added to read:

§ 73.1a Notice of quarantine.

* * * * *

(b) Notice is hereby given that cattle in certain portions of the State of Nebraska are affected with scabies, a contagious, infectious, and communicable disease; and, therefore, the following areas in such State are hereby quarantined because of said disease:

(1) That portion of *Lincoln County* comprised of all of sections 17 and 18 and those portions of sections 7 and 8 south of the North Platt River, R. 31 W., T. 14 N. in Hinman Precinct.

(2) That portion of *Kearney County* comprised of sections 20, 21, 28 and 29, R. 16 W., T. 8 N. in Blaine Precinct.

* * * * *

(e) Notice is hereby given that cattle in certain portions of the State of New Mexico are affected with scabies, a contagious, infectious, and communicable disease; and, therefore, the following area in such State is hereby quarantined because of said disease:

That portion of *Luna County* bounded by a line beginning at a point east of and adjacent to the junction of State Road 377 and State Road 549; thence, following the section line in a northerly direction to U.S. Interstate Highway 10; thence, following U.S. Interstate Highway 10 in an easterly direction to a section line, approximately ten miles; thence, following the section line in a southerly direction to section line road; approximately 6½ miles; thence, following the section line road in a westerly direction to Spanish Stirrup Road;

thence, following Spanish Stirrup Road in a northerly and westerly direction to State Road 549; thence, following State Road 549 in a northwesterly direction to its junction with the section line east of and adjacent to State Road 377.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

Effective date. The foregoing amendments shall become effective March 9, 1976.

The amendments impose certain further restrictions necessary to prevent the interstate spread of cattle scabies and must be made effective immediately to accomplish their purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and contrary to the public interest, and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 9th day of March, 1976.

G. V. PEACOCK,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.76-7089 Filed 3-11-76;8:45 am]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Reg. PR-150, Amdt. 26]

PART 302—RULES OF PRACTICES IN ECONOMIC PROCEEDINGS

Processing of Petitions Requesting Institution of Public Rulemaking

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., March 9, 1976.

By petition in Docket 28352, dated September 25, 1975, several civic action groups [1] requested the Board to amend its rules of practice (14 CFR Part 302) to provide that within 60 days after a rulemaking petition has been filed, the Board would either (1) deny the petition, (2) initiate a rulemaking proceeding, or (3) issue a final rule adopting the requested rule. The petition thus proposed that the Board set a time limit for acting on petitions for rulemaking. At the time this petition was filed, the Advisory Committee on Procedural Reform [2] had initiated its review of the Board's practices in order to recommend reforms designed to improve the Board's decision-making processes.[3] Copies of the instant petition were made available to the Committee members.

The Report of the Advisory Committee on Procedural Reform, dated December 31, 1975,[4] contained a recommendation that the Board establish deadlines for the various types of proceedings before it, with a provision for the extension of those deadlines "by publication of an explanation of the circumstances requiring the extension." [5] With respect to rulemaking petitions, the Committee recommended that the Board undertake to issue, within 120 days after such petition is filed, a notice of proposed rulemaking or a denial of the petition.[6]

On January 16, 1976, the Board issued a press release asking that public comments in response to the Report's recommendations be filed by February 19, 1976, in Docket 28761. Pursuant to that invitation, several interested persons have submitted comments on various of the recommendations, and those responses which addressed the recommendation to establish time limits for action on rulemaking petitions were generally in favor of the idea.[7] Other comments suggested proceeding with caution, in view of the need to maintain the quality of the Board's decision-making processes and to avoid setting unrealistic deadlines which could not be met.[8]

After careful consideration of the petition in Docket 28352, and of the Report and the comments relevant to this issue in Docket 28761, we have decided to adopt a policy of adhering to a self-imposed deadline in responding to petitions requesting the institution of public rulemaking proceeding.[9] We must, of course, emphasize the experimental nature of this undertaking, which appears to be quite novel,[10] and that it cannot now be predicted whether some modifications in the experiment may prove to become necessary, in light of actual experience. The details of the policy which we have decided to adopt vary somewhat from some of those suggested, and are as follows.

First, we believe that the suggested deadline of 120 days, proposed by the Advisory Committee, is more realistic than the 60-day deadline proposed by the petition in Docket 28352. Petitions for rulemaking frequently raise issues affecting a variety of regulatory considerations and thus require coordination among a number of different Bureaus within the Board. We do not believe that a 60-day limit would afford adequate time for this internal staff coordination, so that it could not realistically be met in disposing of many of the petitions filed with the Board.

Secondly, in view of the fact that our action on petitions for rulemaking has sometimes been delayed by the receipt of answers long after a petition is filed, we are establishing for the first time, a specific due date for the filing of answers to such petitions so that we may have the benefit of completed "pleadings" in considering their disposition. We are therefore amending our rules of practice, so as to require answers to be filed within 30 days after a petition has been filed. Since our 120-day disposition period will begin to run from the date for the submission of answers, rather than from the date when the petition is filed, our policy herein is not identical with the recommendation of the Advisory Committee, but we believe it to be fully in keeping with the spirit of the Committee's proposal.

Third, we have decided to exclude from our policy—at least initially—certain types of rules, to wit, those which are entirely or partially excluded from the public rulemaking procedures prescribed by section 4 of the Administrative Procedure Act, as well as rules relating to accounting and reporting requirements, which are usually of no interest to the general public and involve technical accounting and statistical matters.

Our undertaking herein, to adhere to self-imposed time limits for rulemaking, is embodied in a new Subpart F to Part 399 of our Statements of General Policy (14 CFR Part 399). We have chosen to establish this policy by amendment to Part 399, rather than by adding a new provision to our rules of practice contained in Part 302, as petitioners in Docket 28352 had requested, since this policy does not relate to practice before the agency by interested members of the public, but rather to our own actions. However, the new provision prescribing a 30-day period for filing answers to petitions is being adopted by amendment to Rule 38 of our rules of practice (14 CFR 302.38), governing the filing of petitions for rulemaking. We are also taking the occasion of this amendment to Rule 38 to further amend the Rule by deleting the sentence in paragraph (a) which excludes therefrom recommendations for rulemaking submitted by other governmental agencies; this provision has not in fact been utilized in recent years, and, in any case, to the extent that such agencies file petitions for rulemaking there seems to be no good reason why they should not be subject to the same rules as other publicly filed petitions.

Finally, we are postponing the effective date of the within amendments for 60 days, in order to allow ourselves a "grace period" in which to clear the existing backlog of petitions which have not yet been disposed of. There are some thirty such petitions now pending, and we hope to dispose of many of them before the new practice becomes applicable.

In that the materials contained herein relate to statements of general policy and rules of agency practice, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553(b)) requiring notice of proposed rulemaking and opportunity for public participation are inapplicable.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 302 of the Procedural Regulations (14 CFR Part 302), effective May 11, 1976, as follows:

Amend § 302.38 by revising paragraph (a) thereof to read as follows:

§ 302.38 Petitions for rulemaking.

(a) *Scope.* Any interested person may petition the Board for the issuance, amendment, modification, repeal of any regulation. For the purposes of this section, such proposed action will be termed rulemaking. Any interested person may

See footnotes at end of document.

file an answer to the petition. Except for good cause shown, answers shall be filed no later than thirty days after the filing of the petition. Such answers shall be served on the petitioner. The right to file an answer is purely permissive, and the failure to file an answer shall not prejudice any interested person in any rulemaking proceeding which may be instituted on the petition.

* * * * *

(Sec. 204, 1001, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 788, (49 U.S.C. 1324, 1481))

Effective: May 11, 1976.

Adopted: March 9, 1976.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

FOOTNOTES

[1] D.C. Public Interest Research Group, Alaska Public Interest Research Group, California Citizen Action Group, California Public Interest Research Group, Connecticut Citizen Action Group, Massachusetts Public Interest Research Group, Minnesota Public Interest Research Group, Missouri Public Interest Research Group, New Jersey Public Interest Group, North Carolina Public Interest Research Group, Oregon Student Public Interest Research Group, and the Public Interest Research Group of Michigan.

[2] Created by the Board on June 25, 1975.

[3] See, Charter of the Advisory Committee on Procedural Reform, 40 F. R. 31252.

[4] Copies of the Report are available from the Board's Publications Services Section, Room 513, and a copy of the Report, and of comments from the public in response to the Report, are contained in Docket 28761, which is available for inspection during business hours in the Board's Public Reference Room, Room 710.

[5] Report, at p. 6.

[6] Id. at pp. 7–8.

[7] The National Passenger Traffic Association and the Aviation Committee of the American Bar Association Section on Administrative Law both expressed themselves in favor of time limits for nonhearing matters, but suggested no particular deadline. The Board's Office of the Consumer Advocate suggested a 120-day deadline.

[8] See, e.g., the comments filed by William C. Burt, Esq., and by Pan American World Airways, Inc.

[9] In view of our determination herein, the relief requested in the petition in Docket 28352 filed by the petitioners identified in note 1 is hereby granted to the extent set forth, and otherwise denied.

[10] The Report (at p. 8) notes that the Consumer Product Safety Commission is obligated to act on petitions for consumer product safety rules within 120 days, by the provisions of 15 U.S.C. 2059(d). The "rules" involved in that statute, however, are not legislative rules in the usual sense but factual determinations as to whether a particular consumer product constitutes a safety hazard.

[FR Doc.76-7169 Filed 3-11-76;8:45 am]

SUBCHAPTER F—POLICY STATEMENTS

[Reg. PS-68, Amdt. 47]

PART 399—STATEMENTS OF GENERAL POLICY

Processing of Petitions Requesting Institution of Public Rulemaking Proceedings

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., March 9, 1976.

For the reasons stated in Regulation PR-150, issued contemporaneously herewith, the Civil Aeronautics Board hereby amends Part 399 of the Statements of General Policy (14 CFR Part 399), effective May 11, 1976, as follows:

1. Amend the table of contents to Part 399 by replacing "Subpart F—[Reserved]." with "Subpart F—Policies Relating to Rulemaking Petitions."

2. Add a new Subpart F, to read as follows:

Subpart F—Policies Relating to Rulemaking Petitions

§ 399.70 Disposition of rulemaking petitions.

(a) *Applicability.* This section shall apply to petitions filed with the Board, seeking the institution of rulemaking with respect to matters governed by the procedures set forth in 5 U.S.C. 553, other than interpretative rules, rules of agency organization, accounting rules, and rules relating to reporting requirements.

(b) *Definition.* For the purposes of this section, the term "disposition" shall include, but not be limited to, the issuance of an advance notice or a notice of proposed rulemaking or the institution of an evidentiary proceeding with respect to the subject matter of a petition, the dismissal or denial of a petition, the consolidation of a petition with another proceeding pending before the Board, or the deferral of consideration of the merits of a petition pending specified future developments with respect to a related matter involved in another proceeding pending before the Board or any other administrative, judicial, legislative, or similar body.

(c) *Announcement of disposition.* It is the policy of the Board to endeavor to announce its disposition of all petitions to which this section applies within 120 days after the date established for the filing of answers thereto. In instances in which the Board finds that it will be unable, for good cause, to make an appropriate disposition of the petition within the 120-day period, it will, prior to the expiration of such period, announce a date certain by which it expects to make such disposition, incorporating in its announcement a brief statement of the reasons therefor.

(d) *Previously filed petitions.* For the purposes of this section, petitions filed before the effective date of this section shall be treated as having been filed on the effective date hereof.

(Secs. 204, 1001, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 788, (49 U.S.C. 1324, 1481))

Effective: May 11, 1976.

Adopted: March 9, 1976.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.76-7170 Filed 3-11-76;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-12160]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Extension of Temporary Rules 23a-1(T) and 23a-2(T); Adoption of Amendments to SECO Rules

On December 31, 1975, the Securities and Exchange Commission announced the adoption of Securities Exchange Act Temporary Rule 23a-2(T) [17 CFR 240.-23a-2(T)], relating to the regulation of certain newly registered brokers and dealers, and published a proposal to amend Securities Exchange Act Rules 15b8-1, 15b8-2, 15b9-1, 15b9-2 and 15b10-7 [17 CFR 240.15b8-1, 15b8-2, 15b9-1, 15b9-2, 15b10-7].[1] The Commission has considered the comments and suggestions it has received concerning the proposed amendments and has amended the above-cited rules as set forth below, effective April 15, 1976. The Commission is also amending Securities Exchange Act Temporary Rules 23a-1 (T) [17 CFR 240.23a-1(T)] and 23a-2 (T) to extend the exemptions provided by those rules until May 15 and April 15, 1976, respectively.

Background. Securities Exchange Act Rules 15b8-1 through 15b10-11 (the "SECO rules") prescribe a regulatory scheme for "nonmember" brokers or dealers. A nonmember broker or dealer is defined in the SECO rules as "any broker or dealer, including a sole proprietor, registered under Section 15 of the Act, who is not a member of a national securities association registered with the Commission under Section 15A of the Act." (emphasis added). Those rules were adopted pursuant to provisions of the Securities Acts Amendments of 1964, Pub. L. No. 88-467 (Aug. 20, 1964), which authorized the Commission to adopt rules prescribing qualifications for and otherwise regulating nonmember brokers or dealers and their associated persons. At the time those rules were adopted, the Commission noted that the National Association of Securities Dealers, Inc. ("NASD"), the only registered securities association, and the various national securities exchanges required successful completion of a general securities examination as a prerequisite for entry by salesmen and others into the securities business and that the self-regulatory organizations also required their members to observe regulations concerning selling practices, just and equitable principles of trade and standards of high commercial honor and suitability.[2]

To avoid unnecessary duplication of regulation, the SECO rules were, in general, intended to apply only to those broker-dealers whose principal business activities were not subject to the regulations of the various self-regulatory bodies.[3] As contemplated by the 1964 Amendments, the SECO rules specifically applied to "nonmembers," thus excluding members of the NASD, who are reg-

See footnotes at end of document.

ulated by that association with respect to their over-the-counter transactions. Exchange members who effect transactions exclusively on national securities exchanges were not required to be registered with the Commission under Section 15 prior to December 1, 1975, and thus were generally excluded from the SECO rules because those rules apply only to registered brokers or dealers. Those exchange members are regulated by the exchanges of which they are members.

Rule 15b8–1, which relates to qualifications, applied only to non-NASD brokers or dealers effecting transactions "otherwise than on a national securities exchange." Furthermore, exchange members who did register because they did some over-the-counter business were specifically exempted, if they carried no accounts of customers and derived no more than $1,000 annual gross income from over-the-counter purchases and sales, from Rules 15b8–1, 15b9–2, which relates to annual fees, and 15b10–1 through 15b10–6, which relate to general business conduct, suitability, supervision of associated persons, discretionary authority and recordkeeping. Rules 15b10–8 and 15b10–9, which apply to public offerings of the securities of nonmember broker-dealers or their affiliates, have not in practice been of concern to broker-dealers who do not effect over-the-counter transactions. Rule 15b10–10, which regulates certain practices of sellers of mutual funds and other investment company securities, is not relevant to broker-dealers who do no over-the-counter business. Rule 15b10–11 sets forth mandatory fidelity bonding requirements for nonmember broker-dealers which are members of the Securities Investor Protection Corporation. Members in good standing and subject to the fidelity bonding requirements of certain national securities exchanges having bonding requirements generally comparable to Rule 15b10–11 are exempt from that rule.[4]

The 1975 amendments. As a result of amendments enacted by the 1975 Amendments to Section 3(a)(17) of the Act, which defines interstate commerce to include the intrastate use of any facility of a national securities exchange, and to Section 15(a)(1) of the Act, which relates to registration of brokers and dealers, previously unregistered brokers or dealers who trade exclusively on national securities exchanges were required to register with the Commission as of December 1, 1975, the effective date of Section 15(a)(1), as amended. As a consequence of registering with the Commission, such brokers or dealers could have become subject to the SECO rules, unless they satisfied the previously existing exemptions. Further, all newly registered broker-dealers who do not join the NASD would have been required to comply with Rule 15b9–1, which did not contain an exemption for those newly registered "nonmember" firms, by filing Form SECO–5 and paying the filing fee within 45 days from registration.

See footnotes at end of document.

The 1975 Amendments also modified the sections of the Act pursuant to which the SECO rules were adopted. Under new Section 15(b)(7) (formerly Section 15(b)(8)), the Commission is required, irrespective of organizational affiliation or market in which business is done, to establish standards of operational capability for all registered brokers and dealers, and minimum standards of training, experience, competence, and such other qualifications for registered brokers, dealers and all associated persons as the Commission finds necessary or appropriate in the public interest or for the protection of investors. In addition, under new Sections 15(b)(8) and (9) (formerly Sections 15(b)(9) and (10)), the Commission's SECO jurisdiction has been extended to transactions by non-NASD members on exchanges of which they are not members.

In response to the 1975 Amendments, the Commission adopted Temporary Rule 23a–2(T), which exempts from all the SECO rules any broker or dealer who was required to register pursuant to Section 15 of the Act solely by reason of amendments to the Act effected by the 1975 Amendments. Temporary Rule 23a–2(T) expires on March 1, 1976.[5] The Commission also published for comment amendments to certain of the SECO rules. The amendments modify existing exemptions in Rules 15b8–1, 15b9–2 and 15b10–7 (which provides an exemption from Rules 15b10–1 through 15b10–6), add an exemption to Rule 15b9–1, and generally expand the scope of the SECO rules in accordance with the Commission's expanded authority under new Sections 15(b)(7), 15(b)(8) and 15(b)(9). In addition, the staff of the Commission is considering, in light of the Commission's broadened authority under new Section 15(b)(7), the question of what uniform minimum qualification standards should be applicable for the entire brokerage industry.

Amendments to SECO rules. Rules 15b8–1, 15b9–2 and 15b10–7 (which provides exemptions from Rules 15b10–1 through 15b10–6) previously contained provisions which exempt broker-dealers who carry no accounts of customers and derive no more than $1000 annual gross income from transactions otherwise than on a national securities exchange. As the Commission explained when it adopted Rule 15b8–1,[6] the purpose of this exemption was to permit certain specialists and other floor members of national securities exchanges who introduce accounts to other members to receive a portion of the commissions paid on occasional over-the-counter transactions on these introduced accounts, without becoming subject to the SECO rules, so long as the income derived from those activities was nominal. The Commission has amended the existing exemptions by substituting the phrase "otherwise than on a national securities exchange of which he is a member" for the phrase "otherwise than on a national securities exchange." This revision, which has been made to conform the scope of the SECO rules to the Commission's authority under new Sections 15(b)(8) and 15(b)(9), subjects broker-dealers who effect transactions on exchanges other than those of which they are members to the SECO rules.[7]

Further, the Commission has amended the existing SECO exemptions to exclude, from the limitation on gross income derived by a broker-dealer from transactions otherwise than on the exchange of which he is a member, income derived from transactions for the broker-dealer's own account which are effected with or through another registered broker-dealer. The amendments adopted by the Commission differ slightly from the amendments originally proposed, which excluded from the limitation on gross income income from transactions effected with or through another broker or dealer who is a member of the exchange or which such transactions are effected or who, in the case of over-the-counter transactions, is a member of a registered securities association or is qualified pursuant to Rule 15b8–1.

The amendments as adopted are simpler than the original proposal. For example, a broker who is acting as a floor broker on a particular exchange, and who effects transactions for his own account otherwise than on that exchange through another broker-dealer who acts as a clearing member for the floor broker, would be permitted to effect transactions on exchanges of which neither he nor his clearing broker are members without becoming subject to the SECO rules.[8]

Now the exemptions presently contained in Rules 15b8–1, 15b9–2 and 15b10–7 have each been revised as described above, and a similar exemption has been added to Rule 15b9–1.

While the Commission is generally exempting from the SECO rules broker-dealers who trade almost exclusively on an exchange of which they are members, minimum qualifications should be prescribed for broker-dealers trading on exchanges of which they are not members. Accordingly, the Commission has amended Rules 15b8–1 and 15b9–1, which formerly applied to nonmember broker-dealers trading otherwise than on a national securities exchange, so that those rules are now applicable to nonmember broker-dealers trading on exchanges of which they are not members as well as over-the-counter.

To reflect its broadened authority to set qualification standards pursuant to new Section 15(b)(7), the Commission has also amended Rule 15b8–2, which provided that nonmember broker-dealers which have been expelled or suspended from a registered national securities exchange or association, and individuals barred or suspended from association with any member of such association or exchange, for conduct inconsistent with just and equitable principles of trade are unqualified to engage in securities activities pursuant to former Section 15(b)(8) of the Act, to make that rule applicable to all registered broker-dealers and their associated persons rather than just nonmember (of a national securities association) broker-dealers and their associated persons.

A person who has been expelled or suspended from, or barred from association with a member of, a securities exchange or association may wish to remain or become a member, or become associated with a member, of another exchange or association and engage in securities activities in the market regulated by such organization. The Commission believes that the recommendation of such other exchange or association with respect to such person's qualifications to continue to engage in securities activities would be of assistance to the Commission in its review of an application for relief from disqualification made pursuant to paragraph (b) of Rule 15b8–2. The Commission has amended paragraph (d) of that rule to permit the Commission to defer a determination as to whether to grant or deny an application made pursuant to paragraph (b) pending receipt of such recommendation; any such recommendation would also constitute the notice required to be given by exchanges or associations under Section 6(c)(2) or 15A(g)(2). The Commission has also amended paragraph (b) of Rule 15b8–2 to clarify the provisions of that paragraph.

Extension of temporary exemptions. The amendments to the SECO rules discussed above will become effective on April 15, 1976. In order to preserve the regulatory scheme of the SECO rules which existed prior to the effectiveness of the 1975 Amendments until such time as the amendments discussed above become effective March 1, Commission has amended, effective March 1, 1976, Securities Exchange Act Temporary Rule 23a–2(T) to extend the exemption provided by that rule until April 15, 1976.

The Commission has also amended Securities Exchange Act Temporary Rule 23a–1(T), effective March 1, 1976, to extend the exemptions provided by that rule until May 15, 1976. Temporary Rule 23a–1(T) was adopted by the Commission on November 28, 1975,[9] to maintain for an interim period the regulatory scheme applicable to municipal securities transactions which existed prior to the effectiveness of the 1975 Amendments. At the same time, the Commission published for comment amendments to the anti-fraud, recordkeeping, broker-dealer qualification, SECO and broker-dealer registration rules to reflect changes in the Act effected by the 1975 Amendments with respect to regulation of transactions in municipal securities. The Commission has received a number of comments, many of which are highly technical and complex, on the proposed amendments. The Commission has extended the exemptions provided by Temporary Rule 23a–1(T) until May 15, 1976, to provide additional time for thorough consideration of these comments and of the amendments proposed in the release announcing the adoption of Temporary Rule 23a–1(T).

Statutory basis. The Securities and Exchange Commission, acting pursuant to the provisions of the Securities Exchange Act of 1934, 15 U.S.C. 78a et seq., as amended by the Securities Acts Amendments of 1975, Pub. L. No. 94–29 (June 4, 1975), and particularly Sections 15(b) and 23(a) thereof, hereby amends Securities Exchange Act Temporary Rules 23a–1(T) and 23a–2(T) (17 CFR 240.23a–1(T), 23a–2(T)), effective March 1, 1976, and Securities Exchange Act Rules 15b8–1, 15b8–2, 15b9–1, 15b9–2 and 15b10–7 (17 CFR 240.15b8–1, 15b8–2, 15b9–1, 15b9–2 and 15b10–7), effective April 15, 1976, as stated below. The Commission, for good cause, finds that notice, and public procedures on, and prior publication of the amendments to Temporary Rules 23a–1(T) and 23a–2(T), pursuant to 5 U.S.C. 553, are unnecessary because those amendments extend existing exemptions. The Commission finds that the amendments to Securities Exchange Act Temporary Rules 23a–1(T) and 23a–2(T) and Securities Exchange Act Rules 15b8–1, 15b8–2, 15b9–1, 15b9–2 and 15b10–7 will not impose any burden on competition.

Text of Rules as amended. Securities Exchange Act Temporary Rule 23a–1(T), 17 CFR 240.23a–1(T), paragraph (e) is amended to read as follows:

§ 240.23a–1(T) Temporary exemption for certain municipal securities brokers and municipal securities dealers.

* * * * *

(e) This temporary rule shall expire on May 15, 1976.

Securities Exchange Act Temporary Rule 23a–2(T), 17 CFR 240.23a–2(T), is amended to read as follows:

§ 240.23a–2(T) Temporary exemption for certain registered brokers and dealers.

* * * * *

(b) This temporary rule shall expire on April 15, 1976.

Securities Exchange Act Rule 15b8–1, 17 CFR 240.15b8–1, is amended to read as follows:

§ 240.15b8–1 Qualifications and fees relating to brokers or dealers who are not members of a national securities association.

(a) No nonmember broker or dealer shall effect any transaction in, or induce the purchase or sale of, any security unless such nonmember broker or dealer meets all of the following conditions:

* * * * *

(b) Any nonmember broker or dealer who is a member of a national securities exchange shall be exempt from this rule if (1) he carries no accounts of customers, and (2) his annual gross income derived from purchases and sales of securities otherwise than on a national securities exchange of which he is a member is in an amount no greater than $1,000, *Provided however*, That gross income derived from transactions otherwise than on such national securities exchange which are effected for his own account with or through another registered broker or dealer shall not be subject to such limitation.

* * * * *

Securities Exchange Act Rule 15b8–2, 17 CFR 240.15b8–2, is amended to read as follows:

§ 240.15b8–2 Disqualification of registered brokers and dealers and their associated persons—association or exchange disciplinary actions.

(a) No registered broker or dealer or associated person of a registered broker or dealer shall be deemed qualified pursuant to section 15(b)(7) of the Act, if, by action of a registered national securities association or exchange, such registered broker or dealer or associated person has been and is expelled or suspended from such association or exchange or has been and is barred or suspended from being associated with all members of such association or exchange for violation of any such association or exchange rule which prohibits any act or transaction constituting conduct inconsistent with just and equitable principles of trade or requires any act the omission of which constitutes conduct inconsistent with just and equitable principles of trade.

(b) Upon written application with respect to any person deemed unqualified to engage in securities activities pursuant to paragraph (a) of this section, the Commission may, subject to such terms and conditions as it may determine to be necessary or desirable, find that the public interest and protection of investors do not require that such person be deemed unqualified to engage in securities activities. The receipt by the Commission of such application shall operate as a stay of the disqualification provisions of paragraph (a) of this section pending the Commission's determination with respect to the merits of the application. The application for a person who proposes to become associated with a registered broker or dealer should ordinarily be made by the prospective employer of such person.

* * * * *

(d) Where it deems it appropriate to do so, the Commission may grant or deny an application or issue any other findings pursuant to paragraph (b) of this section on the basis of the papers filed without oral hearings. The Commission may defer its determination to grant or deny an application or issue any other findings pursuant to paragraph (b) of this section pending receipt of the recommendation of any securities exchange or association of which such broker or dealer wishes to remain or become a member, or with respect to a member of which such person wishes to become associated, as to the qualifications of such broker, dealer or person to engage in securities activities as a member, or person associated with a member, of such exchange or association.

* * * * *

Paragraph (f)(1) is deleted and paragraph (f)(2) is designated as paragraph (f).

Securities Exchange Act Rule 15b9–1, 17 CFR 240.15b9–1, is amended to read as follows:

See footnotes at end of document.

§ 240.15b9–1 Initial fees for registered brokers and dealers not members of a registered national securities association and their associated persons.

* * * * *

(d) No nonmember broker or dealer shall effect any transaction in, or induce the purchase or sale of, any security, otherwise than on a national securities exchange of which he is a member, unless he has complied with the applicable provisions of this section. Paragraph (e) is designated as paragraph (f) and a new paragraph (e) is added as follows:

(e) Any nonmember broker or dealer who is a member of a national securities exchange shall be exempt from this rule if (1) he carries no accounts of customers, and (2) his annual gross income derived from purchases and sales of securities otherwise than on a national securities exchange of which he is a member is in an amount no greater than $1,000, *Provided however*, That gross income derived from transactions otherwise than on such national securities exchange which are effected for his own account with or through another registered broker or dealer shall not be subject to such limitation.

Securities Exchange Act Rule 15b9–2, 17 CFR 240.15b9–2, is amended to read as follows:

§ 240.15b9–2 Annual fees for registered brokers and dealers not members of a registered national securities association.

* * * * *

(f) *Exemptions.* A broker or dealer shall be exempt from this section if:

* * * * *

(3) (i) He is a member of a national securities exchange, (ii) he carries no accounts for customers, and (iii) his annual gross income derived from purchases and sales of securities otherwise than on a national securities exchange of which he is a member is in an amount no greater than $1,000, *Provided however*, That gross income derived from transactions otherwise than on such national securities exchange which are effected for his own account with or through another registered broker or dealer shall not be subject to such limitation.

* * * * *

Securities Exchange Act Rule 15b10–7, 17 CFR 240.15b10–7, is amended to read as follows:

§ 240.15b10–7 Exemption for certain exchange members.

Any nonmember broker or dealer who is a member of a national securities exchange shall be exempt from Rules 15b10–1 through 15b10–6 if (1) he carries no accounts of customers, and (2) his annual gross income derived from purchases and sales of securities otherwise than on a national securities exchange of which he is a member is in an amount no greater than $1,000, *Provided however*, That gross income derived from transactions otherwise than on such national securities exchange which are effected for his own account with or through another registered broker or dealer shall not be subject to such limitation.

(Secs. 2, 3, 15, 23, 48 Stat. 881, 882, 895, 901, as amended by Secs. 2, 3, 11, 18, 89 Stat. 97, 97–104, 121–127, 155–156 (15 U.S.C. 78b, 78c, 78o, 78w, as amended by Pub. L. No. 94–29)).

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

MARCH 3, 1976.

FOOTNOTES

[1] Securities Exchange Act Release No. 11967, 41 FR 1771 (Jan. 12, 1976).

[2] *See* Securities Exchange Act Release Nos. 7697 (Sept. 7, 1965), 30 FR 11673 (Sept. 11, 1965); 8135 (July 27, 1967), 32 FR 11637 (Aug. 11, 1967); 8308 (May 8, 1968), 33 FR 7075 (May 11, 1968).

[3] *See; e.g.*, Securities Exchange Act Release No. 8035 (July 27, 1967), 32 FR 11637 (Aug. 11, 1967).

[4] Members of the American, Boston, Midwest, New York, Pacific and PBW Stock Exchanges and the Chicago Board Options Exchange are currently exempt. The Commission is considering further revisions in Rule 15b10–11 and may amend the exemption from that rule sometime in the future.

[5] The Commission has provided, in Securities Exchange Act Rule 23a–1(T), a temporary exemption, effective until March 1, 1976, from certain of the SECO rules for persons who are brokers or dealers solely by reason of acting as a municipal securities broker or municipal securities dealer, or in the case of certain rules, to any other broker or dealer insofar as such broker or dealer acts as a municipal securities broker or municipal securities dealer. The Commission has also proposed further amendments to the SECO rules to accommodate those rules to the regulatory scheme for municipal securities brokers and dealers embodied in the 1975 Amendments. *See* Securities Exchange Act Release No. 11876 (Nov. 26, 1975), 40 FR 57357 (Dec. 9, 1975).

[6] Securities Exchange Act Release No. 7697 (Sept. 7, 1965), 30 FR 11673 (Sept. 11, 1965).

[7] Under new Section 6(f) of the Act, the Commission may also require any broker or dealer not a member of a national securities exchange effecting transactions on such exchange on a regular basis to comply with such rules of such exchange as the Commission may specify.

[8] The clearing broker would, of course, effect transactions on an exchange of which he was not a member through a member of that exchange.

[9] Securities Exchange Act Release No. 11876 (Nov. 26, 1975), 40 FR 57357 (Dec. 9, 1975).

[FR Doc.76–7157 Filed 3–11–76;8:45 am]

Title 19—Customs Duties

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

[T.D. 76–79]

PART 1—GENERAL PROVISIONS

Realignment of Houston and Laredo, Texas Customs Districts

On November 17, 1975, a notice of a proposal to realign the boundaries of the Houston and Laredo, Texas, Customs districts (Region VI) was published in the FEDERAL REGISTER (40 FR 53261). The realignment would place the port of Lubbock, Texas, now in the Laredo, Texas, Customs district, in the Houston, Texas, Customs district. The port of Lubbock, Texas, and the port of Amarillo, Texas, which is in the Houston, Texas, Customs district, are both located in northern Texas and both handle similar types of Customs transactions. It is highly desirable for administrative purposes that both ports be located in the same Customs district. No comments were received from the public in response to the proposal.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 10 (40 FR 2216), the list of Customs regions and districts set forth in § 1.2(c) of the Customs Regulations (19 CFR 1.2(c)), is amended in the following manner:

In the column headed "Area" opposite "Houston, Tex." in Region VI, the description of the area contained in the Houston district is deleted and replaced with the following description:

That part of the State of Texas lying north of 33° north latitude and that part of the State of Texas lying east of 97° west longitude, except the territory embraced in the Port Arthur and Galveston districts. Also, the counties of Dallas and Tarrant and the State of Oklahoma.

In the column headed "Ports of entry," the listing for Lubbock, Texas, is deleted from the list of ports opposite the Laredo, Texas, Customs district, and added to the list of ports opposite the Houston, Texas, Customs district.

(Sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended (19 U.S.C. 1, 2))

Effective date. This amendment shall become effective April 12, 1976.

Dated: March 4, 1976.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.76–7094 Filed 3–11–76;8:45 am]

[T.D. 76–78]

PART 142—SPECIAL PERMITS FOR IMMEDIATE DELIVERY PRIOR TO ENTRY

Suspension

On October 9, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 36347), which proposed to amend § 142.7(b) of the Customs Regulations (19 CFR 142.7(b)) to set forth in greater detail the procedure by which an importer's immediate delivery privileges may be suspended in the various Customs regions when the importer is delinquent in paying his Customs bills. The notice proposed to amend § 142.7(b) to provide that if the Customs bills on which an importer is delinquent are not paid within five working days after the date the importer is notified of the suspension of his immediate delivery privileges in a particular region, those privileges shall also be suspended in every other Customs region.

Section 142.7(b) presently provides that the immediate delivery privileges of an importer substantially or habitually delinquent in the payment of his Customs bills may be suspended, either for a specified period of time or until the Customs bills on which he is delinquent are paid.

Interested persons were given 30 days from the date of publication of the notice to submit relevant data, views, or arguments regarding the proposal. After consideration of all comments received, the following changes were made in the proposed amendment:

The five working days time period used in the proposed § 142.7(b)(1), (2), and (3) is changed to ten days so that the importer will have a more reasonable period of time after the date of the notice of suspension sent to him by Customs to pay Customs bills on which he is delinquent

The words "or other parties acting as agents for the importer" in the proposed § 142.7(b)(4) are deleted because § 142.7(b)(4) applies only to brokers and the quoted words are unnecessary.

Accordingly, § 142.7(b) of the Customs Regulations (19 CFR 142.7(b)), modified to include these changes, is adopted as set forth below.

Effective date. This amendment shall become effective April 12, 1976.

LEONARD LEHMAN,
Acting Commissioner of Customs.

Approved: March 4, 1976.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

Paragraph (b) of § 142.7 is amended to read as follows:

§ 142.7 Suspension of immediate delivery privileges.

* * * * *

(b) *For failure to pay Customs bills.* Immediate delivery privileges may be suspended for an importer who is substantially or habitually delinquent on Customs bills issued him, in accordance with the following procedures:

(1) The importer shall be advised in writing by the Customs region in which he is substantially or habitually delinquent on Customs bills issued him that his immediate delivery privileges have been suspended in that region. The notice of suspension will state the reason for such action and will further advise the importer that, if payment of all Customs bills on which he is delinquent is not made within 10 working days fro mthe date of notice of suspension, the importer's immediate delivery privileges shall also be suspended in every other Customs region.

(2) If the importer pays all of the Customs bills on which he is delinquent within 10 working days after the date of the notice of suspension, the suspension shall be lifted and the importer's immediate delivery privileges reinstated.

(3) If the importer has not paid all of the Customs bills on which he is delinquent within 10 working days after the date of the notice of suspension, the importer's immediate delivery privileges shall also be suspended in every other Customs region. This suspension shall remain in effect in all ports of entry until notification is received from the Commissioner of Customs or his designee that the importer's immediate delivery privileges have been reinstated.

(4) Brokers shall not be permitted to circumvent the suspension in effect in one Customs region by applying in that or any other region for immediate delivery of the suspended importer's merchandise in their name and under their bond.

(R.S. 251, as amended, secs. 448, 484, 624, 46 Stat. 714, as amended, 722, as amended, 759 (19 U.S.C. 66, 1448, 1484, 1624))

[FR Doc.76-7093 Filed 3-11-76;8:45 am]

Title 20—Employees' Benefits

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR

PART 602—COOPERATION OF THE UNITED STATES EMPLOYMENT SERVICE AND STATES IN ESTABLISHING AND MAINTAINING A NATIONAL SYSTEM OF PUBLIC EMPLOYMENT OFFICES

Change of Employment Service Symbol

On January 5, 1976, the Employment and Training Administration published at 41 FR 776 a proposed regulation for 20 CFR 602.12(a) *Oganization.* The proposed rulemaking proposed the substitution for the present public employment service symbol a more modern symbol. Interested persons were invited to submit comments, data, and arguments on the proposed regulation until February 4, 1976. Only one comment was received. The comment favored the change but requested that States be allowed to use up current printed material which is marked with the old symbol. This suggestion has been accepted.

Since many States have already adopted the new symbol, and since use of the old symbol is encouraged until printed materials are exhausted, the Employment and Training Administration has determined that it is in the public interest to make this regulation change effective March 10, 1976, except that States are encouraged to use up current printed material which is marked with the old symbol. Accordingly, paragraph (a) of 20 CFR 602.12 *Organization* is hereby amended to read as follows:

§ 602.12 Organization.

(a) *Official identification.* The official name of the statewide system of public employment offices and the name on all official signs, stationary and documents used in connection therewith shall be "---------- State Employment Service". Whenever the State Employment Service name is officially used, it shall be accompanied by the following symbol:

* * * * *

(Sec. 12 of the Wagner-Peyser Act of 1933 (29 U.S.C. 49c-3, 557))

Signed at Washington, D.C. this 3rd day of March 1976.

WILLIAM H. KOLBERG,
Assistant Secretary for Employment and Training.

[FR Doc.76-6821 Filed 3-11-76;8:45 am]

NOTE: This document is reprinted without change from the issue of Wednesday, March 10, 1976.

Title 21—Food and Drugs

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

[Docket No. 75N-0029]

ANIMAL DRUG PROCEDURE

Reorganization and Republication; Correction

In FR Doc. 76-6017 appearing at page 9149, in the issue for Wednesday, March 3, 1976, at the top of page 9150, in the first column, in paragraph b, the fourth line should read "(e)(1)(i)(*b*) and (ii)(*b*) by deleting".

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 76N-0058; DESI 90235]

PART 433—EXEMPTIONS FROM ANTIBIOTIC CERTIFICATION AND LABELING REQUIREMENTS

Exemption of Antibiotic Drugs for Isolation and Differentiation of Microorganisms in Clinical Use; Confirmation of Effective Date

The Food and Drug Administration (FDA) is confirming the effective date of § 433.20 (21 CFR 433.20).

Final regulations were published in the FEDERAL REGISTER of September 30, 1972 (37 FR 20525), amending the antibiotic drug regulations in Part 147 (now Part 460, pursuant to recodification in the FEDERAL REGISTER of May 30, 1974 (39 FR 18922)), by providing for revised labeling and standardized testing procedures for antibiotic susceptibility discs and by deleting and adding provisions for certain antibiotic discs. The amendments also established new § 144.17 (now § 433.20), which provides for certain discs to be exempt from certification under specified conditions. These are discs used for isolation and differentiation of organisms in clinical use, not for susceptibility testing.

The document stated that persons who would be adversely affected could file objections and request a hearing. In response, several submissions of additional data, objections, and requests for hearing were filed. Because these have not yet been ruled on, the final regulations applicable to susceptibility discs have not been considered a requirement by FDA, though a number of firms have adopted their provisions. The fact that objections were filed has led to some uncertainty about the status of § 433.20. The Commissioner of Food and Drugs wishes to make it clear that none of the objections filed were to § 433.20, and that that section became effective as announced in the September 30, 1972 regulation.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050–1051 as amended, 59 Stat. 463 as amended (21 U.S.C. 352, 357)) and under authority delegated to him (21 CFR 2.120), the Commissioner gives notice that § 433.20 *Antibiotic drugs for isolation and differentiation of microorganisms in clinical use* became effective on November 11, 1972.

Dated: March 5, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.76-7090 Filed 3-11-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT—FEDERAL HOUSING COMMISSIONER (FEDERAL HOUSING ADMINISTRATION), DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-76-373]

PART 200—INTRODUCTION

Delegations to Particular Positions

The Department is amending various Redelegations of Authority to headquarters and field offices with respect to section 202 of the Housing Act of 1959 as amended by Title II of the Housing and Community Development Act of 1974.

Inasmuch as these changes concern the Department's internal organization and management, comment and public procedure are unnecessary. An Environmental Finding of Inapplicability and an Inflation Impact Determination are not required with respect to this Amendment.

Accordingly, Title 24, Chapter II, Subpart D is amended by revising § 200.118 (c) and adding § 200.118(e)(1) to read as follows:

§ 200.118 Area Director and Deputy Area Director.

* * * * *

(c) To administer the housing production activities of the Area Office with respect to housing assisted under the United States Housing Act of 1937, including amendments made by the Housing and Community Development Act of 1974, including, but not limited to, the authority to approve proposals, (including proposals relating to projects financed under Section 202), applications for program reservations and preliminary loans, and ACC (Annual Contributions Contract) and/or HAP Contract (Housing Assistance Payments Contract) Lists and amendments thereto, to terminate or require the termination of ACC's and/or HAP Contracts, and to determine that there is no practical alternative to high-rise elevator projects for families with children, all as related to housing production.

* * * * *

(e)(1) To approve or disapprove Requests for Section 202 Direct Loan Financing in conformity with reservations of funds made by the HUD Central Office under Section 202 of the Housing Act of 1959 and to make contracts and execute documents in connection therewith.

* * * * *

(Sec. 7(d) Department of HUD Act, (42 U.S.C. 3535(d))

Effective date. This amendment to delegations is effective on March 12, 1976.

DAVID S. COOK,
Assistant Secretary for Housing Production and Mortgage Credit, Federal Housing Commissioner.

[FR Doc.76-7096 Filed 3-11-76;8:45 am]

Title 29—Labor

CHAPTER II—OFFICE OF THE ASSISTANT SECRETARY FOR LABOR-MANAGEMENT RELATIONS, DEPARTMENT OF LABOR

PART 201—GENERAL

Regional Administrator, Labor-Management Services Administration and Area Administrator, Labor-Management Services Administration

Pursuant to the Secretary of Labor's Memorandum of December 8, 1975, and Labor-Management Services Administration Notice No. 110–75, dated December 22, 1975, the title of the regional head of the Labor-Management Services administration was designated "Regional Administrator, Labor-Management Services Administration" and the title of the area head of the Labor-Management Services Administration was designated "Area Administrator, Labor-Management Services Administration." Accordingly, this document is issued to revise these rules by replacing the term "Assistant Regional Director" with that of "Regional Administrator, Labor-Management Services Administration" and by replacing the term Area Director" with that of Area Administrator, Labor- Management Services Administration." In accordance with the Memorandum of December 8, 1975, and Notice No. 110–75, preexisting documents, forms and issuances referring to Assistant Regional Director" and "Area Director" shall continue to be used until the supply is exhausted and it shall be unnecessary to change the terms "Assistant Regional Director" and "Area Director" when so used.

Chapter II of Title 29, Part 201, (40 FR 19980, dated May 7, 1975) is amended as follows:

1. Section 201.15 is amended to read as follows:

§ 201.15 Regional Administrator.

(a) "Regional Administrator" means the Administrator of a region of the Labor-Management Services Administration, with geographical boundaries as fixed by the Assistant Secretary.

(b) The title "Assistant Regional Director" as used in Parts 201–206 inclusive shall mean "Regional Administrator, Labor-Management Services Administration."

2. Section 201.16 is amended to read as follows:

§ 201.16 Area Administrator.

(a) "Area Administrator" means the Administrator of an area office within a region of the Labor-Management Services Administration, with geographical boundaries as fixed by the Assistant Secretary.

(b) The title "Area Director" as used in Parts 201–206 inclusive shall mean "Area Administrator, Labor-Management Services Administration."

Effective date. This change shall be effective on March 12, 1976.

Signed at Washington, D.C., this 8th day of March 1976.

PAUL J. FASSER, Jr.,
Assistant Secretary of Labor for Labor-Management Relations.

[FR Doc.76-7101 Filed 3-11-76;8:45 am]

Title 31—Money and Finance: Treasury

CHAPTER II—FISCAL SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

PART 223—SURETY COMPANIES DOING BUSINESS WITH THE UNITED STATES

Reinsurance Acceptable on Miller Act Bonds

In the FEDERAL REGISTER of November 25, 1975, at pages 54575–54581, there was published a notice of proposed rulemaking to amend 31 CFR 223.11(b)(1) and (c) (also appearing as § 223.11(b)(1) and (c) in Department Circular 297) in Treasury's regulations governing surety companies doing business with the United States. The purpose of the proposed amendment was to allow the use of reinsurance as well as coinsurance on performance and payment bonds required to be furnished the United States under the Miller Act, 40 U.S.C. 270a–270d. Interested parties were given 45 days ending January 9, 1976, in which to submit written views or comments. Such comments have been received and duly considered. In light of the comments, several minor changes in the proposed amendments to 31 CFR 223.11 and the related reinsurance agreement forms TFS 6317, TFS 6318 and TFS 6319 have been made for additional clarity and exactness. (The form designations will be

converted to Standard Form designations in accord with General Services Administration procedure.)

Accordingly, § 223.11 (b) and (c) of Subchapter A, Chapter II, Title 31 of the Code of Federal Regulations, is hereby amended, effective March 8, 1976, to read as follows:

§ 223.11 Limitation of risk: protective methods.

* * * * *

(b) *Reinsurance.* (1) In respect to bonds running to the United States, liability in excess of the underwriting limitation shall be reinsured within 45 days from the date of execution and delivery of the bond with one or more companies holding a certificate of authority from the Secretary of the Treasury. Such reinsurance shall not be in excess of the underwriting limitation of the reinsuring company. Where reinsurance is contemplated, Federal agencies may accept a bond from the direct writing company in satisfaction of the total bond requirement even though it may exceed the direct writing company's underwriting limitation. Within the 45 day period, the direct writing company shall furnish to the Federal agency any necessary reinsurance agreements. However, a Federal agency may, at its discretion, require that reinsurance be obtained within a lesser period than 45 days, and may require completely executed reinsurance agreements in hand before making a final determination that any bond is acceptable. Reinsurance may protect bonds required to be furnished to the United States by the Miller Act (40 U.S.C. 270a–270d) covering contracts for the construction, alteration, or repair of any public building or public work of the United States, as well as other types of Federal bonds. Use of reinsurance or coinsurance to protect such bonds is at the discretion of the direct writing company. Reinsurance shall be executed on reinsurance agreement forms available from the Assistant Comptroller for Auditing, Bureau of Government Financial Operations, and from the General Services Administration (form No. TFS 6317 for Miller Act performance bonds, form No. TFS 6318 for Miller Act payment bonds, and form No. TFS 6319 (formerly form No. TFS 6308) for other types of Federal bonds [1]).

* * * * *

(c) *Other methods.* In respect to all risks other than Miller Act performance and payment bonds running to the United States, which must be coinsured or reinsured in accord with § 223.11(a) or § 223.11(b)(1) respectively, the excess liability may otherwise be protected:

(1) By the deposit * * *

(5 U.S.C. 301; 6 U.S.C. 8)

[1] These form designations will be converted to Standard Form designations in accord with General Services Administration procedure. TFS Forms 6317 through 6319 filed as part of the original document.

Federal agencies should amend bonding regulations to conform to these regulations where necessary.

DAVID MOSSO,
Fiscal Assistant Secretary.

MARCH 8, 1976.

[FR Doc.76-7173 Filed 3-11-76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[PP5F1608/R78]

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

2-(Dimethylamino)-5,6-Dimethyl-4-Pyrimidinyl Dimethylcarbamate

On May 8, 1975, notice was given (40 FR 20129) that ICI United States Inc., Concord Pike & New Murphy Rd., Wilmington DE 19897, had filed a petition (PP 5F1608) with the Environmental Protection Agency (EPA). This petition proposed that 40 CFR 180 be amended by establishing a tolerance for residues of the insecticide 2-(dimethylamino)-5,6-dimethyl-4-pyrimidinyl dimethylcarbamate and its two major carbamate-containing metabolites 5,6-dimethyl-2-(formylmethylamino)-4-pyrimidinyl dimethylcarbamate and 5,6-dimethyl-2-(methylamino)-4-pyrimidinyl dimethylcarbamate (combined residues of the metabolites are expressed in terms of the latter compound) in or on the raw agricultural commodity potatoes at 0.1 part per million.

ICI United States Inc. subsequently amended the petition to express this proposal as combined residues of the insecticide 2-(dimethylamino)-5,6-dimethyl-4-pyrimidinyl dimethylcarbamate and its metabolites 5,6-dimethyl-2-(formylmethylamino)-4-pyrimidinyl dimethylcarbamate and 5,6-dimethyl-2-(methylamino)-4-pyrimidinyl dimethylcarbamate (both calculated as parent).

The data submitted in the petition and other relevant material have been evaluated and it is concluded that the tolerance should be established as proposed. The pesticide is considered useful for the purpose for which the tolerance is sought. There is no reasonable expectation of residues in eggs, meat, milk, or poultry and 40 CFR 180.6(a)(3) applies. The tolerance established by amending 40 CFR 180 will protect the public health.

Any person adversely affected by this regulation may, within on or before April 12, 1976, file written objections with the Hearing Clerk, Environmental Protection Agency, 401 M St. SW, East Tower, Room 1019, Washington, DC 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective March 12, 1976, Part 180, Subpart C, is amended by 1) adding § 180.365 as set forth below and 2) revising § 180.3(e)(5) to add the insecticide and its metabolites to the list of the class of cholinesterase-inhibiting pesticides identified in the regulations.

(Sec. 408(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)))

Dated: March 5, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesicide Programs.

Section 180.3 is amended by alphabetically inserting the name of the insecticide and its metabolites into the list of cholinesterase-inhibiting pesticides appearing in paragraph (e)(5) as follows:

* * * * *

§ 180.3 Tolerances for related pesticide chemicals.

* * * * *

(e) * * *

(5) The following are members of the class of cholinesterase-inhibiting pesticides:

* * * * *

S-(O,O-Diisopropyl phosphorothioate * * *

2-(Dimethylamino)-5,6-dimethyl-4-pyrimidinyl dimethylcarbamate and its metabolites 5,6-dimethyl-2-(formylmethylamino)-4-pyrimidinyl dimethylcarbamate and 5,6-dimethyl-2-(methylamino)-4-pyrimidinyl dimethylcarbamate (both calculated as parent).

Dimethoate * * *

* * * * *

Part 180, Subpart C, is further amended by adding § 180.365 to read as follows:

§ 180.365 2-(Dimethylamino)-5,6-dimethyl-4-pyrimidinyl dimethylcarbamate; tolerances for residues.

Tolerances are established for combined residues of the insecticide 2-(dimethylamino)-5,6-dimethyl-4-pyrimidinyl dimethylcarbamate and its metabolites 5,6-dimethyl-2-(formylmethylamino)-4-pyrimidinyl dimethylcarbamate and 5,6-dimethyl-2-(methylamino)-4-pyrimidinyl dimethylcarbamate(both calculated as parent) in or on the following raw agricultural commodities:

Commodity	Parts per million
Potatoes	0.1

* * * * *

[FR Doc.76-7185 Filed 3-11-76;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 9—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

[ERDA-PR Temporary Reg. No. 16]

PART 9–4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 9–4.58—Program Research and Development Announcements

MARCH 8, 1976.

1. *Purpose.* This regulation establishes procedures for the submission, evaluation and selection for award or support of proposals offered in response to specific Program Research and Development Announcements issued by ERDA to conduct research, development and related activities in the energy field.

2. *Effective date.* This regulation is effective on March 12, 1976. Interested persons may submit comments on this regulation to: Director of Procurement, U.S. Energy Research and Development Administration, Washington, DC, 20545, Attention: Charles E. Arbanas. Comments received on or before April 12, 1976, will be considered in determining whether revision of this regulation may be advisable.

3. *Expiration date.* This regulation will remain in effect until canceled, revised, or replaced by a permanent ERDA Procurement Regulation.

4. *Applicability.* This regulation is promulgated pursuant to sections 104(h), 105(a), and 107(a) of the Energy Reorganization Act of 1974 (Pub. L. 93–438, 42 U.S.C. 5814, 5815 and 5817, respectively); section 4(c) of the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93–577; 42 U.S.C. 5903) and section 31 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2051); and it applies to arrangements by ERDA to conduct, or participate in joint or cooperative projects for, research, development and related activities with individuals, private entities (including educational institutions, not-for-profit or nonprofit organizations, and commercial or industrial organizations) or public entities (including state and local governments, but not Federal agencies).

5. *Background.* Section 107(a) of the Energy Reorganization Act of 1974 authorizes the Administrator of ERDA "to exercise his powers in such manner as to insure the continued conduct of research and development and related activities in areas or fields deemed by the Administrator to be pertinent to the acquisition of an expanded fund of scientific, technical, and practical knowledge in energy matters". To this end, the Administrator has been authorized to, among other things, make arrangements (including, but not limited to, contracts and grants) for the conduct of research and development activities with private or public institutions or persons, including participation in joint or cooperative projects of a research, developmental, or experimental nature. In implementing this broad authorization, it is appropriate to develop procedures clearly independent from but supplementary to those procedures traditionally utilized when the Government is able to predetermine specific requirements. Therefore, there is hereby established the Program Research and Development Announcement (PRDA) procedure which is designed to apply in those instances where a specific need or solution is not sufficiently definable or even known to permit a traditional, focused competition. Unlike most Federal procurement techniques where bids or proposals are solicited to fulfill a specific, well-defined need and can be evaluated on the basis of how well they may completely fulfill that particular need, the PRDA is intended to be used for solicitation of proposals which may further fairly broad programmatic needs or goals. The PRDA procedure is competitive in the sense that proposals received in response to an announcement are competing for a part of the limited amount of funds available in the agency's budget for the furtherance of the particular program goals identified in the announcement; however, it is not competitive in the usual sense that any one proposal is expected to fulfill the Government's requirements as specified or described in the traditional solicitation document. Consequently, it is expected that proposals generated by a PRDA may be totally dissimilar in concept and approach and will be evaluated and selected for award or support not only on the basis of technical feasibility, cost, abilities of the proposer, etc., but also the basis of the extent to which the proposed work or project will further programmatic goals and national energy priorities as established and assessed by ERDA.

The extent of ERDA participation in or support of any individual proposal selected for award or support under the PRDA procedure shall not exceed $2,000,000. Exceptions to this limitation may be made by the Director of Procurement on a case-by-case basis provided that proper justification is presented in the program assistant administrator's written request.

6. *Explanation of change.* To ERDA Procurement Regulations Part 9–4, Special Types and Methods of Procurement, add Subpart 9–4.58 as follows:

Subpart 9–4.58—Program Research and Development Announcements

Sec.	
9–4.5800	Authority.
9–4.5801	Application.
9–4.5802	Scope and purpose.
9–4.5803	Background.
9–4.5804	Policy and prerequisites.
9–4.5804–1	General.
9–4.5804–2	Determination of applicability required.
9–4.5804–3	Information to be included in Program Research and Development Announcements.
9–4.5804–4	Information to be provided in proposals submitted pursuant to Program Research and Development Announcements.
9–4.5805	Assistance and participation.
9–4.5805–1	Forms of assistance and participation.
9–4.5805–2	Cost participation.
9–4.5806	Method and criteria for evaluation and selection.
9–4.5807	Award or support.

AUTHORITY: Secs. 104(h), 105(a), 107(a), Energy Reorganization Act of 1974 (Pub. L. 93–438, (42 U.S.C. 5814, 5815, 5817, respectively); sec. 4(c), Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93–577; 42 U.S.C. 5903); sec. 31 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2051)

Subpart 9–4.58—Program Research and Development Announcements

§ 9–4.5800 Authority.

These regulations are promulgated pursuant to sections 104(h), 105(a) and 107(a) of the Energy Reorganization Act of 1974 (Pub. L. 93–438, 42 U.S.C. 5814, 5815 and 5817, respectively); section 4(c) of the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93–577, 42 U.S.C. 5903); Section 31 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2051), and other applicable law.

§ 9–4.5801 Application.

These regulations may be applied to arrangements by ERDA to conduct, or participate in joint or cooperative projects for, research, development and related activities with individuals, private entities (including educational institutions, not-for-profit or nonprofit organizations, and commercial or industrial organizations) or public entities (including state and local governments, but not Federal agencies), provided, however, that the conditions set forth in § 9–4.5804 exist. These regulations do not apply to demonstration projects as defined in section 8(a)(1) of the Federal Nonnuclear Energy Research and Development Act of 1974 (P.L. 93–577, 42 U.S.C. 5907 (a)(1)) (see ERDA-PR Temporary Regulation No. 10).

§ 9–4.5802 Scope and purpose.

These regulations establish procedures for the submission, evaluation and selection for award or support of proposals offered in response to specific Program Research and Development Announcements (PRDA) issued by ERDA to conduct research, development and related activities in the energy field.

§ 9–4.5803 Background.

The Energy Reorganization Act of 1974 authorizes the Administrator of ERDA to exercise his powers in such manner as "to insure the continued conduct of research and development and related activities deemed by the Administrator to be pertinent to the acquisition of an expanded fund of scientific, technical and practical knowledge in energy matters". In carrying out these responsibilities, the Administrator of ERDA is authorized to make arrangements (including, but not limited to, contracts and grants) for the conduct of research and development activities with individuals or with private or public entities, including participation in joint or cooperative projects of a research, development, or experimental nature. In order to permit ERDA program offices to solicit proposals in those instances where a specific need or solution is not sufficiently definable to permit a traditional,

focused, competitive procurement and the primary objective of the solicitation is to receive proposals which include not only competing methods of doing particular work but also new ideas as to what kind of work should be undertaken to further national energy research and development, the PRDA procedure is hereby established.

§ 9–4.5804 Policy and prerequisites.

§ 9–4.5804–1 General.

(a) It is ERDA's policy, through the use of PRDAs, to provide potential proposers with information concerning ERDA's interest in entering into arrangements for research and development and related projects in specified areas of interest. It is therefore ERDA's intent to solicit the submission from individuals, private entities (including educational institutions, not-for-profit, nonprofit and commercial and industrial organizations) and public entities (including state and local governments, but not Federal agencies) ideas which will serve as a basis for research, development and related activities in the energy field. Furthermore, it is ERDA's desire to encourage to the maximum extent feasible the involvement of small business concerns (as defined in FPR § 1–1.701) in the research and development undertaken pursuant to PRDAs.

(b) This mechanism is not a replacement for existing procurement procedures where a requirement can be sufficiently defined for solicitation under standard advertised or negotiated procurement procedures (see ERDA–PR Parts 9–2 and 9–3). Similarly, it is not intended to inhibit or curtail the submission to ERDA of meritorious and previously unrecognized research and development concepts in the form of unsolicited proposals (see ERDA–PR Subpart 9–4.52). However, a proposal which is submitted as though it were unsolicited but is in fact germane to an extant PRDA will be treated as though submitted in response to the announcement or returned without action to the proposer, at the proposer's option.

Further, this mechanism is not intended for use where a two-step procedure in which a study contract is competitively negotiated for the purpose of obtaining analysis and recommendations to be used in the subsequent issuance of a request for proposals is appropriate.

(c) This mechanism is to be used only where:

(1) Research and development is required within broadly defined areas of interest to support program goals but it is difficult, if not impossible, to describe in any reasonable degree of detail the nature of the work contemplated because of:

(i) The multiplicity of possible approaches available for solving the problems within the current state of the art;

(ii) The desirability of involving a broad spectrum of organizations in seeking out solutions to the problems posed;

(iii) The expectation that many individual proposers will have unique qualifications or specialized capabilities which will enable them to perform portions of the research and/or development program (without necessarily possessing the qualifications to perform the entire program) so that the overall support may be broken into segments which cannot be ascertained in advance; and

(iv) The desirability of fostering new and creative solutions initiated by the proposers.

(2) Consistent with paragraph (c)(1) of this section, it is anticipated that choices will have to be made among dissimilar concepts, ideas, or approaches; and

(3) It is determined that a broad range of organizations exist that would be capable of contributing towards the overall research and development goals identified in paragraph (c)(1) of this section.

(d) This mechanism, when determined and documented as appropriate for use (see § 9–4.5804–2) may be originated at whatever level is consistent with the program objectives established by the program assistant administrator. Completed announcements, approved by the program assistant administrator or a designee, will be submitted to the Division of Procurement and Office of the General Counsel for concurrence prior to release by the Division of Procurement.

(e) The announcement will be synopsized in the Commerce Business Daily prior to or concurrent with release. In addition, the announcement shall be circulated directly to potentially interested individuals, private and public entities (excluding Federal agencies) and associations thereof to the maximum extent feasible. Special attention in this regard should be given to small business concerns (as defined in FPR § 1–1.701). The originating program office should consider distributing the announcement to all eligible entities which, during the preceding two years, have expressed an interest in participating in, or entering into arrangements for, research and/or development in the particular energy field addressed by the announcement.

(f) The extent of ERDA participation in or support of any individual proposal selected for award or support under the PRDA procedure shall not exceed $2,000,000. Exceptions to this limitation may be made by the Director of Procurement on a case-by-case basis provided that proper justification is presented in the program assistant administrator's written request.

§ 9–4.5804–2 Determination of applicability required.

(a) Prior to the approval of a PRDA by a program office, the program office assistant administrator shall make a determination in writing that the conditions set forth in § 9–4.5804–1(c) exist and that use of the PRDA mechanism is both necessary and appropriate.

(b) The determination must not be merely conclusory but shall be supported by specific facts and explanations.

(c) The determination shall accompany the PRDA when the PRDA is approved by the program office assistant administrator or his designee and submitted to the Division of Procurement and the Office of the General Counsel for concurrence.

§ 9–4.5804–3 Information to be included in Program Research and Development Announcements.

(a) Each PRDA shall include:

(1) A summary of the area(s) of program interest, expanded as appropriate, to include problems and objectives;

(2) A time schedule for submission of, and action on, proposals;

(3) Information to be provided in the proposals (see § 9–4.5804–4);

(4) Evaluation criteria (see § 9–4.5806);

(5) Program policy factors (see § 9–4.5806);

(6) Other information, terms and conditions which shall apply to the particular PRDA;

(7) Place for, and manner of, submission;

(8) A unique number for identification purposes;

(9) A statement notifying potential proposers that an announcement does not commit ERDA to pay any proposal preparation costs (but see ERDA–PR § 9–15.205–3 in the case of certain cost-type contracts) and that ERDA reserves the right to select for award or support any, all, or none of the proposals received in response to an announcement; and

(10) Each announcement also shall contain the following provision: Late Proposals, Modifications of Proposals, and Withdrawals of Proposals.

(b) Any proposal received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before acceptance for award or support, and;

(1) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for receipt of proposals (e.g., a proposal submitted in response to a solicitation requiring receipt of proposals by the 20th day of the month must have been mailed by the 15th or earlier);

(2) It was sent by mail (or telegram if authorized) and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation;

(3) It is the only proposal received; or

(4) It offers significant cost, technical ernment, and it is received before com- or programmatic advantages to the Govmencement of comprehensive evaluation (see ERDA–PR § 9–4.5806(e)).

(c) Any modification of a proposal is subject to the same conditions as in paragraph (b) of this section.

(d) The only acceptable evidence to establish:

(1) The date of mailing of a late proposal or modification sent either by registered mail or certified mail is the U.S. Postal Service postmark on the wrapper or on the original receipt from the U.S. Postal Service. If neither postmark shows

a legible date, the proposal or modification of proposal shall be deemed to have been mailed late. (The term "postmark" means a printed, stamped, or otherwise placed impression that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the U.S. Postal Service.)

(2) The time of receipt at the Government installation is the time-date stamp of such installation on the proposal wrapper or other documentary evidence of receipt maintained by the installation.

(e) Notwithstanding paragraphs (b) and (c) of this section, a late modification of an otherwise successful proposal which makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

(f) Proposals may be withdrawn by written or telegraphic notice received at any time prior to acceptance for award or support. Proposals may be withdrawn in person by an offeror or his authorized representative provided his identity is made known and he signs a receipt for the proposal prior to acceptance for award or support.

§ 9–4.5804–4 Information to be provided in proposals submitted pursuant to Program Research and Development Announcements.

(a) All proposals should be specific, concise, and include, as appropriate, the following information set forth below:

(1) Name and address of the entity(ies) submitting the proposal;

(2) Date of proposal submission;

(3) Identification of the announcement (by number and title) to which the proposal responds;

(4) Type of entity(ies) submitting the proposal, whether public (including state and local governments), and/or private (including profit, and nonprofit organizations and educational institutions);

(5) Concise title and abstract of the proposed project or effort;

(6) An outline and narrative of the proposed effort which shall, if applicable and to the extent possible, include:

(i) Objectives of the proposed effort;

(ii) Detailed plan of approach (procedures, concepts, limitations, timetables of key milestones and expected accomplishments or research results);

(iii) Internal management controls applicable to conduct of the work;

(iv) Scope and methods of management support;

(v) Details concerning previous or ongoing work performed in the category(ies) of research proposed, or in related fields;

(vi) Form and amount of funding, or other contribution, if any, to be provided by the proposer;

(vii) Location where the work will be performed;

(viii) Cost schedule detailing estimated costs for manpower and other resources (GSA Optional Form 60, or equivalent);

(ix) Projected date of completion of the proposed effort.

(7) Resumes of key personnel to be involved which include a description of relevant experience and associated dates;

(8) A current certified financial statement;

(9) Period for which the proposal is valid (if other than that stipulated in the Announcement);

(10) Names and telephone numbers of proposer's primary business and technical personnel whom ERDA may contact during evaluation; and

(11) Signature of an official of the proposing organizations authorized to commit such organization to the proposal term.

(b) Each proposal containing proprietary data or privileged business information which the proposer intends to be used by ERDA for evaluation purposes only should be marked on the cover sheet with the notice prescribed in § 9–3.150–4 of the ERDA Procurement Regulations.

(c) If the proposer is a small business concern (as defined in FPR § 1–1.701), it shall so certify in its proposal. Other representations, certifications and acknowledgments which may be required by law or regulation shall also be submitted as specified in the announcement.

§ 9–4.5805 Assistance and participation.

§ 9–4.5805–1 Forms of assistance and participation.

In providing for the accomplishment of research, development and related activities under the Energy Reorganization Act and other laws cited in § 9–4.5800, ERDA may utilize various forms of Federal assistance and participation. Those forms of assistance and participation relevant to the PRDA mechanism include:

(a) Contracts;

(b) Grants (where authorized); and

(c) Other arrangements as authorized by law.

A PRDA may highlight a particular form(s) of assistance or participation deemed by ERDA to be most suitable to a specific type of project; or, when justified, an announcement may limit consideration of assistance or participation to a particular form. Any resulting arrangement shall comply with the applicable ERDA regulations (e.g., if the instrument resulting from an announcement is a contract, the applicable terms and conditions shall be those required by the ERDA Procurement Regulations governing contracts).

§ 9–4.5805–2 Cost participation.

The provisions contained in Subpart 9–4.56 of the ERDA Procurement Regulations outlining ERDA's cost participation policy shall apply as applicable to proposals submitted hereunder.

§ 9–4.5806 Method and criteria for evaluation and selection.

(a) *General policy.* (1) Information contained in proposals offered in response to PRDAs shall be handled in accordance with the policies and procedures set forth in § 9–3.150 of the ERDA Procurement Regulations pertaining to the marking and handling of proprietary data and privileged business information.

(2) Late proposals, modifications of proposal and withdrawal of proposals shall be handled in accordance with the clause set forth at § 9–4.5804–3(10).

(b) *Selection panel.* Evaluation of proposals submitted in response to a PRDA will be accomplished by a panel which shall be appointed by the cognizant program office. The panel will be composed of program office and other ERDA personnel, including representatives of the Division of Procurement and Office of the General Counsel, and, as deemed appropriate by the appointing official, supplemented by personnel from other Government agencies. The representative of the Office of the General Counsel will be an ex-officio (nonvoting) member of the panel. Personnel from ERDA prime management or operating contractors may be used as advisors to the panel when their services are necessary and available. Care is to be taken in the selection of these personnel so as to avoid any actual or apparent conflicts of interests (see ERDA-PR § 9–1.5407 paragraphs (e) and (f), § 9–12.5407). Moreover, in keeping with § 9–12.5403, such advisors are expressly forbidden to use privileged information contained in proposals for personal gain or other improper purposes.

(c) *Selection official.* The selection official shall be the program assistant administrator, unless such authority is delegated in writing on a case-by-case basis to a program division director. A copy of each such delegation shall be sent concurrently to the Director of Procurement.

(d) *Preliminary review.* Prior to making a comprehensive evaluation of a proposal, the receiving office shall determine that it:

(1) Contains sufficient technical, cost and other information to enable comprehensive evaluation; and

(2) Has been signed by a responsible official of the proposing organization or a person authorized to obligate such organization.

If the proposal does not meet these requirements, a comprehensive evaluation shall not be made. In such a case a prompt reply shall be sent to the proposer, indicating the reason(s) for its not being selected for award or support under the PRDA.

(e) *Comprehensive evaluation.* The basic task in the evaluation and selection of proposals for award or support is to assess their relative merit in order to determine which of them offer the greatest likelihood for achievement of the program objectives stated in the announcement, considering technical quality, ability of the proposer, estimated cost and other relevant factors. Proposals which survive preliminary review shall be comprehensively evaluated under a two-step process. In the first step, the panel will evaluate the proposals in accordance with the criteria stated in the announcement (see § 9–4.5806(f)) and ranked in order of excellence. In the second step, the selection official will select proposals for support or award from the ranking established by the panel. In this latter process, the selection official

will take into account the relevant program policy factors in order to determine the mix of proposed projects which will best further specific program goals. The relevant program policy factors, like the evaluation criteria, shall be predetermined and specified in the announcement (see § 9–4.5806(g)).

(f) *Evaluation criteria.* The evaluation criteria shall be specified in the announcement along with a narrative description of their relative importance. The following items are illustrative of the type of evaluative elements which may be considered as evaluation criteria:

(1) Overall technical feasibility of the proposed concept;

(2) Adequacy and relevance of the proposed research plan, including validity tests as related to the proposed goals;

(3) Availability, qualifications, and past performance of proposed staff and consultants;

(4) Resources, experience, flexibility and commitment of the proposing organization;

(5) Adequacy of proposed project management plan;

(6) Adequacy of proposed financial management plan; and

(7) Estimated cost.

(g) *Program policy factors.* Program policy factors are those factors which, while not appropriate indicators of a proposal's individual merit (e.g., technical excellence, proposer's ability, cost, etc.), are relevant and essential to the process of choosing which of the proposals received and scored will, taken together, best achieve the program objectives. Such factors, if any, shall be specified in the announcement so as to notify proposers that factors which, unlike those reflected in the evaluation criteria, are essentially beyond the proposers' control will affect the selection process. The following are examples of possible program policy factors:

(1) It is desirable, because of the nature of the energy source, the type of projects envisioned and/or limitations of past efforts, to select for award or support a group of projects with a broad or specific geographic distribution.

(2) It is desirable to select for award or support a group of projects which represent a diversity of methods, approaches or kinds of work.

(3) It is desirable for reasons which must be stated to select for award or support projects from diverse types and sizes of proposing organizations.

(4) It is desirable due to the nature of certain projects and/or proposing organizations to select for award or support redundant and/or complementary efforts or projects.

§ 9–4.5807 Award or support.

While only those proposals which best further the needs of the program as specified in the announcement will be considered for award or support, ERDA may accept for award or support all, none, or any number or part of the proposals submitted.

JOSEPH L. SMITH,
Director of Procurement.

[FR Doc.76–7098 Filed 3–11–76;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Justice

Section 213.3310 is amended to show that one position of Secretary (Stenography) to the Deputy Administrator for Policy Development, Law Enforcement Assistance Administration is excepted under Schedule C.

Effective on March 12, 1976, § 213.3310 (s) (13) is added as set out below:

§ 213.3310 Department of Justice.

* * * * *

(s) *Law Enforcement Assistance Administration.* * * *

(13) One Secretary (Stenography) to the Deputy Administrator for Policy Development.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

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

[FR Doc.76–6735 Filed 3–11–76;8:45 am]

Subpart C—Excepted Schedules

MISCELLANEOUS REVOCATIONS

Subpart C of Part 213 is amended to show that under the provisions of § 213.3301b, 34 positions are no longer excepted under Schedule C.

Effective March 12, 1976, Subpart C of Part 213 is amended as set out below:

Section 213.3303 is amended by removing paragraph (i) (3).

§ 213.3303 Executive Office of the President.

* * * * *

(i) *Office of Telecommunications Policy.* * * *

(3) [Revoked]

* * * * *

Section 213.3304 is amended by revising (a) (2).

§ 213.3304 Department of State.

(a) *Office of the Secretary.* * * *

(2) Three Private Secretaries to the Secretary.

* * * * *

Section 213.3306 is amended by removing paragraphs (a) (36) and (53).

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* * * *

(36) [Revoked]

* * * * *

(53) [Revoked]

* * * * *

Section 213.3310 is amended by removing paragraph (w) and revising paragraph (x) (1).

§ 213.3310 Department of Justice.

* * * * *

(w) [Revoked]

* * * * *

(x) *Office of Justice Policy and Planning.*

(1) One Confidential Assistant to the Director.

* * * * *

Section 213.3313 is amended by revising paragraph (m) (3).

§ 213.3313 Department of Agriculture.

* * * * *

(m) *Agricultural Marketing Service.* * * *

(3) One Confidential Assistant to the Administrator.

* * * * *

Section 213.3315 is amended by revising paragraphs (a) (27) and (f) (2).

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* * * *

(27) One Secretary to the Secretary.

* * * * *

(f) *Women's Bureau.* * * *

(2) One Special Assistant to the Director.

* * * * *

Section 213.3316 is amended by revising paragraph (a) (2) and removing paragraphs (a) (30), (37), and (g) (2).

§ 213.3316 Department of Health, Education, and Welfare.

(a) *Office of the Secretary.* * * *

(2) One Confidential Assistant to the Secretary.

* * * * *

(30) [Revoked]

* * * * *

(37) [Revoked]

* * * * *

(g) *Welfare Administration.* * * *

(2) [Revoked]

* * * * *

Section 213.3320 is amended by revising paragraph (a).

§ 213.3320 Inter-American Foundation.

(a) One Confidential Assistant to the President.

* * * * *

Section 213.3327 is amended by revising paragraphs (a) (1), (6), and (8).

§ 213.3327 Veterans Administration.

(a) *Office of the Administrator.*

(1) One Confidential Assistant to the Special Assistant to the Administrator.

* * * * *

(6) Two Confidential Assistants to the Administrator.

* * * * *

(8) Four Confidential Assistants to the Assistant Deputy Administrator.

* * * * *

Section 213.3329 is amended by removing paragraph (c) and revising paragraph (f).

§ 213.3329 Federal Power Commission.

* * * * *

(c) [Revoked]

* * * * *

(f) Two Assistants to the Chairman and four Technical Assistants to the other three Commissioners.

* * * * *

Section 213.3332 is amended by removing paragraphs (d) and (o).

§ 213.3332 Small Business Administration.

* * * * *

(d) [Revoked]

* * * * *

(o) [Revoked]

* * * * *

Section 213.3337(a) is amended by revising paragraph (6) and removing paragraph (16).

§ 213.3337 General Services Administration.

(a) *Office of the Administrator.* * * *

(6) Two Confidential Assistants to the Administrator.

* * * * *

(16) [Revoked]

* * * * *

Section 213.3339 is amended by revising paragraph (a).

§ 213.3339 U.S. International Trade Commission.

(a) One Confidential Assistant to the Chairman and one Confidential Assistant to each of the other four Commissioners.

* * * * *

Section 213.3359 is amended by removing paragraph (d).

§ 213.3359 ACTION.

* * * * *

(d) [Revoked]

* * * * *

Section 213.3379 is amended by revising paragraph (a).

§ 213.3379 Commodity Futures Trading Commission.

(a) One Administrative Assistant to the Chairman.

* * * * *

Section 213.3384 is amended by revising paragraph (a)(31) and removing paragraphs (g)(4), (i)(2), and (i)(4).

§ 213.3384 Department of Housing and Urban Development.

(a) *Office of the Secretary.* * * *

(31) One Special Assistant to the Secretary and One Program Assistant.

* * * * *

(g) *Office of the Assistant Secretary for Research and Technology.* * * *

(4) [Revoked]

* * * * *

(i) *Office of the Assistant Secretary for Policy Development and Research.* * * *

(2) [Revoked]

* * * * *

(4) [Revoked]

* * * * *

Section 213.3394 is amended by removing paragraphs (a)(28) and (33).

§ 213.3394 Department of Transportation.

(a) *Office of the Secretary.* * * *

(28) [Revoked]

* * * * *

(33) [Revoked]

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

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

[FR Doc.76-6734 Filed 3-11-76;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Labor

Section 213.3315 is amended to show that one position of Special Assistant to the Public Affairs Director is excepted under Schedule C.

Effective March 12, 1976, § 213.3315(a)(44) is added as set out below:

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* * * *

(44) One Special Assistant to the Public Affairs Director.

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

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

[FR Doc.76-7207 Filed 3-11-76;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Defense

Section 213.3306 is amended to show that one position of Assistant to the Secretary of Defense (Scheduling) is excepted under Schedule C.

Effective March 12, 1976, § 213.3306(a)(1) is amended as set out below:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.*

(1) One Special Assistant, one Personal Assistant, one Assistant (Scheduling), and three Private Secretaries to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp. p. 218)

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

[FR Doc.76-7394 Filed 3-11-76;10:40 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.

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 43m]

CABAZON BAND OF MISSION INDIANS

Membership Roll

MARCH 5, 1976.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

Notice is hereby given that it is proposed to add a new Part 43m to Subchapter F, Chapter I of Title 25 of the Code of Federal Regulations. This addition is proposed pursuant to the authority contained in the Act of October 19, 1973 (87 Stat. 466), which governs preparation of plans for the use and distribution of judgment funds awarded to Indian tribes by the Indian Claims Commission or the Court of Claims.

The purpose of the new Part 43m is to establish procedures for bringing up to date the membership roll of the Cabazon Band of Mission Indians as provided in the plan for the use and distribution of the judgment funds awarded the band by the Indian Claims Commission in docket 148 which became effective on October 30, 1975.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding these proposed regulations to the Director, Office of Indian Services, Bureau of Indian Affairs, Washington, D.C. 20245, on or before April 12, 1976.

It is proposed to add a new Part 43m to Subchapter F, Chapter I of Title 25 of the Code of Federal Regulations to read as follows:

PART 43m—BRINGING UP TO DATE OF THE MEMBERSHIP ROLL OF THE CABAZON BAND OF MISSION INDIANS TO BE USED AS THE BASIS TO DISTRIBUTE JUDGMENT FUNDS

Sec.

43m.1 Definitions.
43m.2 Purpose.
43m.3 Qualifications for enrollment.
43m.4 Filing of applications and deadline for filing.
43m.5 Burden of proof.
43m.6 Action by Area Director.
43m.7 Appeals.
43m.8 Decision of the Commissioner on appeals.
43m.9 Preparation of the roll.
43m.10 Certification and approval of the roll.
43m.11 Special instructions.

AUTHORITY: 87 Stat. 466.

§ 43m.1 Definitions.

(a) "Superintendent" means the Superintendent of the Southern California Agency.

(b) "Commissioner" means the Commissioner of Indian Affairs or his authorized representative.

(c) "Area Director" means the Area Director, Sacramento Area Office or his authorized representative.

(d) "Plan" means the plan prepared pursuant to the Act of October 19, 1973 (87 Stat. 466), for the use and distribution of the judgment funds awarded the Cabazon Band of Mission Indians in Indian Claims Commission docket 148, which became effective on October 30, 1975.

(e) "Band" means the Cabazon Band of Mission Indians.

(f) "Business Committee" means the Tribal Business Committee of the Cabazon Band of Mission Indians.

§ 43m.2 Purpose.

The regulations in this part govern the bringing up to date of the membership roll of the band as of October 30, 1975, to be used to distribute the judgment funds awarded the band by the Indian Claims Commission in docket 148.

§ 43m.3 Qualifications for enrollment.

The membership roll of the band prepared in accordance with Cabazon Ordinance No. 1 shall be brought up to date as of October 30, 1975:

(a) By removing after proof of death is received the names of enrollees who died prior to that date, and

(b) By adding thereto the names of persons who were born on or prior to and living as of that date who apply for enrollment and who meet the requirements for membership set forth in the ordinance.

§ 43m.4 Filing of applications and deadline for filing.

(a) Application forms may be obtained from the Chairman, Cabazon Business Committee, c/o Southern California Agency, Bureau of Indian Affairs, 5750 Division Street, Riverside, California 92506. Completed applications must be received by the Business Committee by close of business 30 days from the effective date of these regulations.

(b) Requests for applications for enrollment received after that date shall not be filled until after the judgment funds have been distributed.

§ 43m.5 Burden of proof.

The burden of proof rests upon the applicant to establish his eligibility for enrollment. Documentary evidence such as birth certificates, death certificates, baptismal records, copies of probate findings or affidavits may be used to support claims for enrollment. Records of the Bureau of Indian Affairs may also be used to establish eligibility.

§ 43m.6 Action by the Area Director.

The Area Director must notify rejected applicants by certified mail, addressee only, return receipt requested with an explanation of the reason for the adverse action and advise them of their right to appeal to the Commissioner.

§ 43m.7 Appeals.

Appeals must be in writing addressed to the Commissioner and mailed to the Area Director within 30 days of the receipt of the rejection notice. Appellants may submit with their appeals any supporting evidence not previously furnished. If after review of the additional evidence the Area Director determines the appellant has established his right to enrollment, he shall be so notified and his name shall be added to the roll. If the Area Director determines the appellant ineligible, he shall forward the appeal with his recommendation to the Commissioner.

§ 43m.8 Decision of the Commissioner on appeals.

The decision of the Commissioner, shall be final and conclusive and written notice of the decision shall be furnished the appellant.

§ 43m.9 Preparation of the roll.

The roll shall contain for each person a roll number, name, address, sex, date of birth, and, when applicable, the basic roll number, date of basic roll, and name and relationship of applicant to ancestor through whom eligibility is established.

§ 43m.10 Certification and approval of the roll.

The Business Committee and the Superintendent shall attach separate statements to the roll certifying that to the best of their knowledge and belief the roll contains only the names of those persons who meet the requirements for enrollment. The roll shall be submitted through the Superintendent to the Area Director for approval.

§ 43m.11 Special instructions.

To facilitate the work of the Business Committee, the Commissioner may issue special instructions not inconsistent with the regulations in this part.

JOSE A. ZUNI,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.76-7124 Filed 3-11-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 1063, 1070, 1078, 1079]

[Docket Nos. AO–295–A32, etc.]

MILK IN THE DES MOINES, IOWA AND CERTAIN OTHER MARKETING AREAS

Hearing on Proposed Amendments to Tentative Marketing Agreement and Orders

7 CFR pt.	Marketing area	Docket No.
1079	Des Moines, Iowa	AO–295–A32
1070	Cedar Rapids-Iowa City	AO–229–A32
1078	North Central Iowa	AO–272–A27
1063	Quad Cities-Dubuque	AO–105–A43

Notice is hereby given of a public hearing to be held at the Holiday Inn, South, 2101 Fleur Drive, Des Moines, Iowa, beginning at 1 p.m., local time, on March 29, 1976, with respect to proposed amendments to the tentative marketing agreement and to the orders, regulating the handling of milk in the above-mentioned marketing areas.

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 purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the orders.

The proposals to combine the above-listed marketing areas under one order raise the issue of whether the provisions set forth in the proposals would tend to effectuate the declared policy of the Act if they are applied to the entire marketing area as proposed, and, if not, what modifications of the provisions would be appropriate.

The issues raised by these proposals include whether the declared policy of the Act would tend to be effectuated by:

(a) Merger of one or more of the above marketing areas, or any combination thereof, including also the redefinition of marketing areas for separate or combined orders which include part or all of the areas presently defined in the respective orders or proposed herein to be regulated; and

(b) Adoption of any of the proposed provisions, or appropriate modifications thereof, for any separate order or any combination of such orders including a review of the appropriate pricing and pooling provisions of the orders whether separate or in any combination.

The proposed merger of orders also raises the issue of the appropriate disposition of the producer-settlement funds, marketing service funds, and administrative funds accumulated under the respective orders.

The proposed amendments set forth below have not received the approval of the Secretary of Agriculture.

PROPOSED BY ASSOCIATED MILK PRODUCERS, INC., LAND O'LAKES, INC., MISSISSIPPI VALLEY MILK PRODUCERS ASSOCIATION, AND MID-AMERICA DAIRYMEN, INC.—PROPOSAL NO. 1

Merge the Des Moines, Iowa, Cedar Rapids-Iowa City, North Central Iowa, and Quad Cities-Dubuque orders into a single order to be known as the "Lower Midwest Marketing Area" in accordance with the following provisions:

GENERAL PROVISIONS

§ 1079.1 General Provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1079.2 Lower Midwest Marketing Area.

"Lower Midwest Marketing Area," hereinafter called the Marketing Area, means all the territory within the designated military reservations, townships, the corporate limits of the cities and the counties enumerated below:

ZONE 1

IOWA

Adair	Lucas
Appanoose	Madison
Boone	Mahaska
Clarke	Marion
Dallas	Monroe
Davis	Polk
Decatur	Poweshiek
Des Moines	Story
Greene	Union
Guthrie	Van Buren
Henry	Wapello
Jasper	Warren
Jefferson	Wayne
Lee	

ZONE 2

ILLINOIS

Henry	Rock Island
Mercer	

IOWA

Benton	Linn
Cedar	Louisa
Clinton	Marshall
Iowa	Muscatine
Jackson	Scott
Johnson	Tama
Jones	Washington
Keokuk	

ZONE 3

IOWA

Black Hawk	Hamilton
Bremer	Hardin
Buchanan	Humboldt
Butler	Webster
Delaware	Wright
Dubuque	*City of East Dubuque, Ill.
Franklin	
Grundy	

ZONE 4

IOWA

Cerro Gordo	Fayette
Chickasaw	Floyd
Clayton	Hancock

§ 1079.3 Route disposition.

"Route disposition" means a delivery (including disposition from a plant store or from a distribution point and distribution by a vendor or vending machine) of any fluid milk product classified as Class I milk to a retail or wholesale outlet other than a pool plant or a nonpool plant.

§ 1079.4 Plant.

"Plant" means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received, processed, or packaged. Separate facilities used only as a distribution point for storing packaged fluid milk products in transit for route disposition or separate facilities used only as a reload point for transferring bulk milk from one tank truck to another shall not be a "plant" under this definition.

§ 1079.5 Distributing plant.

"Distributing plant" means a plant that is approved by a duly constituted regulatory agency for the processing or packaging of Grade A milk and from which there is route disposition in the marketing area during the month.

§ 1079.6 Supply plant.

"Supply plant" means a plant at which Grade A milk acceptable to a duly constituted regulatory agency is received from dairy farmers and shipped to a pool plant qualified pursuant to § 1079.7(a).

§ 1079.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant:

(1) From which route disposition of fluid milk products, except filled milk, during the month in the marketing area is 10 percent or more of its Grade A receipts from dairy farmers (including milk diverted pursuant to § 1079.13), handlers described in § 1079.9(c), and other pool plants, such receipts to be exclusive of fluid milk products (except filled milk) transferred without specific Class II or Class III designation to other pool plants described in this paragraph; and from which total route disposition of fluid milk products, except filled milk, during the month is 40 percent or more of such receipts during the months of September through January and 35 percent during all other months; or

(2) Which qualified as a pool plant in the immediately preceding three months on the basis of the performance standards described in paragraph (a)(1) of this section.

(b) A supply plant:

(1) From which the volume of fluid milk products, except filled milk, shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is equal to not less than 35 percent (30 percent for each of the months of April through August) of the Grade A milk received at such plant from dairy farmers and handlers described in § 1079.9(c), in-

cluding milk diverted therefrom by the plant operator or a cooperative association, as producer milk pursuant to § 1079.13: *Provided*, That if such shipments are not less than 50 percent during the immediately preceding period of September through November, such plant shall be a pool plant during each of the months of February through August, unless written application is filed with the market administrator on or before the 15th day of any of the months of March through June to be designated a nonpool plant for such month and for each subsequent month through June of the same year; or

(2) That qualified as a pool plant in each of the immediately preceding three months of the basis of performance standards described in paragraph (b) (1) of this section with respect to shipments to plants qualified pursuant to paragraph (a) (1) of this section.

(c) Any plant which is operated by or under contract to a cooperative association, or a federation of cooperatives, if:

(1) The operator of such plant(s) requests pool status, and 50 percent or more of all the Grade A milk from farms of the member producers of such cooperative or federation pool under the order, including milk delivered by it as a handler described in § 1079.9(c), has been shipped to and physically received at pool distributing plants during the current month or the previous 12-month period ending with the current month, either directly from producer member farms or by transfer from such association plant(s);

(2) Such a plant does not qualify during the month as a "pool plant" under another market pool order issued pursuant to the Act by making shipments of milk to plants which qualify as "pool plants" under such other order; or

(3) Such plant meets the requirements of paragraph (c) (2) of this section and met the requirements of paragraph (c) (1) of this section in the preceding month.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant qualified pursuant to paragraph (a) of this section which meets the requirement of a fully regulated plant pursuant to the provisions of another order issued pursuant to the Act and from which during the month there is a greater quantity of route disposition, except filled milk, in the marketing area regulated by the other order than in the Lower Midwest marketing area: *Provided*, That such a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of such route disposition is made in such other marketing area, unless the other order requires regulation of the plant under this order subject to the provision of this subparagraph; and

(3) A distributing plant qualified pursuant to the provision in paragraph (b) (1) of this section for any portion of the period of March through July, inclusive, that the milk at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act.

§ 1079.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant from which fluid milk products are shipped during the month to a pool plant.

§ 1079.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to milk of its members diverted for its account pursuant to § 1079.13;

(c) Any cooperative association with respect to the milk of its members which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association. The cooperative association, prior to the 1st day of the month of delivery, shall notify in writing the market administrator and the handler to whose plant the milk is delivered that it will be the handler for the milk. For purposes of location adjustments to producers, milk so delivered shall be deemed to have been received by the cooperative association at the location of the pool plant to which it is delivered;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant described in § 1079.7(d); and

(g) Any person in his capacity as the operator of an unregulated supply plant.

§ 1079.10 Producer-handler.

"Producer-handler" means any person who meets all of the following conditions:

(a) Operates a dairy farm and a distributing plant at which milk of his own production is processed and packaged, and from which there is route disposition in the marketing area;

(b) Receives no milk or fluid milk products from the farms of other dairy farmers nor from any other source, except receipts of not more than 50,000 pounds of fluid milk products during the month by transfer from pool plants of other handlers or from other order plants;

(c) Receives no nonfluid milk products from any source for use in reconstituting fluid milk products; and

(d) The maintenance, care, and management of the dairy animals and other resources necessary to produce such milk and the processing, packaging, and distribution of such milk are the personal enterprise, and the personal risk, of such person.

§ 1079.11 [Reserved]

§ 1079.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted regulatory agency, and whose milk is (1) received at a pool plant; or (2) diverted pursuant to § 1079.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1079.44(a) (8) (iii) and the corresponding step of § 1079.44(b);

(3) Any person with respect to milk produced by him which is diverted from a pool plant to another order plant if any portion of such producer's milk so moved is assigned to Class I under the provisions of such other order.

§ 1079.13 Producer milk.

"Producer milk" means all skim milk and butterfat contained in milk of any producer:

(a) Received during the month at a pool plant directly from producers or from a handler described in § 1079.9(c);

(b) Received by a handler described in § 1079.9(c) but which is not delivered to a pool plant of another handler and constitutes shrinkage; or

(c) Diverted by the operator of a pool plant or by a cooperative association to a nonpool plant other than a producer-handler plant subject to the following conditions:

(1) For pricing purposes, milk so diverted shall be deemed to be received at the plant to which diverted;

(2) Milk of a producer shall not be eligible for diversion under this section unless during the month at least one delivery is made to a pool plant;

(3) A cooperative association may divert the milk of any producer (other than producer milk diverted pursuant to paragraph (c) (4) of this section). The total quantity of milk so diverted may not exceed 50 percent in the months of September through January, and 70 percent in other months, of the milk for

which the cooperative is the handler pursuant to § 1079.9(c) and producer milk which the association causes to be delivered to pool plants or diverted therefrom during the month;

(4) The operator of a pool plant (other than a cooperative association) may divert for his account the milk of any producer (other than producer milk diverted pursuant to paragraph (c)(3) of this section). The total quantity so diverted may not exceed 50 percent in the months of September through February, and 70 percent in other months, of the milk received at or diverted from such pool plant from producers and for which the operator of such plant is the handler during the month;

(5) Any milk diverted in excess of the limits prescribed in paragraphs (c)(4) and (5) of this section, shall not be producer milk, and, if the diverting handler fails to designate the dairy farmers whose milk is not producer milk, then no milk diverted by such handler shall be producer milk; and

(6) To the extent that it would result in nonpool status for the pool plant from which diverted, milk diverted by a cooperative from the pool plant of another handler shall not be producer milk.

§ 1079.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1079.40(b)(1) from any source other than producers, handlers described in § 1079.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1079.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1079.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a prodct specified in § 1079.40(b)(1)) for which the handler fails to establish a disposition.

§ 1079.15 Fluid Milk Product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1079.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1079.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or modified by the addition of nonfat milk solids), with or without milkfat so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1079.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To be engaged in making collective sales, or marketing milk or its products for its members.

§ 1079.30 Reports of receipts and utilization.

On or before the 8th day after the end of each month, each handler shall report for such month to the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1079.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1079.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1079.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1079.31 Payroll reports.

(a) Each handler pursuant to § 1079.9(a), (b), or (c) shall report to the market administrator in the detail and on forms prescribed or approved by the market administrator as follows:

(1) On or before the seventh day after the end of each month, for each producer from whom milk was received: (i) His name and address; (ii) the total pounds and butterfat content of milk received during the month; and (iii) the amount of any deductions authorized in writing by such producer to be made from payment due for milk delivered;

(2) On or before the twenty-second day of each month, the name and address of each producer from whom milk was received during the first fifteen days of such month, and the pounds of milk so received during said period from such producer; and

(b) Each handler operating a partially regulated distributing plant who elects to make payments pursuant to § 1079.76(b) shall report to the market administrator on or before the 15th day after the end of the month for each dairy farmer from whom Grade A milk was received: (1) His name and address; (2) the total pounds and butterfat content of milk received from such dairy farmer during the month; (3) the amount of any deductions authorized in writing by such dairy farmer to be made from payments due for milk delivered; and (4) the amount paid such dairy farmer.

§ 1079.32 Other reports.

(a) Not later than the 9th day after the end of the month, each handler operating a pool plant shall report to the market administrator, for each of his pool plants separately, the name and address of each producer from whom milk was received during the month with statements showing dates on which such producer started shipping and the date on which milk shipments stopped.

(b) Each producer-handler and each handler who operates an other order plant shall make reports to the market administrator at such time and in such manner as the market administrator may request.

(c) In addition to the reports required pursuant to § 1079.30 and § 1079.31 and paragraphs (a) and (b) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish

such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1079.40 Classes of utilization.

Except as provided in § 1079.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1079.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, low fat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream ,and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese. low fat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In fluid milk products destroyed or lost under extraordinary circumstances;

(6) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1079.15; and

(7) In shrinkage assigned pursuant to § 1079.41(a) to the receipts specified in § 1079.41(a)(2) and in shrinkage specified in § 1079.41 (b) and (c).

§ 1079.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1079.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraphs (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragarph; and

(2) In other source milk not specified in paragraphs (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1079.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1079.9(c) except that, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant except that, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II and Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraphs (b) (1), (2), (4), (5) and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1079.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1079.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1079.9(c) to another handler's pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1079.44(a)(12) and the corresponding step of § 1079.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1079.44(a)(7) or the corresponding step of § 1079.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to

be allocated pursuant to § 1079.44(a) (11) or (12) or the corresponding steps of § 1079.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2) or (3) of this section;

(1) If transferred as packaged fluid milk products, clasification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1079.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i)(*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1079.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition of fluid milk products in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned recepits of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1079.43 General classification rules.

In determining the classification of producer milk pursuant to § 1079.44 the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1079.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1079.9 (b) and (c) that was not received at a pool plant the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1079.40, 1079.41 and 1079.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or dis-

posed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1079.9(b) and (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1079.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk and milk received from a handler described in § 1079.9(c) for each handler described in § 1079.9(a) for each of his pool plants separately and the classification of producer milk of each handler described in § 1079.9(b) and (c) that was not received at a pool plant by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1079.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1079.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1079.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1079.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1079.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1079.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1079.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

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

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subpara-

graph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from another order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) and (8) (iii) of this section:

(i) Subject to the provisions of paragraph (a) (12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1079.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a) (12) (i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a) (12) (i) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a) (12) (ii) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant or a handler described in § 1079.9(c) according to the classification of such products pursuant to § 1079.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a) (14) of this section and the corresponding step of paragraph (b) of this section.

§ 1079.45 Market Administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1079.44(a) (12) and the corresponding step of § 1079.44(b), estimate and publicly announce on or before the 10th day of the month the utilization (to the nearest whole percentage) in each class during the previous month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from another order plant, the class to which such receipts are allocated pursuant to § 1079.44 on the basis of such report, and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to another order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 14th day after the end of each month, report to each cooperative association which so requests, the class utilization of producer milk received by each handler from a cooperative association or from members of the association. For the purpose of this report, the milk caused to be so delivered by an association shall be prorated to each class in the proportion that the total receipts of milk received from producers by such handler were used in each class.

Class Prices

§ 1079.50 Class prices.

The respective minimum prices per hundredweight to be paid by such handler, f.o.b. his plant, for milk received from producers or from a cooperative association during the month shall be as follows:

(a) The Class I price shall be:

(1) Zone 1—The basic formula price for the second preceding month plus $1.40.

(2) Zone 2—The basic formula price for the second preceding month plus $1.33.

(3) Zone 3—The basic formula price for the second preceding month plus $1.25.

(4) Zone 4—The basic formula price for the second preceding month plus $1.20.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1079.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1079.52 Plant location adjustments for handlers.

(a) For a plant located outside the Lower Midwest Marketing Area but inside any other Federal Order marketing area, the applicable Class I location adjustment shall be such as to result in the same price as applicable under the Federal Order in the marketing area in which the plant is located.

(b) For a plant located outside the Lower Midwest Marketing Area and any other Federal Order marketing area, the Class I price applicable at the respective basing points shall be reduced 1.5¢ per 10 miles or fraction thereof that such plant is located from the nearer of the City Halls in Des Moines, Davenport, or Waterloo by the shortest hard surfaced highway distance as determined by the market administrator.

(c) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee plant only to the extent that 115 percent of Class I disposition at the transferee plant exceeds the sum of receipts at such plant from producers and cooperative associations pursuant to § 1079.9(c), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made pro rata to receipts from producers and transferor plants.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraphs (a) or (b) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1079.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Zone Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1079.54 Equivalent price.

If for any reason a price quotation required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

§ 1079.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1079.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1079.44 by the applicable class prices and add the resulting amounts;

(b) add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1079.44(a)(14) and the corresponding step of § 1079.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1079.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1079.44(a)(9) and the corresponding step of § 1079.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1079.44(a)(7)(i) through (iv) and the corresponding step of §1079.44(b), excluding receipts of bulk fluid cream products from another order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1079.44(a)(7)(v) and (vi) and the corresponding step of § 1079.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1079.44(a)(11) and the corresponding step of § 1079.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under an order.

§ 1079.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of producer milk of 3.5 percent butterfat content at plants in Zone I pursuant to paragraphs (a) through (e) of this section. If the unreserved cash balance in the producer-settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made the payments required pursuant to § 1079.71 for the preceding month shall not be included in the computation of the uniform price. The report of such handler shall not be included in the computation for succeeding months until he has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the uniform price in the following manner:

(a) Combine into one total the values computed pursuant to § 1079.60 for all handlers;

(b) Add an amount equal to the sum of the net location adjustments computed pursuant to § 1079.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1079.60(f);

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight from the price computed pursuant to paragraph (d) of this section. The result shall be known as the uniform price for milk received from producers.

§ 1079.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

PAYMENT FOR MILK

§ 1079.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1079.71, 1079.76 and 1079.77 and out of which he shall make all payments pursuant to § 1079.73 and § 1079.77: *Provided,* That any payments due to any handler shall be offset by any payments due from such handler.

§ 1079.71 Payments to the producer-settlement fund.

(a) On or before the twenty-fifth day of each month, each handler receiving milk from producers, from a handler described in § 1079.9(c), or from a plant operated by a cooperative association qualified under this order, shall pay to the market administrator for deposit into the producer-settlement fund an amount of money calculated by:

(1) Multiplying the hundredweight of producer milk received during the first 15 days of such month by the uniform price for the preceding month; and

(2) Multiplying the hundredweight of bulk fluid milk and fluid cream received during the first fifteen days of the month from a cooperative association plant by the Class III price for 3.5 percent butterfat content as announced for the preceding month.

(b) On or before the 16th day after the end of each month, each handler shall pay to the market administrator for deposit into the producer-settlement fund an amount of money equal to such handler's value of milk for such month as determined pursuant to § 1079.60 plus the class value of receipts from a cooperative association plant to a distributing plant operated by such handler, less:

(1) Payments made pursuant to paragraph (a) of this section for such month;

(2) An amount computed by multiplying the quantities of receipts of other source milk for which a value is computed pursuant to § 1079.70(d) by the uniform price computed pursuant to § 1079.61 as adjusted pursuant to § 1079.74 and § 1079.75; and

(3) Payments due from a cooperative association as a handler pursuant to § 1079.9 (a), (b), or (c) shall be offset against the amount due such handler pursuant to § 1079.73(c).

§ 1079.72 [Reserved]

§ 1079.73 Payments to producers and to cooperative associations.

(a) On or before the 28th day of each month, the market administrator shall make payment to each producer for milk received from such producer during the first 15 days of such month by handlers from whom the appropriate payments have been received pursuant to § 1079.71(a) at not less than the uniform price per hundredweight for the preceding month.

(b) On or before the 18th day after the end of each month, the market administrator shall make payment to each producer for milk received from such producer during the month by handlers from whom the appropriate payments have been received pursuant to § 1079.71(b), such payments by the market administrator to be the uniform price computed pursuant to § 1079.61, subject to the following:

(1) Adjustment pursuant to § 1079.74 and § 1079.75.

(2) Less payments made pursuant to paragraph (a) of this section;

(3) Less deductions for marketing services pursuant to § 1079.86;

(4) Less proper deductions made by the handler which are authorized in writing by the producer; and

(5) Adjusted for any error in calculating payment to such individual producer for a past month: *Provided*, That if the market administrator has not received full payment from any handler for such month pursuant to § 1079.71, he shall reduce uniformly per hundredweight his payments to producers for milk received by such handler by a total amount not in excess of the amount due from such handler: *And provided further*, That the market administrator shall make such balance of payment to producers on or before the next date for making payments pursuant to this paragraph following that on which the balance of payment is received from such handler.

(c) In making payment to producers pursuant to paragraphs (a) and (b) of this section, the market administrator shall pay, on or before the second day prior to the date payments are due to individual producers, to a cooperative association which is authorized to collect payment for milk of its members and from which a written request for such payments has been received, a total amount equal to the sum of the individual payments otherwise payable to such producers pursuant to this section, plus the class value of receipts from a cooperative association plant to pool distributing plants.

(d) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator, on or before the day prior to the dates specified in such paragraphs, shall pay to each handler who so requests for milk received by the handler from producers for whom a cooperative association is not collecting payments pursuant to paragraph (c) of this section an amount equal to the sum of the individual payments otherwise due such producers pursuant to paragraphs (a) and (b) of this section. The handler then shall pay the individual producers the amounts due them by the respective dates specified in paragraphs (a) and (b) of this section. Any handler who the market administrator determines is or was delinquent with respect to any payment obligation under this order shall not be eligible to participate in this payment arrangement until the handler has met all prescribed payment obligations for three consecutive months. In making payments to producers pursuant to this paragraph, the handler shall furnish each producer the following information:

(1) The identity of the handler and the producer and the month to which the payment applies;

(2) The total pounds and, with respect to final payments, the average butterfat content of the milk for which payment is being made;

(3) The minimum rate of payment required by the order and the rate of payment used if such rate is other than the applicable minimum rate;

(4) The amount and nature of any deductions from the amount otherwise due the producers; and

(5) The net amount of payment to the producer.

(e) In making payments required by paragraph (b) of this section, the market administrator shall furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The identity of the handler and the producer and the month to which the payment applies;

(2) The total pounds and, with respect to final payments, the average butterfat content of the milk delivered;

(3) The rate of payment; and

(4) The amount or rate per hundredweight of each deduction, including any deductions made pursuant to § 1079.86 together with a description of the respective deductions.

(f) If the market administrator does not receive the full payment required of a handler pursuant to § 1079.71, he shall reduce uniformly per hundredweight the payments due producers for their milk received by such handler by a total amount not in excess of the amount due from such handler. The market administrator shall complete such payments on or before the next date for making payments pursuant to this section following the date on which the remaining payment is received from such handler.

(g) Each handler who receives bulk fluid milk products from a pool plant operated by a cooperative association shall pay the following amounts for such milk to the market administrator, who in turn shall transmit such money to the cooperative association:

(1) On or before the 26th day of each month, an amount determined by multiplying such receipts during the first 15 days of the month by the uniform price per hundredweight for the preceding month as adjusted by the butterfat differential specified in § 1079.74 for the preceding month; and

(2) On or before the 16th day after the end of each month, an amount determined by multiplying the quantity of such receipts during the month that was classified in each class pursuant to § 1079.42(a) by the applicable class price, as adjusted by the butterfat differential specified in § 1079.74, less any payment made by the handler pursuant to paragraph (g)(1) of this section for such month.

§ 1079.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1079.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments pursuant to § 1079.73, the uniform price per hundred-

weight for producer milk received at a plant outside Zone I shall be adjusted according to the location of the plant at the rates set forth in § 1079.50 and § 1079.52.

(b) For purposes of computation pursuant to § 1079.71, the uniform price shall be adjusted at the rates set forth in § 1079.50 and 1079.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price shall not be less than the Class III price.

§ 1079.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to § 1079.30(b) and § 1079.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section;

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1079.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1079.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order) except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1079.60 for such handler shall include, in lieu of the value of other source milk specified in § 1079.60(f) less the uniform price applicable at the location of plant from which the other source milk was received, a value of milk determined pursuant to § 1079.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant during the month equivalent to the requirements of § 1079.7 (b) and (c), subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1079.30(b) and 1079.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1079.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1079.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1079.74 for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1079.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler or (b) such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

§ 1079.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1079.71, 1079.76, 1079.77, 1079.85, or paragraph (a) of this section shall be increased three-fourths of one percent on the first day on which such type of obligation is normally due subject to the following conditions:

(a) The amounts payable pursuant to this paragraph shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously computed pursuant to this paragraph.

(b) For the purpose of this paragraph, any unpaid obligation that is determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator shall be considered to have been due when it would have been due if such report had been submitted at the proper time.

(c) Payment of any interest obligation computed pursuant to this paragraph in amount less than $10 shall be delayed until the accumulated interest obligation of such handler equals or exceeds $10.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1079.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler (excluding a handler described in § 1079.9(c) with respect to milk delivered to pool plants) shall pay to the market

administrator on or before the 16th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1079.44(a) (7) and (11) and the corresponding step of § 1079.44(b), except such other source milk that is excluded from the computations pursuant to § 1079.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1079.76(a)(2).

§ 1079.86 Deduction for marketing services.

(a) The market administrator in making payments to producers pursuant to § 1079.73 shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to the milk of such producers (excluding a handler's own production) for whom the marketing services set forth in paragraph (b) of this section are not being performed by a cooperative association as determined by the Secretary.

(b) The moneys deducted pursuant to paragraph (a) of this section shall be used for tests of producer milk and to provide producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

PROPOSED BY THE NATIONAL FARMERS ORGANIZATION—PROPOSAL NO. 2

Merge the Des Moines, Cedar Rapids-Iowa City, Quad Cities-Dubuque, and North Central Iowa orders into a single order in accordance with the current terms of Order 1079 as modified by the following provisions:

§ 1079.2 Iowa marketing area.

"Iowa marketing area" (referred to in this part as the "marketing area") means all the territory within the boundaries listed below including all territory that is now, or in the future, occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part of such territory is within the designated geographical limits of the marketing area:

(a) The Iowa Counties of:

Allamakee	Hardin
Hancock	Grundy
Cerro Gordo	Black Hawk
Floyd	Buchanan
Chickasaw	Delaware
Humboldt	Dubuque
Wright	Greene
Franklin	Boone
Butler	Story
Bremer	Marshall
Fayette	Tama
Clayton	Benton
Webster	Linn
Hamilton	Jones
Jackson	Monroe
Guthrie	Wapello
Dallas	Jefferson
Polk	Henry
Jasper	Des Moines
Poweshiek	Decatur
Iowa	Wayne
Johnson	Appanoose
Cedar	Davis
Clinton	Van Buren
Scott	Lee
Muscatine	Adams
Adair	Taylor
Madison	Ringgold
Warren	Audubon
Marion	Carroll
Mahaska	Calhoun
Keokuk	Pocahontas
Washington	Buena Vista
Louisa	Palo Alto
Union	Clay
Clarke	Dickenson
Lucas	Emmet

and the city of Osage in Mitchell County, Iowa.

(b) The Illinois Counties of:

Henry	The city of East Dubuque in Illinois
Mercer	
Rock Island	

§ 1079.4 Plant.

"Plant" means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received, processed, or packaged. Separate facilities used only as a distribution point for storing packaged fluid milk products in transit for route disposition or separate facilities used only as a reload point for transferring bulk milk from one tank truck to another shall not be a "plant" under this definition.

§ 1079.5 [Reserved]

§ 1079.6 [Reserved]

§ 1079.7 Pool plant.

Except as provided in paragraph (e) of this section, "pool plant" means any plant:

(a) From which during the month:

(1) The total route disposition (except filled milk) as a percent of the total milk received in bulk form at such plant (excluding milk received as diverted milk from another pool plant) or diverted therefrom by the plant operator is at least equal to the marketwide Class I utilization percentage for the same month of the preceding year. (Upon the effective date of this order, the market administrator shall compute and announce the weighted average Class I utilization percentage for the four markets combined herein. Such computation shall be used in determining pooling standards pursuant to paragraph (a) and (b) of this section during the first year this order is effective); and

(2) Not less than 15 percent of such receipts are disposed of as route disposition (except filled milk) in the marketing area; or

(b) That is approved by a duly constituted regulatory agency for the handling of Grade A milk, from which during the month the volume of fluid milk products shipped to pool plants qualified pursuant to paragraph (a) of this section as a percent of the total Grade A milk received at the plant from dairy farmers during the month (including milk delivered to the plant from dairy farms for the account of a cooperative association and milk diverted from the plant by the plant operator but excluding milk diverted to the plant from another pool plant) is not less than the marketwide Class I utilization percentage for the same month of the preceding year;

(c) That qualified as a pool plant in each of the immediately preceding three months on the basis of performance standards described in paragraph (a) or (b) of this section; or

(d) That is located in the marketing area and that is approved by a duly constituted regulatory agency for the handling of Grade A milk, subject to the following conditions:

(1) At least one tank truck load of milk (not less than 45,000 pounds) has been shipped from the plant to a pool plant described in paragraph (a) of this section or to a comparable plant under another Federal order within the last 12 months, unless the plant is already qualified as a pool plant pursuant to this paragraph;

(2) The operator of the plant has filed a request with the market administrator for pool status at least 15 days prior to the first day of the month in which such status is desired effective. Once qualified as a pool plant pursuant to this paragraph, such status shall continue to be effective unless the operator requests nonpool status for the plant prior to the first day of the month for which nonpool status is requested, the plant subsequently fails to meet all of the conditions of this paragraph, or the plant qualifies as a pool plant under another order;

(3) The operator of the plant has agreed to supply a percentage of its milk (not to exceed the percentage of shipments required of a plant described in paragraph (b) of this section) to pool plants described in paragraph (a) of this section in compliance with any announcement by the market administrator requesting such level of shipments. The market administrator may require such shipments from any designed plants qualified pursuant to this paragraph whenever he finds, after investigating on his own initiative or at the request of interested persons, that milk supplies for Class I use are needed from pool plants qualified under this paragraph. If such shipping requirement is announced and applied, it shall be applied equitably among the reserve supply plants located within the part of the marketing area designated by the Market Administrator in such announcement as necessary to secure the needed milk supplies. *Provided*, That such shipping requirement will not be applied to a reserve supply plant:

(i) In such manner as to require the reserve supply plant to ship milk to a plant if the operators of the two plants

involved are unable to come to agreement on the terms and conditions of sale;

(ii) If the operator of such supply plant has valid reason to question the financial condition of the purchaser as relates to his ability to make timely and complete payment, as practiced in ordinary commercial transactions and in full conformance with the requirements of Order 79, for the milk supplies to said purchaser by the reserve supply plant; and

(iii) In such manner that the operator of the reserve supply plant would be required to supply or sell, or the operator of the distributing plant involved would be required to accept or purchase milk from said reserve supply plant, if either party has a valid basis, other than specified in (1) and (2) above, for refusing to deal with the other party;

(4) Failure to comply with such shipping requirement shall result in immediate loss of pool status for the plant pursuant to this paragraph. A plant losing pool status in this manner may not again qualify as a pool plant pursuant to this paragraph for a period of one year from the date on which pool status is lost; and

(5) Effective January 1, 1977, a plant must have been a pool plant under this order during each of the preceding months of September through December to be a pool plant under this paragraph during the following months of January through June.

(e) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A governmental agency plant;

(3) A plant qualified as a pool plant pursuant to paragraphs (a), (b), or (c) of this section if the conditions of paragraph (e)(3)(i) and (ii) of this section are met. Such plant shall be exempt from the provisions of this part except for reports that may be required pursuant to § 1079.30(d) and verification of such reports by the market administrator in accordance with § 1000.5 of this chapter:

(i) The Secretary determines that a greater quantity of milk in fluid form is disposed of from such plant to a regulated marketing area as defined in another order issued pursuant to the Act either as route disposition, than is disposed of from such plant in the Iowa marketing area either as route disposition, excluding filled milk, or to pool plants qualified on the basis of route disposition; and

(ii) Such milk would be subject to the class price and producer payment provisions of the other marketing agreement or order upon being made exempt from this part; and

(4) That portion of a plant that is physically separated from the Grade A portion of such plant, is operated separately, and is not approved by any regulatory agency for the receiving, processing, or packaging of any fluid milk product for Grade A disposition.

§ 1079.50 Class prices.

Subject to the provisions of § 1079.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.50.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1079.52 Plant location adjustments for handler.

(a) The following zones are defined for the purpose of determining location adjustments:

(1) Zone I shall include the territory inside the Iowa Counties of:

Greene	Wayne
Boone	Appanoose
Story	Davis
Guthrie	Van Buren
Dallas	Lee
Polk	Ringgold
Jasper	Taylor
Poweshiek	Page
Adair	Fremont
Madison	Mills
Warren	Montgomery
Marion	Adams
Mahaska	Cass
Keokuk	Pottawattamie
Washington	Harrison
Louisa	Shelby
Union	Audubon
Clarke	Carroll
Lucas	Crawford
Monroe	Monona
Wapello	Woodbury
Jefferson	Ida
Henry	Sac
Des Moines	Calhoun;
Decatur	

and all the territory inside the State of Missouri.

(2) Zone II shall include the territory in Illinois outside the marketing area, south of U.S. Highway No. 80.

(3) Zone III shall include the territory within the Iowa Counties of:

Hancock	Linn
Cerro Gordo	Jones
Floyd	Jackson
Chickasaw	Iowa
Fayette	Johnson
Clayton	Cedar
Humboldt	Clinton
Wright	Scott
Franklin	Muscatine
Butler	Plymouth
Bremer	Cherokee
Webster	Buena Vista
Hamilton	Pocahontas
Hardin	Palo Alto
Grundy	Clay
Black Hawk	O'Brien
Buchanan	Sioux
Delaware	Lyon
Dubuque	Osceola
Marshall	Dickinson
Tama	Emmet;
Benton	

and in Illinois, the Counties of Henry, Mercer and Rock Island, and the City of East Dubuque.

(4) Zone IV shall include the territory within the Iowa Counties of:

Allamakee	Worth
Winneshiek	Winnebago
Mitchell (except for the city of Osage)	Howard
	Kossuth;

and all the territory inside the State of Minnesota; and all the territory inside the State of Wisconsin; and all the territory inside that portion of the State of Illinois, outside of the marketing area, north of U.S. Highway No. 80.

(b) For milk received at a plant from producers or a handler described in § 1079.9(c) and which is classified as Class I milk, the price specified in § 1079.52(a) shall be adjusted by the following amounts:

Zone	*Adjustment per Hundredweight*
I	no adjustment
II	minus 10¢
III	minus 15¢
IV	minus 24¢

PROPOSED BY BEATRICE FOODS COMPANY—PROPOSAL NO. 3

(a) Expand the marketing area to include the Iowa Counties of Benton, Linn, Iowa, Johnson, Keokuk, Washington, Louisa, Jefferson, Henry, Des Moines, Davis, Van Buren, and Lee and the Missouri Counties of Putnam, Schuyler, Scotland, Clark, Sullivan, Adair, Knox, Lewis, Macon, Shelby, Marion, Monroe, Ralls, Pike, Audrain, Callaway, Montgomery, and Lincoln, and the Illinois County of Adams.

(b) Establish a Class I price equal to the basic formula price for the second preceding month plus $1.50 at any plant located within the counties listed directly above.

(c) Establish the City of Hannibal, Missouri, as a basing point for the purpose of calculating location adjustments for plants located outside the marketing area.

PROPOSED BY PRAIRIE FARMS DAIRY, INC.—PROPOSAL NO. 4

(a) Substitute § 1079.5 with two separate subsection definitions, namely: Route Disposition and Distributing Plant.

(b) Revise and Distribution Plant definition to read: "Distributing Plant" means a plant that is approved by a duly constituted regulatory agency for the processing or packaging of Grade A milk and from which there is route disposition in the marketing area during the month.

(c) Add a Route Disposition definition to read: "Route Disposition" means distribution of Class I milk by a handler to retail or wholesale outlets which include vending machines but do not include plants or distribution points.

(d) Revise § 1079.40(b)(2) to read: In packaged inventory at the end of the month maintained by the handler based on generally accepted accounting principles.

(e) Revise § 1079.40(c)(2) to read: In inventory at the end of the month maintained by the handler based on generally accepted accounting principles of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form.

(f) Revise § 1079.40(c)(3) to read: In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for

animal feed at any point of the handler's distribution system if adequate records are maintained.

(g) Revise § 1079.40(c)(3) to read: All product unaccounted for in § 1079.40 (a), (b), or (c).

(h) Delete § 1079.40(c)(7).

(i) Revise § 1079.41 to read: The shrinkage allowance shall consist of a deduction from the handler use value determined by the following formula based on product pounds:

(1) If a handler assumes the shrinkage incurred from the farm to a plant, the allowance value shall be 0.5 percent of the differential specified in § 1079.50 (a) times the farm weight.

(2) If a handler assumes the shrinkage incurred from plant processing, the allowance value shall be 1.5 percent of the differential specified in § 1079.50(a) times the weight received at the plant.

(3) If a handler assumes all shrinkage specified in § 1079.41 (a) and (b), the allowance value shall be 2.0 percent of the differential specified in § 1079.50(a) times the farm weight.

PROPOSED BY JONES DAIRY, INC.—PROPOSAL NO. 5

Remove the Iowa Counties of Union, Clark, Lucas, Monroe, Appanoose, Wayne, and Decatur from the marketing area of Federal order No. 79.

PROPOSED BY LAND O'LAKES, INC.—PROPOSAL NO. 6

Adopt proposal No. 1 with the following modifications:

(a) In the proposed § 1079.7, substitute the following paragraph (b) for paragraphs (b) and (c), and redesignate paragraph (d) as paragraph (c):

§ 1079.7 Pool plant.

* * * * *

(b) A supply plant that meets the applicable performance requirements pursuant to paragraph (b) (1), (2), or (3) of this section subject to paragraph (b) (4) of this section:

(1) A supply plant from which 35 percent or more of the total Grade A milk received at the plant from dairy farmers during the month, including milk delivered to the plant from dairy farmers for the account of a cooperative association, and milk diverted from the plant, is delivered during the month as fluid milk products, except filled milk, to plants described in paragraph (b)(1) (i) and (ii) of this section: *Provided*, That if such shipments are not less than 50 percent during the immediately preceding period of September through November, the applicable minimum percentage for continuing pool plant status in the following months of December through August shall be 20 percent each month:

(i) A pool plant(s) qualified pursuant to paragraph (a) of this section; and

(ii) A governmentally owned or operated institution which disposes of Class I milk solely for use on its own premises or to its own facilities;

(2) Two or more supply plants operated by a handler or one or more cooperatives may qualify for pooling as a unit beginning in September each year by meeting the applicable percentage requirements of this paragraph (b) in the same manner as a single plant, if the handler or cooperative(s) submit(s) a written request to the market administrator prior to the first day of September requesting that such plants qualify as a unit for the period September through August of the following year. In such request the handler of cooperative(s) shall list the plants in sequence in which the plants shall qualify for pool plant status to the extent that deliveries from such plants or deliveries pursuant to paragraph (b)(3) of this section to plants described in paragraph (b)(1) (i) and (ii) of this section meet the required percentages: *Provided*, That fluid milk products shipped from a plant that does not qualify as a plant within the unit shall not be counted in the deliveries that qualify the unit for pooling. Each plant that qualifies as a pool plant within a unit shall continue each month as a plant in the unit through the following August unless the plant fails subsequently to qualify for pooling or the handler submits a written request to the market administrator prior to the first day of the month that the plant be deleted from the unit or that the unit be discontinued. Any plant that has been so deleted from the unit, or has failed to qualify in any month, will not be part of the unit for the remaining months through August. No plant may be added in subsequent months to a unit that qualifies in September; and

(3) Milk delivered by a handler pursuant to § 1079.9(c) directly from farms of producers to plants described in paragraph (a) of this section may be considered, for purposes of meeting the percentage requirements of this paragraph (if so requested in writing by the cooperative association), as having been received first at a plant of such cooperative association.

* * * * *

(b) In the proposed § 1079.71, substitute the following paragraph for paragraph (b):

§ 1079.71 Payments to the producer-settlement fund.

* * * * *

(b) On or before the sixteenth day after the end of each month, each handler shall pay to the market administrator for deposit into the producer-settlement fund an amount of money equal to such handler's value of milk for such month as determined pursuant to § 1079.60 plus:

(1) The class value of receipts from a cooperative association plant at a distributing plant operated by such handler; plus

(2) Eighteen cents per hundredweight of fluid milk and cream products received from pool plants of other handlers; plus

(3) Ten cents per hundredweight of milk received from a cooperative association acting as a handler pursuant to § 1079.9(c); less

(4) Payments made pursuant to paragraph (a) of this section for such month; less

(5) An amount computed by multiplying the quantities of receipts of other source milk for which a value is computed pursuant to § 1079.70(d) by the uniform price computed pursuant to § 1079.61 as adjusted pursuant to § 1079.74 and § 1079.75; less

(6) Proper deductions authorized in writing by producers from whom such handler received milk.

(c) Amend § 1079.72 as follows:

§ 1079.72 Payments to handlers.

On or before the eighteenth day after the end of each month, the market administrator shall make payment to each handler for fluid milk and cream products transferred during the month to the pool plants of other handlers at eighteen cents per hundredweight.

(d) Substitute the following two paragraphs for § 1079.73(c) as contained in proposal No. 1 and redesignate paragraphs (d), (e), (f), and (g) as (e), (f), (g), and (h):

§ 1079.73 Payments to producers and to cooperative associations.

* * * * *

(c) On or before the eighteenth day after the end of the month, the market administrator shall make payment to each handler for fluid milk and cream products transferred to the pool plants of other handlers at eighteen cents per hundredweight.

(d) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator shall pay, on or before the second day prior to the date payments are due to individual producers, to a cooperative association which is authorized to collect payment for milk of its members and from which a written request for such payments has been received, a total amount equal to the sum of the individual payments otherwise payable to such producers pursuant to this section; plus,

(1) Ten cents per hundredweight for milk caused by the cooperative acting as a handler pursuant to § 1079.9(c) to be delivered to the pool plants of other handlers; plus

(2) The class value of fluid milk and cream products transferred from pool plants operated by the cooperative to the pool plants of other handlers.

* * * * *

(e) Amend § 1079.74 as follows:

§ 1079.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-third percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.105 times the simple average of the wholesale selling price (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

PROPOSED BY THE DAIRY DIVISION, AGRICULTURAL MARKETING SERVICE—PROPOSAL No. 7

Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from Market Administrator, John B. Rosenbury, 909 Sixth Street, NW., Rochester, Minnesota 55901, or from the Hearing Clerk, Room 112–A, Administration Building, United States Department of Agriculture, Washington, D.C. 20250 or may there be inspected.

Signed at Washington, D.C., on March 9, 1976.

DONALD E. WILKINSON,
Administrator.

[FR Doc. 76–7172 Filed 3–11–76; 8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner (Federal Housing Administration)

[24 CFR Part 242]

[Docket No. R–76–374]

MORTGAGE INSURANCE FOR HOSPITALS

Eligibility Requirements

The Department is proposing to amend § 242.57(b) of Part 242 so that the mortgagee's option of accepting a letter of credit in lieu of cash deposits required by § 242.57(a) will be the same for nonprofit and profit motivated projects. The amendment will prohibit a mortgagee from accepting a letter of credit in lieu of the cash deposit required by § 242.57 (a) (1) for nonprofit mortgagors so that there will be consistency with profit motivated mortgagors. Since the letter of credit will not be acceptable for the cash deposit required by § 242.57(a) (1), the last sentence of § 242.57(b) (2) will be eliminated. A letter of credit will continue to be acceptable in lieu of the cash deposit required by § 242.57(a) (2). The proposed amendment will conform the financial requirements for hospitals built by nonprofit mortgagors with profit mortgagors and with the financial requirements in operation for the other multifamily projects.

Interested persons are invited to participate in the proposed rulemaking by submitting such written statements or comments as they may desire. Communications should refer to docket number and date and should be filed with the Rules Docket Clerk, Office of General Counsel, Room 10245, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C., 20410. All relevant material received on or before April 12, 1976, will be considered by the Secretary before adoption of a final rule. Copies of comments submitted will be available during business hours, both before and after the specified closing date, at the above address, for examination by interested persons.

Accordingly, 24 CFR 242.57 is proposed to be amended by revising paragraph (b) to read as follows:

§ 242.57 Funds and finances-insured advances-general requirements.

* * * * *

(b) *Letter of credit.* The mortgagee may accept a letter of credit in lieu of the cash deposit required by paragraph (a) (2) of this section.

(Sec. 7(d) Department of HUD Act; (42 U.S.C. 3535(d)))

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

Issued at Washington, D.C., March 4, 1976.

DAVID C. COOK,
Assistant Secretary for Housing Production and Mortgage Credit—FHA Commissioner.

[FR Doc. 76–7097 Filed 3–11–76;8:45am]

DEPARTMENT OF LABOR

Employment and Training Administration

[20 CFR Part 640]

STANDARD FOR BENEFIT PAYMENT PROMPTNESS

Unemployment Compensation

Correction

In FR Doc. 76–6249, appearing at page 9559, in the issue for Friday, March 5, 1976, make the following change; on page 9560, in the first column, the second paragraph, the eighth line should read "during a period when workloads are". The word "not" should be deleted from the end of that line.

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. H–017A]

EXPOSURE TO COKE OVEN EMISSIONS

Proposed Standard; Inflation Impact Statement Certification and Informal Hearing

• Purpose: The purposes of this notice are to certify that the potential inflationary impact of the proposed standard on occupational exposure to coke oven emissions has been examined, to announce the availability of the inflation impact statement for public inspection and copying, and to schedule a hearing date for receipt of oral testimony on specified issues set out below. These procedures have been concurred in by the Council on Wage and Price Stability in accordance with Office of Management and Budget Circular No. A–107 (January 28, 1975) issued pursuant to Executive Order 11821. The notice also states that the National Cancer Institute is scheduled to testify on the issues, and in accordance with the procedures, set forth below. •

Background. On July 31, 1975, a notice of proposed rulemaking regarding an occupational safety and health standard for exposure to coke oven emissions was published in the FEDERAL REGISTER (40 FR 32268). Interested persons were given until September 15, 1975 (extended to September 30, 1975, by notice published at 40 FR 40849) to submit written comments, data, views and arguments as well as notices of intention to appear at the informal hearing that began on November 4, 1975, and concluded on January 8, 1976.

The notice of proposed rulemaking provided that an inflation impact statement, as required by Executive Order 11821 (39 FR 41501, November 29, 1974), and Secretary's Order No. 15–75 (40 FR 54484, November 24, 1975), would be made available at least 30 days before the November 4, 1975, hearing date. On October 15, 1975, another notice was published in the FEDERAL REGSTER (40 FR 48362) stating that the inflation impact statement would not be available for the November 4, 1975, hearing date and that a second hearing date would be scheduled at least 30 days after the availability of the final inflation impact statement.

In addition, the National Cancer Institute (NCI) was requested by the National Institute for Occupational Safety and Health in October, 1975, to testify at the informal hearing on exposure to coke oven emissions scheduled to begin on November 4, 1975. Because of the preparation time needed for such testimony, NCI's presentation was delayed and has been re-scheduled, for administrative convenience, to coincide with the second portion of the proceeding. The issues NCI will discuss are set out below. As indicated by the presiding Administrative Law Judge on December 3, 1975, (TR 1161–1170), apart from questioning by interested parties, the testimony of NCI is not to be considered as an opportunity to expand the scope of the second hearing by the presentation of additional witnesses.

Issues—(1) *Inflation impact.* As stated in the preamble to the proposed standard (40 FR 32277), comments are invited on the following subjects relating to inflation impact:

(a) Cost impact on consumers, businesses, markets, or Federal, State, or local government;

(b) Effect on the productivity of wage earners, businesses, or government;

(c) Effect on competition;

(d) Effect on supplies of important materials, products, or services;

(e) Effect on employment; and

(f) Effect on energy supply or demand. In addition, comments are also invited on the benefits to be derived from the proposed standard.

(2) *Economic and technical feasibility.* While the inflation impact statement is based on implementation of the proposed standard, the preliminary cost estimate, which preceded the inflation impact statement, was based on implementation of the Standards Advisory Committee recommendations (receipt noted, 40 FR

29572), and therefore, just as in the previous segment of this hearing, information is sought on both the proposal and the Standards Advisory Committee recommendations.

In addition, the Occupational Safety and Health Administration (OSHA) reiterates that, as stated in the preamble to the proposal (40 FR 32273) and OSHA's opening statement (TR 25), the question of the method of compliance to be included in a final standard, i.e. a performance standard versus a specification standard, is also at issue in this proceeding. Therefore, in order to assure that information on the technical feasibility of controls and work practices can be coordinated with economic feasibility, and that both the tecnical and economic feasibility of a specification versus a performance standard can be fully discussed, OSHA requests that, in addition to submissions on the other provisions of the proposed standard and the Standards Advisory Committee recommendations, comments and testimony be submitted on:

(a) The technical and economic feasibility of a performance standard, with or without engineering controls and work practice guidelines;

(b) The technical and economic feasibility of a specification standard with or without a mandatory performance level which would specifically require use of those engineering controls and work practices listed in the appendix to the proposed standard, the Standards Advisory Committee recommendations or such additional controls that may be necessary to reduce employee exposure; and

(c) Alternatives to the above approaches, such as the technical and economic feasibility of defining general principles applicable to the control of coke oven emissions that would be less specific than the controls and work practices listed in the proposal or the Standards Advisory Committee recommendations yet would also lead to the reduction of employee exposure to coke oven emissions.

(4) *National Cancer Institute.* NCI's testimony relates to the question of whether the existing information on workplace exposure to coke oven emissions indicates a safe exposure level. The basic information to be evaluated by NCI primarily includes the animal studies by Dr. David Kaufman. (Exhibit #26); the animal studies by Dr. Lester Scheel including Dr. Eula Bingham's animal skin painting studies, (Notice of Appearance #3 and Exhibits #7, #14 and #27); and the studies and supporting material of Dr. Carol Redmond, (Exhibit #20).

All other issues involved in the proposed standard were included in the proceeding which commenced on November 4, 1975, and concluded on January 8, 1976.

Public participation. The informal hearing will begin on May 4, 1976, in the Departmental Auditorium, Constitution Avenue between 12th and 14th Streets, N.W., Washington, D.C. 20210.

The inflation impact statement based on the proposed standard, and the preliminary cost estimate based on the Standards Advisory Committee recommendations, along with the entire record of this proceeding up to this point, are available for public inspection and copying at the following address:

Technical Data Center, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3620, 3rd and Constitution Ave., NW., Washington, D.C. 20210 (202) 523-8076.

Interested persons are invited to comment on and to testify concerning the issues raised in this notice. Written data, views, and arguments concerning the inflationary impact of the proposal and the economic and technological feasibility of implementing the proposal or the Standards Advisory Committe recommendations must be submitted in quadruplicate to the Docket Officer, Docket No. H-017A, Room N-3620, U.S. Department of Labor, 3rd and Constitution Avenue, NW., Washington, D.C. 20210, postmarked on or before April 12, 1976. Written submissions must clearly identify the issues addressed, the provisions of the proposal or Standards Advisory Committee recommendations where appropriate, and the position to be taken with respect to each issue discussed. The data, views and arguments will be available for public inspection and copying at the above address. All written submissions received shall be made a part of the record of this proceeding.

Persons desiring to appear at the hearing, including those who already filed notices of appearance for the hearing which commenced on November 4, 1975 must file a notice of intention to appear postmarked on or before April 12, 1976, with Jeanne C. Werner, OSHA Committee Management Office, Docket No. H-017A Room N-3633, U.S. Department of Labor, 3rd and Constitution Avenue, NW., Washington, D.C. 20210 (Telephone 202-523-8024). The notices of intention to appear, which shall be available for inspection and copying at the above address, must contain the following information:

(1) The name and address of the person to appear;

(2) The capacity in which the person will appear;

(3) The approximate amount of time required for the presentation;

(4) The specific issues that will be addressed with a reference to specific provisions of the proposal or Standards Advisory Committee recommendations where appropriate;

(5) A detailed statement of the position that will be taken with respect to each issue and provision addressed; and

(6) A detailed statement of the evidence with respect to each such issue and provision proposed to be adduced at the hearing.

OSHA has determined that strict enforcement of its procedural rules contained in 29 CFR 1911.11 is necessary for an expeditious and orderly proceeding. Therefore, the notices of intent to appear will be scrutinized closely for sufficiently detailed information concerning the position to be taken with regard to the issues specified and the evidence to be adduced in support of the position. Persons filing notices of intention to appear which are not sufficiently detailed will be so informed and given seven (7) days from the date they are so informed to file a proper notice of intent to appear. In addition, the amount of time requested for each presentation will be reviewed in light of the contents of the notice of intention to appear. In those cases where the information contained in the notice of intention to appear does not seem to warrant the amount of time requested, the participant will be allocated a more appropriate amount of time and notified of this fact. The participant will have seven (7) days from the date on which he is so informed to demonstrate why the allocated time is inappropriate.

The hearing will commence at 9:30 a.m. on May 4, 1976, with the resolution of any other procedural matters relating to the proceeding. The hearing will be conducted and the decisions made in accordance with 29 CFR Part 1911.

The Administrative Law Judge who will be designated to preside at the hearing shall have all the powers necessary or appropriate to conduct a fair and full informal hearing, including the powers:

(1) To regulate the course of the proceedings;

(2) To dispose of procedural requests, objections, and comparable matters;

(3) To confine the presentations to matters pertinent to the proposed standard;

(4) To regulate the conduct of those present at the hearing by appropriate means;

(5) In his discretion, to question and permit questioning of any witness; and

(6) In his discretion, to keep the record open for a reasonable, stated time to receive written information and additional data, views and arguments from any person who has participated in the oral proceedings.

Following the close of the hearing, the presiding Administrative Law Judge shall certify the record thereof to the Assistant Secretary of Labor for Occupational Safety and Health.

The proposal will be reviewed in light of all oral and written submissions received as part of the record in this and related proceedings, and appropriate action will be taken.

(Sec. 6, Pub. L. 91-596, 84 Stat. 1593 (29 U.S.C. 655); 29 CFR Part 1911; Secretary's Order 12-71, 36 FR 8754; EO 11821, 39 FR 41501; Secretary's Order 15-75, 40 FR 54484)

NOTE: It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with Executive Order 11821.

Signed at Washington, D.C., this 3d day of March 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-7025 Filed 3-11-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Office of Hazardous Materials Operations

[49 CFR Part 171]

[Docket No. HM-22; Notice No. 76-3]

GENERAL INFORMATION AND REGULATIONS

Matter Incorporated by Reference

The Materials Transportation Bureau of the Department of Transportation is considering amending § 171.7(d)(1) of the Hazardous Materials Regulations to update the reference to the addenda to sections VIII (Division I) and IX of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code.

The Compressed Gas Association, Inc., has petitioned this Office to effect this change.

In consideration of the foregoing, it is proposed to amend paragraph (d)(1) of § 171.7 by changing the date June 30, 1975 to read "December 31, 1975."

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Section of Dockets, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Communications received on or before April 12, 1976 will be considered before final action is taken on this proposal. All comments received will be available for examination by interested persons at the Office of Hazardous Materials Operations, room 6213, Trans Point Building, 2100 Second Street, S.W., Washington, D.C. both before and after the closing date for comments.

(18 U.S.C. 834, 49 CFR 1.53(g) and paragraph (a)(1) of App. A to Part 102)

Issued in Washington, D.C., on March 8, 1976.

ALAN I. ROBERTS,
Director, Office of Hazardous Materials Operations.

[FR Doc.76-7100 Filed 3-11-76;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 241]

[EDR-295; Docket No. 28968; Dated: March 9, 1976]

UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Public Disclosure of Service-Segment Data

Notice is hereby given that the Civil Aeronautics Board proposes to amend Part 241 of the Economic Regulations (14 CFR Part 241) so as to eliminate the limited period of confidential treatment accorded domestic service-segment data, and to modify the restrictions on the public availability of international service-segment data. The purpose of the proposed amendments is explained in the attached Explanatory Statement, and the proposed amendments are set forth in the Proposed Rule. The amendments are proposed under the authority of sections 204(a), 407, and 1104 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766, 797; 49 U.S.C. 1324, 1377, and 1504.

Interested persons may participate in this proceeding through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before April 12, 1976, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 710, Universal Building, 1825 Connecticut Avenue, NW, Washington, D.C., upon receipt thereof.

Individual members of the general public who wish to express their interest as consumers by participating informally in this proceeding may do so through submission of comments in letter form to the Docket Section at the address indicated above, without the necessity of filing additional copies thereof.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

EXPLANATORY STATEMENT

Section 19-6 of Part 241 of the Board's Economic Regulations (14 CFR Part 241) provides for limited confidentiality of certain traffic and capacity data required to be collected and reported by certificated route air carriers. Nondisclosure of such service-segment data is automatically provided for a period of 12 months following the close of the calendar year to which the data relates, except in certain specified circumstances.

At the time the Board originally proposed this procedure for the collection of detailed service-segment data, the carriers were invited to direct comment toward the treatment to be accorded domestic data and to identify specific problems that might be involved in public disclosure.[1] The filed comments almost overwhelmingly opposed disclosure. It was argued that the lack of reciprocal information from supplemental carriers, intrastate carriers not subject to CAB regulations, air taxi operators, and other competing modes of transportation would subject domestic route carriers to serious competitive disadvantage. Moreover, according to the carriers, the data reflect the results of the individual route carrier's management decision-making which, by innovation and creativity, spells the difference between profitable and unprofitable operations. Thus, it was argued, free public disclosure of such data could lead to inhibition of management innovation or experimentation, and thereby impede the continued progress of the industry to the detriment of the traveling public.

The Board's adoption of the present section 19-6 did not reflect a final rejection of these arguments; rather by according limited confidentiality, it reflected an attempt to strike a balance between conflicting interests with minimal risks—at least until such time as the Board could reexamine the question in light of experience gained under the disclosure procedures which we then adopted.[2] We now believe that such reexamination is warranted, bearing in mind particularly the extent to which the "exceptions" have been utilized to permit disclosure, without any untoward resultant harm.

For example, only recently, there have been more than 40 instances where 1974-1976 domestic service segment data have been released by Board actions, by administrative law judges, or by staff actions under delegated authority, the most significant of which was release of 1974 domestic data for all passenger operations by Board action in Order 75-11-87 "Evaluation of Economic Behavior and Other Consequences for a Civil Aviation System Operating with Limited or No Regulatory Constraints," adopted November 24, 1975. The possible inequities inherent in the release, on an *ad hoc* basis, of data which is supposed to be automatically entitled to confidential treatment necessarily invites reexamination of the general "rule" from which individual "exceptions" have so frequently been made.

Therefore, we have concluded that our present procedures governing the release of service-segment data should be reexamined. It is our tentative view, as more fully set forth below, that section 19-6 should be amended so as to delete the present provisions for a period of confidentiality, during which there is automatically protected from disclosure (except in specified circumstances), all service-segment data relating to operations other than international operations.[3] However, it should be noted that in proposing to amend the pertinent regulation so as to provide for prompt disclosure of such data, we do not contemplate the ultimate issuance herein of rules on any basis other than experimental. Thus, should we make final our proposed rule, we would anticipate being apprised of any adverse consequences resulting therefrom, so that appropriate corrective action might be taken.

It is our tentative conclusion that domestic service-segment data filed with the Board should be subject to prompt disclosure, because our rules should not automatically impede public access to data in our possession, unless there are compelling arguments warranting such restrictive action, and we do not now find that such grounds exist.

[1] EDR-146, September 25, 1968, at p. 10.

[2] See ER-586, (mimeo), pp. 18-19, August 6, 1969, 34 FR 14584.

[3] We note that United Air Lines has filed a petition for rulemaking (Docket 27112), dated October 21, 1974, to amend the regulations so as to permit an earlier release to the public of the domestic service-segment data than that now provided in § 241.19-6(b). Because this petition raises issues similar to those under consideration herein, we are consolidating the petition into this proceeding.

To begin with, release of these data should not have an undue impact on any certificated route air carrier *vis-a-vis* competing route air carriers, since they will all have equal and reciprocal access to one another's data. Indeed, we are fully aware that scheduled carriers have for years been exchanging some traffic data on important competing routes.[4] Second, even if nonreporting carriers and carriers in other modes of transportation will also be given access to these data, there is no indication that such other carriers will thereby obtain a significant unfair competitive advantage over scheduled domestic route carriers. In this connection, it should be noted that detailed domestic "origination and destination" passenger statistics on scheduled service of U.S. route carriers have been publicly available for the past three decades. Similarly, with respect to U.S. supplemental air carriers, it should be noted that, although they do not report service-segment data, detailed market data covering both their domestic and international operations are already publicly available in recurrent reports on file with the Board.[5]

Aside from the foregoing considerations, it must be recognized that in a regulated industry it is inherent that individual companies are required to disclose certain types of information which are generally regarded as "proprietary." Such disclosure is justified by the need for effective regulation. For example, carriers presently provide the Board, in their Form 41 reports, detailed cost information which certainly is useful to competitors, and which would be considered proprietary in an unregulated industry; yet, such information is publicly available, and, indeed, we are not aware that the public disclosure of this information has had any substantially adverse impact on any of the reporting carriers.

In addition to our tentative conclusion that prompt release of these data will not produce serious negative consequences, we are also of the tentative view tha timportant positive benefits will be derived from such prompt disclosure. In the first place, these reports should be a valuable tool to carriers and interested members of the public in attempting to cope with the problems of excess capacity. The more information that is available to show how the market reacts to schedules and schedule changes, the better the management responses by individual carriers to the needs of the market place should be. Public availability of these reports should also help focus attention upon those markets where overall capacity is in excess of traffic, and should be a useful management tool in taking unilateral actions to more appropriately match overall capacity and loads.

Moreover, prompt public disclosure of domestic service-segment data should contribute to enhancing the level of the Board's overall performance of its regulatory responsibilities, in that, by enabling interested persons to utilize these data in preparing their filing of various submissions to the Board, we shall have the benefit of more fully informed presentations on which to rely in arriving at our judgments on many of the numerous and complex issues before us. Also, airport operating agencies and communities would be better informed in evaluating their air service needs and requirements, and in monitoring air services provided to them, and in seeking the level and type of air service which is commensurate with the needs of the public and the community utilizing such facilities. Finally, we would expect that ready availability of these service-segment data will be of use to air carrier management, not only in dealing with scheduling and excess capacity problems, but also in improving route policies, promotional fare policies, and in seeking to achieve a greater utilization of equipment.

Our proposal herein would not only eliminate the limited confidential treatment of domestic service-segment data, but would also modify the extent of confidentiality granted international service segment data. Presently, international data are available only to carriers reporting such data and only 12 months following the close of the calendar year to which the data relate. Consistent with our view that equal access to the data should preclude adverse competitive results for individual carriers, we propose herein to eliminate this restricted time period for release of these data to reporting carriers. However, we are not proposing to remove limitations on eligibility to access; we continue to believe that the access of foreign air carriers or other foreign users to international service-segment data could subject U.S.-flag carriers to a competitive disadvantage so long as comparable data are not available with respect to operations of foreign air carriers.

As discussed above, the substantive purpose of our proposal is to remove all disclosure restrictions for domestic service-segment data and to permit prompt disclosure of international service-segment data to eligible carriers. However, implementing our disclosure policy entails consideration of certain technical aspects, since virtually all of these data are submitted to the Board only on magnetic tape or punched cards. Thus, except for data reported by three very small carriers, we do not receive these data reports on "hard copy," i.e., written materials which can be read and copied. The data submitted on magnetic tapes and punched cards must be processed through a number of stages on the Board's computer before an ADP file is available for use.

Since the Board is not staffed or equipped to provide data-copying or data-extraction services for other than its own needs, the service segment data are made available for public use through an existing arrangement with the National Archives and Records Service (NARS) of the General Services Administration, whereby NARS furnishes data from copies of CAB data banks to the requesting member of the public, at the requester's expense. NARS is also equipped to service tape copying. It should be noted that service-segment data must be submitted to NARS because NARS has determined that service-segment data are historical research data of permanent value that should be preserved. Disclosure of restricted service-segment data by NARS is, and will continue to be, controlled by the Board.

Under current scheduling and normal conditions, copies of the Board's service-segment data banks would be transmitted to NARS about 30 days after receipt by the Board of the carrier reports. Thus, adding this transmittal period to the 30-day reporting period allowed to carriers, the data at NARS would generally be about 60 days old, even though our amended rules would allow these data to be "immediately" available for public disclosure. Indeed, the elapsed time before useable data might become physically available could be substantially increased (e.g., to 90 or more days) if problems develop with reported data or in CAB processing.

Finally, as a further aid to the public interested in these data we are, concurrently with this proposal, considering a plan to make available for public inspection in the Board's Public Reference Room, at the same time that we transmit data banks to NARS, summarized computer printouts of selected domestic data.

It is our tentative conclusion that the technical procedures outlined above should adequately serve the needs of users for whom we propose to provide prompt access to these data. However, we intend to monitor these methods of disclosure in relation to public demand for the data, so that improved techniques can be introduced as needed.

It is proposed to amend Part 241 of the Economic Regulations (14 CFR Part 241) as follows:

1. Amend section 19–6 to read as follows:

Sec. 19–6 Public disclosure of service-segment data.

Service-segment data in reports submitted by air carriers to the Board and in data banks and tabulations of the Board shall be withheld from public disclosure only as provided herein:

(a) Data relating to international operations (defined as follows: service segments with one or both terminals outside of territory under U.S. jurisdiction; service segments coded as applicable to other than domestic operations pursuant to this Part 241, section 21(i); downline deplanement data on domestic service segments when any downline point is out-

[4] The Board notes that the carriers' contentions as to the extreme sensitivity of service-segment data is inconsistent with this long-established practice of exchanging data on competitive routes.

[5] Schedule T–6, CAB Form 41. Route carriers' Schedule T–6 reports are also publicly available.

side territory under U.S. jurisdiction; and traffic transported statistics on any domestic service segment that is immediately preceded by a service segment whose originating point is outside territory under U.S. jurisdiction) shall only be disclosed as follows:

(1) To an air carrier currently submitting service-segment data pursuant to the requirements of this Part 241 and to a legal or consulting firm or other organization designated by such air carrier to use on its behalf such data in connection with a specific assignment by such carrier.

(2) To foreign governments and foreign users as provided in formal reciprocal arrangements between the foreign and U.S. governments for the exchange of comparable service-segment data.

(3) To parties to any proceeding before the Board to the extent that such data are relevant and material to the issues in the proceeding upon a determination to this effect by the administrative law judge assigned to the case or by the Board. Any data to which access is granted pursuant to this section may be introduced into evidence, subject to the normal rules of admissibility of evidence.

(4) To agencies and other components of the U.S. Government for their internal use only.

(5) To such persons and in such circumstances as the Board determines to be in the public interest or consistent with its regulatory functions and responsibilities.

(6) The Board may, from time to time, publish summary information compiled from the international service-segment data, in a form which would not identify individual carrier data.

(b) Data relating to operations during a specified time period shall not be subject to general public disclosure until the data for that time period have been received from all reporting carriers and processed by the Board.

[FR Doc.76-7171 Filed 3-11-76;8:45 am]

LEGAL SERVICES CORPORATION

[45 CFR Part 1604]

OUTSIDE PRACTICES OF LAW

Guidelines for Participation

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, ("The Act"). Section 1007(a)(4), 42 U.S.C. 2996f(a)(4) provides that the Corporation shall issue guidelines concerning the outside practice of law by attorneys employed full time in legal assistance activities.

Pursuant to section 1008(e) of the Act, the Corporation hereby affords notice and publishes for comment the following proposed regulations concerning the outside practice of law. Public comment will be received by the Corporation at its headquarters offices, Suite 700, 733 15th Street, N.W., Washington, D.C. 20005 on or before April 11, 1976. Comments may be accompanied by a memorandum or brief in support thereof. Comments received may be seen at the above offices during business hours Monday through Friday.

Final regulations will be issued by the Corporation after the Board of Directors has reviewed and considered public comment pursuant to this notice.

Part 1604 is added in proposed form as set forth below:

PART 1604—OUTSIDE PRACTICE OF LAW

Sec.

1604.1 Purpose.
1604.2 Definitions.
1604.3 Compensated outside practice.
1604.4 Uncompensated outside practice.

AUTHORITY: Sec. 1007(a)(4), 42 U.S.C. 2996f(a)(4).

§ 1604.1 Purpose.

The purpose of this part is to implement Section 1007(a)(4) of the Legal Services Corporation Act of 1974, 42 U.S.C. 2996f(a)(4) which provides for guidelines to be promulgated by the Corporation concerning outside practice of law by attorneys employed full time in legal assistance activities.

§ 1604.2 Definitions.

As used in this part the term:

(a) "Act" means the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996 and 2996(f)(a)(4);

(b) "Legal services program" means any grantee, contractor or recipient of financial assistance described in clause (A) of Section 1006(a)(1) of the Act;

(c) "Outside practice of law" means the legal representation of a client who is not eligible for legal assistance from the legal services program but does not include, among things, teaching, consulting or performing evaluations.

§ 1604.3 Compensated outside practice.

A legal services program attorney employed full time shall not engage in compensated outside practice of law except if such attorney (a) is newly employed and has the ethical and professional responsibility to close cases from a previous law practice and does so as expeditiously as possible, or (b) is acting pursuant to a court rule or practice having equal applicability to all attorneys practicing in that jurisdiction and remits to the program all compensation received therefrom.

§ 1604.4 Uncompensated outside practice.

A legal services program may permit an attorney employed full time by that program to engage in the uncompensated outside practice of law if such practice is consistent with the attorney's full time professional responsibilities to the program and

(a) legal assistance is rendered pursuant to a court appointment or rule having equal applicability to all attorneys practicing in that jurisdiction;

(b) legal assistance is rendered to the attorney's family or friends; or

(c) legal assistance is rendered to religious, civic, community or charitable groups.

THOMAS EHRLICH,
President,
Legal Services Corporation.

[FR Doc.76-7182 Filed 3-11-76;8:45 am]

[45 CFR Part 1605]

REVIEW OF APPEALS

Guideline Provisions

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, ("The Act"). Section 1007(a)(7), 42 U.S.C. 2996f(a)(7) provides that recipients shall establish guidelines, consistent with regulations promulgated by the Corporation, for the review of appeals in order to insure the efficient utilization of resources.

Pursuant to section 1008(e) of the Act, the Corporation hereby affords notice and publishes for comment the following proposed regulations regarding appeals by recipients. Public comment will be received by the Corporation at its headquarters offices, Suite 700, 733 15th Street, N.W., Washington, D.C. 20005 on or before April 11, 1976. Comments may be accompanied by a memorandum or brief in support thereof. Comments received may be seen at the above offices during business hours Monday through Friday.

Final regulations will be issued by the Corporation after the Board of Directors has reviewed and considered public comment pursuant to this notice.

Part 1605 is added in proposed form as set forth below:

PART 1605—APPEALS ON BEHALF OF CLIENTS

Sec.

1605.1 Purpose.
1605.2 Definitions.
1605.3 Procedures for taking appeals.

AUTHORITY: Sec. 1007(a)(7), 42 U.S.C. 2996f(a)(7).

§ 1605.1 Purpose.

The purpose of this part is to implement Section 1007(a)(7) of the Legal Services Corporation Act of 1974, 42 U.S.C. 2996f(a)(7) which provides for regulations to be promulgated by the Corporation so that recipients can establish guidelines for a system for review of appeals.

§ 1605.2 Definitions.

As used in this part the term:

(a) "Act" means the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996 and 2996(f)(a)(7);

(b) "Legal services program" means any grantee, contractor or recipient of financial assistance described in clause (A) of Section 1006(a)(1) of the Act;

(c) "Appeal" means any appellate proceeding in a civil action as defined

by law or usage in the jurisdiction in which the action is filed.

§ 1605.3 Procedures for taking appeals.

An appeal undertaken on behalf of an eligible client of a legal services program must be in accordance with procedures approved by the governing body of that program. In establishing those procedures the governing body shall the following take into account:

(a) The needs of the eligible clients served by the legal services program;

(b) The efficient utilization of the resources of the program; and

(c) The likelihood of success of the appeal.

THOMAS EHRLICH,
President,
Legal Services Corporation.

[FR Doc.76-7183 Filed 3-11-76;8:45 am]

[45 CFR Part 1606]

NON-CRIMINAL PROCEEDINGS

Legal Assistance Provisions

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l* ("The Act"), for the purpose of providing financial support for legal assistance in non-criminal proceedings or matters to persons financially unable to afford legal assistance. Section 1011 of the Act, 42 U.S.C. 2996j, requires that the Corporation prescribe procedures to ensure that, among other things, applications for refunding are not denied unless the grantee, contractor, or person or entity receiving financial assistance has been afforded reasonable notice and an opportunity for a timely, full, and fair hearing.

Pursuant to section 1008(e) of the Act, 42 U.S.C. 2996g(e), the Corporation hereby affords notice of and publishes for comment the following proposed temporary regulations for processing applications for refunding of assistance under section 1006(a)(1)(A) of the Act. Public comment will be received by the Corporation at its headquarters offices, Suite 700, 733 15th Street, N.W., Washington, D.C. 20005, on or before April 11, 1976. Comments must be in writing and may be supported by a memorandum or brief. Comments received may be seen at the above offices during business hours, Monday through Friday.

Final temporary regulations will be issued by the Corporation after the Board of Directors has reviewed and considered public comment received pursuant to this notice.

These proposed regulations are temporary. Final regulations regarding the denial of applications for refunding will be proposed for notice and public comment as soon as practicable and in conjunction with proposed regulations pursuant to Section 1011 regarding suspensions and terminations.

Part 1606 is added in proposed form as set forth below:

PART 1606—APPLICATIONS FOR REFUNDING

Subpart A—General

Sec.

1606.1 Purpose.
1606.2 Definitions.

Subpart B—Application Process; Preliminary Determination; Interim Funding

1606.3 Applications for refunding.
1606.4 Preliminary determinations.
1606.5 Interim funding.
1606.6 Temporary funding.

Subpart C—Review Procedures; Final Determinations

1606.7 Request for review.
1606.8 Review in general.
1606.9 Review notice.
1606.10 Pre-hearing conference.
1606.11 Written submissions.
1606.12 Hearing.
1606.13 Additional authorized participants.
1606.14 Recommended final determinations.
1606.15 Final determinations.
1606.16 Right to counsel.
1606.17 Modifications.
1606.18 Notices.

AUTHORITY: Sec. 1006(a)(1)(A), 88 Stat. 381 (42 U.S.C. 2996e(a)(1)(A); Sec. 1007(a)(9), 88 Stat. 384 (42 U.S.C. 2996f(a)(9)); Sec. 1011, 88 Stat. 388 (42 U.S.C. 2996j)).

Subpart A—General

§ 1606.1 Purpose.

These temporary regulations establish procedures for processing applications for refunding by the Legal Services Corporation of financial assistance provided by the Office of Legal Services of the Community Services Administration or any other applications for refunding of financial assistance under section 1006(a)(1)(A) of the Legal Services Corporation Act of 1974.

§ 1606.2 Definitions.

As used in this part,

(a) "Act" means the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378 (42 U.S.C. 2996-2996*l*);

(b) "Corporation" means the Legal Services Corporation established by section 1003 of the Act (42 U.S.C. 2996b);

(c) "Applicant" means any grantee or contractor receiving funds for the provision of legal assistance;

(1) From the Office of Legal Services of the Community Services Administration, or

(2) From the Corporation under section 1006(a)(1)(A) of the Act,

and any subgrantee, subcontractor or delegate agency thereof through which legal assistance is provided;

(d) "Responsible Corporation official" means the President of the Corporation or the President's designee, provided that such designee shall not be any person directly involved in the preliminary determination described in § 1606.4;

(e) "Application for refunding" means a request by any applicant seeking financial assistance beyond the term of its existing grant or contract;

(f) "Denial" of an application for refunding means:

(1) A determination by the Corporation not to provide financial assistance beyond the term of a current grant or contract to an applicant which has filed an application for refunding, or

(2) A determination to provide financial assistance beyond the term of a current grant or contract to an applicant which has filed an application for refunding when the determination:

(i) Reduce the applicant's annual rate of financial support under its existing grant or contract, *Provided,* That a "denial" shall not mean any reduction in funding which is necessitated by a reduction in the Corporation's appropriation which is uniformly applied to all applicants of the same class, or

(ii) Imposes new conditions or restrictions which would prevent the applicant from maintaining its current level of legal services to eligible clients.

Subpart B—Application Process; Preliminary Determination; Interim Funding

§ 1606.3 Applications for refunding.

An application for refunding must be filed with the Corporation at least 120 days before the expiration of the applicant's current grant or contract, unless the Corporation agrees to a later filing. Applications shall be filed in accordance with instructions which may from time to time be issued by the Corporation.

§ 1606.4 Preliminary determinations.

The Corporation shall act upon applications for refunding as soon as practicable. If the Corporation makes a preliminary determination that an application for refunding should be denied, the Corporation shall give written notice to the applicant. The notice shall include a detailed statement of supporting reasons and facts and shall be accompanied by copies of all relevant documents. The notice shall also advise the applicant of its right to request review of the preliminary determination pursuant to subpart C, and shall state that the applicant must request review in writing within 15 days of receiving such notice.

§ 1606.5 Interim funding.

When the Corporation issues a preliminary determination to deny an application for refunding pursuant to § 1606.4, or fails to act upon an application by the end of the term of the applicant's current grant or contract, the Corporation shall provide the applicant with interim funding necessary to maintain its current level of legal assistance activities under section 1006(a)(1)(A) of the Act until (a) the application for refunding has been approved and funds pursuant thereto received or (b) a final determination has been made under Subpart C of the Part.

§ 1606.6 Temporary funding.

Where an application for refunding has been finally denied in accordance with subpart C of this Part, the Corporation may authorize temporary funding in order to ensure that current matters for existing clients are closed or transferred in accordance with attorneys' professional responsibilities.

Subpart C—Review Procedures; Final Determinations

§ 1606.7 Request for review.

An applicant receiving notice that a preliminary determination has been made to deny its application for refunding shall advise the Corporation in writing within 15 days of receipt of such notice whether it requests a review pursuant to this subpart. If an applicant advises the Corporation that it will not request a review or if it fails to request a review within the prescribed period the Corporation's preliminary determination shall become final.

§ 1606.8 Review in general.

A review under this subpart shall afford a full and fair opportunity for the applicant to demonstrate that its application for refunding should not be denied or that the preliminary determination was based on erroneous information or was arbitrary or capricious. The review shall also provide an opportunity for determining whether temporary funding shall be provided in accordance with § 1606.6.

§ 1606.9 Review notice.

Within 10 days of receiving a request from an applicant for review the Corporation shall notify the applicant in writing of:

(a) The name of the responsible Corporation official;

(b) The date and place of the pre-hearing conference described in § 1606.10; and

(c) The time within which written submissions described in § 1606.11 shall be filed.

§ 1606.10 Pre-hearing conference.

The responsible Corporation official shall preside over a pre-hearing conference which shall take place within 10 days of the issuance of the notice required by § 1606.9 and shall be held, whenever possible, at a place convenient to the applicant and the community affected. The purpose of the pre-hearing conference shall be to identify the issues and to attempt to resolve such issues by informal means. At the pre-hearing conference a determination shall be made whether a hearing under § 1606.12 is necessary, and, if so, the responsible Corporation official shall set the date, time and place of such hearing.

§ 1606.11 Written submissions.

Written submissions by the applicant shall be filed with the responsible Corporation official within 20 days of the issuance of the notice required by § 1606.9. Written submissions shall include a detailed response to the Corporation's preliminary determination and may, in addition, include documentary evidence, briefs, memoranda or any other materials. Upon their own initiative or at the request of the responsible Corporation official, employees or agents of the Corporation may submit additional written materials.

§ 1606.12 Hearing.

A hearing, if any, shall be held within 30 days of the issuance of the notice required by § 1606.9 and shall be held, whenever possible, at a place convenient to the applicant and the community affected. The hearing shall be conducted as follows:

(a) The presiding officer at the hearing shall be the responsible Corporation official. The presiding officer shall conduct a full and fair hearing, avoid delay, maintain order, and make a record sufficient for a full disclosure of the facts and issues. The hearing shall be open to the public unless the presiding officer for good cause shown shall otherwise determine.

(b) The applicant shall have the right to present oral testimony and written evidence pertaining to contested issues of fact and briefs and oral arguments on questions of law and policy. The applicant shall also have the right to examine Corporation employees or agents involved in the Corporation's preliminary determination provided that good cause is shown and that prior arrangement have been made. Upon their own initiative or at the request of the responsible Corporation official, employees or agents of the Corporation may present oral testimony and submit written materials as are appropriate and relevant.

(c) Technical rules of evidence shall not apply. The presiding officer shall make all procedural and evidentiary rulings necessary to ensure admission of relevant evidence and to subject testimony to such cross-examination as may be required for a full disclosure of the facts. Opportunity shall be given to refute all facts and arguments advanced by all parties. The presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence.

(d) The hearing shall be recorded in a manner determined by the presiding officer and such record shall be made available upon payment of any prescribed costs. All documents and other evidence submitted shall be open to examination.

(e) The applicant may waive a hearing, in which case the recommended and final determinations described in §§ 1606.14 and 1606.15 shall be based on all available evidence .

§ 1606.13 Additional authorized participants.

The responsible Corporation official may authorize the participation in review proceedings under this subpart by such persons or organizations as may be necessary for a proper determination of the issues involved.

(a) Any person or organization wishing to participate in review proceedings pursuant to this subpart may request permission to do so from the responsible Corporation official. This request shall state the participant's interest in the proceedings, the evidence or arguments the participant intends to contribute, and the necessity for the introduction of such evidence or arguments.

(b) The responsible Corporation official shall permit or deny such participation and shall give notice of his decision to the participant, the applicant, and the Corporation and, in the case of denial, shall include a brief statement of the reasons therefor.

(c) Authorized participants under this section may be limited to participation in those issues or activities that the responsible Corporation official believes will meet the needs of the review proceedings, and may be limited to the filing of written materials.

§ 1606.14 Recommended final determination.

If the responsible Corporation official is not the President of the Corporation the official shall issue a recommended final determination within 10 days of the conclusion of review proceedings described in §§ 1606.8 through 1606.12. The recommended final determination shall conform with the requirements for a final determination described in § 1606.15(b). Within 10 days of receiving a copy of the recommended final determination, the applicant and others authorized to participate pursuant to § 1606.13 may submit written comments to the President. Within 20 days of issuance of the recommended final determination, the President shall issue a final determination as described in § 1606.15(b).

§ 1606.15 Final determination.

(a) If the responsible Corporation official is the President of the Corporation the President shall issue a final written determination within 20 days of the conclusion of review proceedings described in §§ 1606.8 through 1606.12.

(b) The final determination shall either:

(1) Grant the application for refunding, subject to such modifications, terms or conditions as the President shall determine to be necessary, or

(2) Deny the application for refunding indicating:

(i) Reasons for such denial, including responses to the specific arguments made in the course of review proceedings described in this subpart, and

(ii) Whether, in what amount, and under what conditions temporary funding shall be made available pursuant to § 1606.6.

§ 1606.16 Right to counsel.

In review proceedings under this subpart the applicant and the Corporation shall have the right to be represented by counsel or other authorized representatives. The applicant is authorized to designate a staff attorney to represent it in such review proceedings or to retain outside counsel who may be compensated by the applicant at the reasonable and customary rate for an attorney practicing in the locality of the counsel so retained. The applicant is authorized to pay for normal and customary travel and per diem expenses for counsel and necessary witnesses.

§ 1606.17 Modifications.

The responsible Corporation official may alter, eliminate or modify any of the provisions of this subpart with the consent of the applicant. All time limitations may be modified, except that in no event shall the proceedings described in § § 1606.9 through 1606.12 be completed later than 45 days from the issuance of the notice required by § 1606.9.

§ 1606.18 Notices.

All notices required to be sent by the Corporation or the responsible Corporation official shall be sent to the chairperson of the governing body and the project director of the applicant affected.

THOMAS EHRLICH,
President, Legal Services Corporation.

[FR Doc.76-7184 Filed 3-11-76;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.

DEPARTMENT OF LABOR

Employment and Training Administration

EMERGENCY UNEMPLOYMENT COMPENSATION

Availability of Federal Supplemental Benefits in the State of Iowa

This notice announces the beginning of a new Federal Supplemental Benefit Period in the State of Iowa, effective on March 7, 1976.

The Emergency Unemployment Compensation Act of 1974 (Public Law 93–572, enacted December 31, 1974) (the Act) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable to eligible individuals will be up to 13 weeks or 26 weeks, depending upon the level of the rate of insured unemployment in the State.

There is a Federal Supplemental Benefit "on" indicator in a State for a week if the United States Secretary of Labor determines with respect to the State that, (a) there is a State or National "on" indicator for the week, as determined for the purposes of payment of extended benefits under the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and (b) the employment security agency of the State has determined that the average rate of insured unemployment in the State for the period consisting of that week and the immediately preceding twelve weeks equalled or exceeded 5.0 percent. The Federal Supplemental Benefit Period actually begins with the third week following the week for which there is an "on" indicator, and lasts for a minimum period of not less than 26 weeks.

Similarly, an "off" indicator ending a Federal Supplemental Benefit Period occurs in a week when the Secretary of Labor determines that the average rate of insured unemployment (as determined by the State employment security agency) for the period consisting of that week and the immediately preceding twelve weeks is less than 5.0 percent. The Federal Supplemental Benefit Period actually ends with the third week after the week in which there is an "off" indicator, but not earlier than the end of the twenty-sixth week of the period.

The Secretary of Labor has determined under section 203(d) of the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and 20 CFR 615.13(a), that there is a National "on" indicator in effect which is applicable to every State, as announced in the notice published in the FEDERAL REGISTER on February 21, 1975, at 40 FR 7722. The employment security agency of the State of Iowa has determined under the Act and 20 CFR 618.19(a)(2) (published in the FEDERAL REGISTER on December 11, 1975, at 40 FR 57765, 57772) that the average rate of insured unemployment in the State for the period consisting of the week ending on February 21, 1976 and the immediately preceding twelve weeks equalled or exceeded 5.0 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 618.19(a), and as authorized by the Secretary of Labor's Order 4–75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "on" indicator in the State of Iowa for the week ending on February 21, 1976, and that a Federal Supplemental Benefit Period therefore commenced in that State with the week beginning on March 7, 1976.

There will be a 5-per centum period in effect in the new Federal Supplemental Benefit Period, commencing at the beginning of the new period. During the 5-per centum period an individual who is eligible for Federal Supplemental Benefits will be entitled to a maximum amount of up to 13 times the individual's weekly benefit amount, or, if less, the balance in the individual's Federal Supplemental Benefit Account.

In the event that a 6-per centum period subsequently takes effect in the new Federal Supplemental Benefit Period, because the rate of insured unemployment in the State has risen to an average of 6.0 percent or more over a period of thirteen weeks, the maximum amount of Federal Supplemental Benefits payable to an eligible individual will increase. In that event an eligible individual will be entitled to a maximum amount of Federal Supplemental Benefits of up to 26 times the individual's weekly benefit amount, or, if less, the balance in the individual's Federal Supplemental Benefit Account.

The State employment security agency will furnish a written notice of potential entitlement to Federal Supplemental Benefits to each individual who is an "exhaustee" (as defined in the Act and 20 CFR 618.5) of regular and extended benefits payable under State and Federal unemployment compensation laws, and to each individual who has a previously established Federal Supplemental Benefit Account in which there is any balance as of the beginning of the new Federal Supplemental Benefit Period. The State employment security agency also will furnish a written notice to each individual for whom a Federal Supplemental Benefit Account has been established, of the beginning or ending of a 6-per centum period in the new Federal Supplemental Benefit Period, and its effect on the individual's entitlement to Federal Supplemental Benefits.

There was a prior Federal Supplemental Benefit Period in Iowa which terminated with the week ending on January 3, 1976, as announced in the notice published in the FEDERAL REGISTER on January 7, 1976, at 41 FR 1340. Immediately following the end of the prior Federal Supplemental Benefit Period, there was an additional eligibility period for each individual who qualified, which was to last for 13 weeks unless terminated sooner by reason of the beginning of a new Federal Supplemental Benefit Period. Accordingly, the individual additional eligibility periods terminated on March 6, 1976, immediately preceding the beginning of the new Federal Supplemental Benefit Period. Any individual who qualified for an additional eligibility period will be entitled to Federal Supplemental Benefits in the new Federal Supplemental Benefit Period, if there is any balance left in the individual's Federal Supplemental Benefit Account as of the beginning of the new period. The maximum amount payable to any of those individuals will be governed, as stated above, by whether a 5-per centum or 6-per centum period is in effect and by the balance in each individual's Federal Supplemental Benefit Account.

Persons who believe they may be entitled to Federal Supplemental Benefits in the State of Iowa, or who wish to inquire about their rights under this program, should contact the nearest Unemployment Insurance Area Claims Office or Employment Office of the Iowa Employment Security Commission in their locality.

Signed at Washington, D.C. on March 4, 1976.

WILLIAM H. KOLBERG,
Assistant Secretary for Employment and Training.

[FR Doc.76–6820 Filed 3–11–76;8:45 am]

Office of the Secretary

[TA-W-600]

ALLIVINE KNITTING MILLS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 13, 1976, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Knit Goods Union, ILGWU, on behalf of the workers and former workers of Allivine Knitting Mills, Inc., Philadelphia, Pennsylvania (TA-W-600).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with double knit and sweaters for men, women, and children produced by Allivine Knitting Mills, Inc., 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 13th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7032 Filed 3-11-76;8:45 am]

[TA-W-594]

AMERICAN GIRL FASHIONS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 13, 1976, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of American Girl Fashions, Inc., Ware, Massachusetts (TA-W-594).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with women's shoes produced by American Girl Fashions, Inc., 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. The investigation 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. A group meeting the eligibilty requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 13th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7033 Filed 3-11-76;8:45 am]

[TA-W-612]

ANITA FOUNDATIONS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 20, 1976, the Department of Labor received a petition dated February 12, 1976, which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the International Ladies Garment Workers Union, on behalf of the workers and former workers of Anita Foundations, Inc., New York, New York (TA-W-612).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with girdles produced by Anita Foundations, Inc. 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7034 Filed 3-11-76;8:45 am]

[TA-W-620]

A. DIPAOLA & CO., INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 20, 1976 the Department of Labor received a petition dated Feb. 3, 1976 which was filed under Section 221 (a) of the Trade Act of 1974 ("the Act") by the Amalgamated Clothing Workers of America Union, on behalf of the workers and former workers of A. DiPaola & Co., Inc. Vineland, New Jersey (TA-W-620).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's hand sewn suits produced by A. DiPaola & Co., Inc. 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7031 Filed 3-11-76;8:45 am]

[TA-W-396]

B. F. GOODRICH CO.

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 presents the results of TA-W-396: 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 12, 1975 in response to a worker petition received on December 12, 1975 which was filed by the United Rubber Workers Union, Local 43 on behalf of workers formerly producing tires at the Commerce, California plant of the B. F. Goodrich Company.

The notice of investigation was published in the FEDERAL REGISTER on January 5, 1976 (41 FR 845). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the B. F. Goodrich Company, its customers, the the U.S. Department of Commerce, the United Rubber Workers Union, 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 must be met:

(1) that a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) 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.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations.—The average number of production workers declined 35.4 percent in the first eight months of 1975 compared to the first eight months of 1974. Average weekly hours declined 15 percent in the first eight months of 1975 compared to the first eight months of 1974.

Production Has Decreased Absolutely.—Production declined 10.3 percent from 1973 to 1974 and declined 46.3 percent in the first eight months of 1975 compared to the first eight months of 1974. The plant closed in August 1975.

Increased Imports Contributed Importantly.—Imports of articles like or directly competitive with those produced at the Commerce plant decreased from 10.3 million units in the first nine months of 1974 to 8.9 million units in the first nine months of 1975. The ratio of imports of pneumatic tires to domestic production increased less than one percent in the first nine months of 1975 compared to the first nine months of 1974. Customers of the B. F. Goodrich Company did not switch their purchases of tires to imports.

Tire consumption decreased in 1974–75 in both original equipment and replacement markets. Original equipment consumption declined due to reduced motor vehicle production. The replacement market was affected by lower speed limits, higher fuel prices and the durability of radial tires. Lower speed limits and the increasing use of radial tires resulted in less tirewear, and higher fuel prices decreased the amount of travel. All of these factors reduced the demand for tires.

Following a lower sales volume resulting from decreased aggregate demand, B. F. Goodrich officials judged that the more efficient domestic Goodrich production facilities coul'd produce the required volume. As a result of this decision, the Commerce, California plant was closed in August 1975.

Conclusion.—After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with passenger car and truck tires produced at the Commerce, California plant of the B. F. Goodrich Company did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C. this 28th day of February 1976.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.76-6830 Filed 3-11-76;8:45 am]

[TA-W-388]

BROWN & SHARPE FOUNDRY

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-388: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 5, 1975 in response to a worker petition received on that date on behalf of former workers producing gray and ductile iron castings at the Providence, Rhode Island foundry of Brown & Sharpe Mfg. Co.

The notice of investigation was published in the FEDERAL REGISTER on December 22, 1975 (40 FR 59271). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Brown & Sharpe Mfg. Co., customers of the Brown & Sharpe Foundry, the Department of Commerce, the International Trade Commission, 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.

(1) that a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) 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.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met. The evidence developed in the Department's investigation reveals that imports of gray and ductile iron castings have decreased both relatively and absolutely. Imports of gray and ductile iron castings decreased from 18 thousand short tons in 1973 to 14 thousand short tons in 1974.

Imports declined from 11 thousand short tons during the first nine months of 1974 to 8 thousand short tons during the first nine months of 1975. The ratio of imports to domestic production and consumption decreased from .106 percent and .108 percent, respectively, in 1973 to .089 percent and .092 percent, respectively, in 1974. The ratio of imports to domestic production and consumption decreased from .092 percent and .094 percent, respectively, during the first nine months of 1974 to .086 percent and .089 percent, respectively, during the first nine months of 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with articles formerly produced at the Brown & Sharpe Foundary, Providence, Rhode Island, have not increased absolutely or relatively as required by Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1976.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.76-6828 Filed 3-11-76;8:45 am]

[TA-W-340]

CLIFTEX CORP., NEW BEDFORD, MASS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-340: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 21, 1975 in response to a worker petition received on November 21, 1975 which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing men's suits, sportcoats and leisure suits at the Cliftex Corporation, New Bedford, Massachusetts. The Department's investigation revealed that Cliftex consists of a Riverside Street plant, as well as plant A, plant B (Dartmouth Clothing) and a Sawyer Street Warehouse, all of New Bedford, Massachusetts.

The notice of investigation was published in the Federal Register on December 11, 1975 (40 FR 57737). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Cliftex Corporation, its customers, the Clothing Manufacturers Association of the U.S.A., the Department of Commerce, the International Trade Commission, 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:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated or are threatened to become totally or partially separated,

(2) That sales, production, or both, of such firm or subdivision have decreased absolutely, and

(3) 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.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of production workers at the Riverside plant and plant A of Cliftex Corporation declined 6 percent in 1974 compared to 1973. The average number of production workers declined 17 percent in the first nine months of 1975 compared to the first nine months of 1974.

Sales or Production, or Both, Have Decreased Absolutely. Cliftex Corporation sells all clothing produced by its Riverside Street plant, plant A and plant B (Dartmouth Clothing). Total sales in terms of value declined 2 percent in 1974 compared to 1973 and declined 18 percent in the first nine months of 1975 compared to the first nine months of 1974.

Increased Imports Contributed Importantly. Imports of men's and boys' suits increased relative to domestic production and consumption in each year from 1971 to 1973. While imports of men's and boys' suits fell slightly in 1974 compared to 1973, the ratios of imports to domestic production and consumption in 1974 of 9.9 percent and 9.0 percent, respectively, were well above the 1971-1973 average of 8.6 percent and 7.8 percent, respectively. In the first 9 months of 1975, imports of men's and boys' suits increased 86 percent compared to the first 9 months of 1974. The ratio of imports to domestic production increased from 8.7 percent in the first 9 months of 1974 to 19.9 percent in the first 9 months of 1975.

Imports of men's and boys' sportcoats increased their share of the domestic market in each year from 1971 through 1974. The ratios of imports to production and consumption increased from 24.6 percent and 19.7 percent, respectively, in the first nine months of 1974 to 41.9 percent and 29.5 percent, respectively, in the same period of 1975.

Imports of men's leisure suits are not separately identified in the Tariff Schedules of the United States. They are included with the aggregate data on imports of men's and boys' suits. The data show that imports of men's suits increased both absolutely and relatively in the first 9 months of 1975 compared to the first 9 months of 1974.

An OTAA survey of major apparel distributors indicated that the ratio of purchases of imported leisure suits increased from 0 percent in 1973 to 2.8 percent in 1974 and from 4.0 percent in the first half of 1974 to 21 percent in the first half of 1975.

Domestic producers of men's clothing have been adversely affected by a number of factors including increased imports, changing styles and generally poor economic conditions.

The Department's investigation indicated that employment and production at Cliftex have been adversely affected by increased imports of men's clothing. Customers of Cliftex have decreased purchases of its men's clothing in favor of less expensive imported clothing.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's suits and sportscoats produced by the Riverside Street plant and plant A of Cliftex contributed importantly to the total or partial separation of the workers of those plants. In accordance with the provisions of the Act, I make the following certification:

All employees at the Riverside Street plant, plant A and the Sawyer Street warehouse of Cliftex Corporation, New Bedford, Massachusetts, who became totally or partially separated from employment on or after November 5, 1974 are eligible to apply for adjustment asssistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of February 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-7027 Filed 3-11-76;8:45 am]

[TA-W-599]

COMET MANUFACTURING CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 13, 1976, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Knit Goods Union, ILGWU, on behalf of the workers and former workers of Comet Manufacturing Company, Philadelphia, Pennsylvania (TA-W-599).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's swim wear and all types of men's shirts produced by Comet Manufacturing Company, 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 13th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7035 Filed 3-11-76;8:45 am]

[TA-W-619]

CROWN CLOTHING CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 20, 1976, the Department of Labor received a petition dated Feb. 3, 1976, which was filed under Section 221 (a) of the Trade Act of 1974 ("the Act") by the Amalgamated Clothing Workers of America Union, on behalf of the workers and former workers of Crown Clothing Company, Vineland, New Jersey (TA-W-619).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's clothing and sportjackets produced by Crown Clothing Company 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7036 Filed 3-11-76;8:45 am]

[TA-W-603]

CRUCIBLE INC COLT INDUSTRIES

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 13, 1976, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America, AFL-CIO, on behalf of the workers and former workers of the Syracuse, New York plant of the Crucible Specialty Metals Division of Crucible Inc Colt Industries, Pittsburgh, Pennsylvania (TA-W-603).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with specialty steel bar, wire, cold rolled shapes (hexagons—flats and round), valve steel and tool steel produced by Crucible Inc Colt Industries, 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 13th day of February 1976.

MARVIN. M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7037 Filed 3-11-76;8:45 am]

[TA-W-342]

DARTMOUTH CLOTHING CO. (CLIFTEX CORPORATION, PLANT B), NEW BEDFORD, MASSACHUSETTS

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-342: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 21, 1975 in response to a worker petition received on November 21, 1975 which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing men's suits, sportscoats and leisure suits at Dartmouth Clothing Company (Cliftex Corporation, plant B), New Bedford, Massachusetts.

The notice of investigation was published in the Federal Register on December 9, 1975 (40 FR 57409). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Dartmouth Clothing Company, its customers, the Clothing Manufacturers Association of the U.S.A., 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:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) 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.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of production workers at Dartmouth Clothing Company (Cliftex Corp., plant B) declined 11 percent in 1974 compared to 1973. The average number of production workers declined 17 percent in the first nine months of 1975 compared to the first nine months of 1974.

Sales or Production, or Both, Have Decreased Absolutely. Cliftex Corporation sells all clothing produced by its Riverside plant, plant A and plant B (Dartmouth Clothing). Total sales in terms of value declined 2 percent in 1974 compared to 1973 and declined 18 percent in the first nine months of 1975 compared to the first nine months of 1974.

Increased Imports Contributed Importantly. Imports of men's and boys' suits increased relative to domestic production and consumption in each year from 1971 to 1973. While imports of men's and boys' suits fell slightly in 1974 compared to 1973, the ratios of imports to domestic production and consumption in 1974 of 9.9 percent and 9.0 percent, respectively, were well above the 1971–1973 average of 8.6 percent and 7.8 percent, respectively. In the first 9 months of 1975, imports of men's and boys' suits increased 86 percent compared to the first 9 months of 1974. The ratio of imports to domestic production increased from 8.7 percent in the first 9 months of 1974 to 19.9 percent in the first 9 months of 1975.

Imports of men's and boys' sportcoats increased their share of the domestic market in each year from 1971 through 1974. The ratios of imports to production and consumption increased from 24.6 percent and 19.7 percent, respectively, in the first nine months of 1974 to 41.9 percent and 29.5 percent, respectively, in the same period of 1975.

Imports of men's leisure suits are not separately identified in the Tariff Schedules of the United States. They are included with the aggregate data on imports of men's and boys' suits. The data show that imports of men's suits increased both absolutely and relatively in the first 9 months of 1975 compared to the first 9 months of 1974.

An OTAA survey of major apparel distributors indicated that the ratio of purchases of imported leisure suits increased from 0 percent in 1973 to 2.8 percent in 1974 and from 4.0 percent in the first half of 1974 to 21 percent in the first half of 1975.

Domestic producers of men's clothing have been adversely affected by a number of factors including increased imports, changing styles and generally poor economic conditions.

The Department's investigation indicated that employment and production at Cliftex and its plant B, Dartmouth Clothing Company have been adversely affected by increased imports of men's clothing. Cliftex sells all clothing produced by plant B, Dartmouth Clothing. Customers of Cliftex have decreased purchases of its men's clothing in favor of less expensive imported clothing.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's suits and sportcoats produced at the Cliftex Corporation plant B, Dartmouth Clothing, contributed importantly 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 employees at Cliftex Corporation plant B, Dartmouth Clothing Company, New Bedford, Massachusetts who became totally or partially separated from employment on or after November 5, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of February 1976.

JAMES F. TAYLOR,
Director,
Planning and Evaluation Staff.

[FR Doc.76-7028 Filed 3-11-76;8:45 am]

[TA-W-391]

DeGRAFF OF CALIFORNIA, INC.

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-391: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 5, 1975 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing women's suits and coats at DeGraff of California, Inc., Los Angeles, California.

The notice of investigation was published in the FEDERAL REGISTER on December 22, 1975 (40 FR 59272). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of DeGraff of California, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That increases of imports or 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.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. Average annual employment of production workers at DeGraff increased three percent in 1973 from 1972 and declined 11 percent in 1974 from 1973. Production cutbacks caused reduced hours for all workers in 1974. All production related employment at DeGraff was terminated by the end of February 1975.

Sales or Production, or Both, Have Decreased Absolutely. Production by DeGraff declined 15 percent in quantity and increased one percent in value in 1973 from 1972. Production declined 26 percent and 29 percent in quantity and value respectively in 1974 from 1973. Production was terminated in January 1975 when the plant was permanently closed.

Increased Imports Contributed Importantly. Imports of ladies', children's and infants' coats declined 21 percent in 1974 from 1973. The import/consumption and import/production ratios declined from 28.2 percent and 39.3 percent respectively in 1972 to 24.5 percent and 32.3 percent respectively in 1974. Imports of ladies', girls', and infants' suits, while increasing from 1971 to 1974, remained at less than five percent of domestic consumption and production during the 1971–1974 period.

The evidence developed in the Department's investigation of DeGraff of California indicates that the decline in sales and production and subsequent closure of the firm were due to factors other than increased import competition. Former customers of DeGraff indicated that they do not offer imported suits and coats of the type produced by DeGraff. The customers indicated that they reduced purchases from DeGraff primarily due to a reduced demand for women's suits & coats resulting from the economic downturn.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's suits and coats produced by DeGraff of California, Inc. did not contribute importantly to the total or partial separation of workers of that firm.

Signed at Washington, D.C. this 27th day of February 1976.

JAMES F. TAYLOR,
Director,
Planning and Evaluation Staff.

[FR Doc.76-6829 Filed 3-11-76;8:45 am]

[TA-W-621]

DIRZIS PRODUCTS CO., INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 20, 1976 the Department of Labor received a petition dated February 5, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Amalgamated Clothing Workers of America, on behalf of the workers and former workers of Dirzis Products Co., Inc. Richmond Hill, New York (TA-W-621).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's topcoats, overcoats and jackets produced by Dirzis Products, Co., Inc. 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of
Trade Adjustment Assistance.

[FR Doc.76-7038 Filed 3-11-76;8:45 am]

[TA-W-613]

DO-ALL BRASSIERE CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 20, 1976, the Department of Labor received a petition dated February 12, 1976, which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the International Ladies Garment Workers Union, on behalf of the workers and former workers of Do-All Brassiere Company, Brooklyn, New York (TA-W-613).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with brassieres produced by Do-All Brassiere Company, 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of
Trade Adjustment Assistance.

[FR Doc.76-7039 Filed 3-11-76;8:45 am]

[TA-W-595]

DORADO FABRICS INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 13, 1976, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Knit Goods Union, ILGWU on behalf of the workers and former workers of Dorado Fabrics Inc., Philadelphia, Pennsylvania (TA-W-595).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with yard goods, fabrics for ladies and men produced by Dorado Fabrics Inc., 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 13th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of
Trade Adjustment Assistance.

[FR Doc.76-7040 Filed 3-11-76;8:45 am]

[TA-W-628]

FRIEDMAN MARBLE CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 27, 1976, the Department of Labor received a petition dated February 10, 1976, which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Marble Carvers, Cutters and Setters Union, on behalf of the workers and former workers of Friedman Marble Company, Long Island City, New York (TA-W-628).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has in-

stituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with marble produced by Friedman Marble Company, 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. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separation began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St., and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 27th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7041 Filed 3-11-76;8:45 am]

[TA-W-356, 392]

GTE SYLVANIA CO., INC.

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-356 and TA-W-392: investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

Investigations TA-W-356 and TA-W-392 were initiated on November 25, 1975 and December 5, 1975, respectively, in response to worker petitions received on those dates. The Emporium petition was filed by the Electrical Radio and Machine Workers of America on behalf of workers and former workers producing receiving tubes at the Emporium plant of GTE Sylvania Company, Inc., Stamford, Connecticut. The Altoona petition was filed on behalf of workers and former workers producing receiving tubes at the Altoona plant of GTE Sylvania Company, Inc., Stamford, Connecticut.

Notices of investigations were published in the FEDERAL REGISTER on December 12, 1975 (40 FR 57880) and on December 22, 1975 (40 FR 59272) for the Altoona, TA-W-356 and Emporium, TA-W-392, plants, respectively. No public hearing was requested and none was held.

The information upon which the determinations were made was obtained principally from officials of GTE Sylvania Company, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) 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.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. Emporium plant: Average annual employment of production workers declined 27 percent in 1975 compared to 1974. Average employment of production workers in the fourth quarter of 1974 declined 32 percent compared to the same quarter in 1973.

Altoona plant: Average annual employment of production workers declined 11 percent in 1975 compared to 1974 and 8 percent in the last quarter of 1974 compared to the same quarter in 1973.

Sales or Production, or Both, Have Decreased Absolutely. Emporium plant: Production of receiving tubes declined 61 percent, in quantity, in the first eleven months of 1975 compared to the same period in 1974. Production of receiving tubes declined 51 percent in the last quarter of 1974 compared to the same quarter in 1973.

Altoona plant: Production of receiving tubes declined 25 percent, in quantity, in 1975 compared to 1974. Production of receiving tubes declined 12 percent in the last quarter of 1974 compared to the same quarter in 1973.

Increased Imports Contributed Importantly. Imports of receiving tubes increased relatively from 1973 to 1974 and in the first eight months of 1975 compared to the same period in 1974. The import to consumption and import to production ratios increased from 1973 to 1974 from 32.6 percent and 44.6 percent, respectively to 36.4 percent and 56.6 percent. The import to consumption and production ratios increased in the first eight months of 1974 from 37.5 percent and 54.2 percent, respectively to 49.3 percent and 85.0 percent.

Both plants import GTE Sylvania tube mounts from their operation in Juarez, Mexico. Tube mount imports for the Altoona plant for the first, second and third quarters of 1974, the period immediately before the quarter in which the impact date occurs, increased 51 percent, 61 percent and 27 percent, respectively compared to the same quarters in 1973. Tube mount imports from Juarez, Mexico to the Emporium plant increased 31 percent in the fourth quarter of 1974 compared to the prior quarter of 1974.

During 1975 major customers sharply reduced their purchases of receiving tubes from GTE Sylvania. While overall purchases of receiving tubes declined, import purchases declined by a lesser percentage than domestic purchases.

Conclusion. After careful review of the facts obtained in the investigations I conclude that increases of imports like or directly competitive with receiving tubes produced at the Altoona and Emporium, Pennsylvania plants of the GTE Sylvania Company, Incorporated contributed importantly to the total or partial separation of workers at those plants. In accordance with the provisions of the Act, I make the following certification:

All hourly, piecework, and salaried workers at GTE Sylvania's receiving tube plants in Altoona and Emporium, Pennsylvania who became totally or partially separated from employment on or after November 25, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1976.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.76-7030 Filed 3-11-76;8:45 am]

[TA-W-622]

INTERNATIONAL SHOE CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 20, 1976, the Department of Labor received a petition dated February 5, 1976, which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Shoe Workers of America on behalf of the workers and former workers of International Shoe Co., Conway, Arkansas, a division of Interco, Inc., St. Louis, Mo. (TA-W-622).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221 (a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or

directly competitive with women's, men's and juveniles shoes produced by International Shoe Co. 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7042 Filed 3-11-76;8:45 am]

[TA-W-358]

JONES AND LAUGHLIN STEEL CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presented the results of TA-W-358 investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 25, 1975 in response to worker petition received on November 25, 1975 which was filed by the United Steelworkers of America, AFL-CIO on behalf of workers and former workers producing specialty steel at the Warren, Michigan plant of Jones and Laughlin Steel Corporation, a subsidiary of LTV, Incorporated, Dallas, Texas.

The notice of investigation was published in the Federal Register on December 12, 1975 (40 FR 57882). No public hearing was requested and none was held.

The information upon which the determination was made obtained principally from officials of Jones and Laughlin Steel Corporation, its customers, 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:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) 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.

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. Separations at the Warren plant in December 1974 totalled 32.9 percent of the workforce. The average number of production workers at Warren declined 53.6 percent in the first three quarters of 1975 compared to the like period in 1974. Average weekly hours declined 13.0 percent in the first three quarters of 1975 compared to the like period in 1974.

Sales or Production, Both, Have Decreased Absolutely. Shipments from the Warrent plant declined 73.8 percent in the first three quarters of 1975 compared to the like period of 1974. Sales declined 54.7 percent in the first three quarters of 1975 compared to the like period of 1974.

Increased Imports Contributed Importantly. Imports of stainless steel products began to increase sharply in the fourth quarter of 1974 and continued to increase during the first three quarters of 1975. Imports of stainless cold rolled sheet increased from 30.2 thousand tons in the first three quarters of 1974 to 37.4 thousand tons in the like period of 1975, and the ratio of imports to domestic shipments increased from 8.0 percent in the former period to 24.4 percent in the latter. Imports of stainless hot and cold finished bars increased from 18.6 thousand tons in the first three quarters of 1974 to 23.3 thousand tons in the like period of 1975, a relative increase from 14.6 percent of domestic shipments in the former period to 28.8 percent in the latter Imports of hot and cold rolled strip increased from 7.7 thousand tons in the first three quarters of 1974 to 11.1 thousand tons in the like period of 1975, a relative increase from 2.9 percent of domestic shipments in the former period to 7.5 percent in the latter.

In 1974 there was a world wide shortage of specialty steel products as customers built up inventories in anticipation of producers strikes and further shortages. In late 1974 and early 1975 this trend began to reverse as customers found their inventories excessive.

As world demand for specialty steel subsided, foreign producers drastically cut prices from previous highs in order to remain competitive in a weak market. As foreign manufacturers cut prices, their products became more attractive to U.S. consumers. Major customers of the Warren plant purchased a higher proportion of foreign steel in 1975 than they did in 1974 and stressed that prices of imported steel were substantially below prices of domestic steel.

On January 16, 1976, the U.S. International Trade Commission in accordance with the provisions of Section 201 of the Trade Act of 1974 and in response to a petition for "escape clause" relief filed by the Tool and Stainless Steel Industry Committee, reported to the President that:

"On the basis of its investigation, the Commission determines that bars; wire rods; and plates, sheets and strips, not cut, not pressed and not stamped to nonrectangular shape; all the foregoing of stainless steel or alloy tool steel * * * are being imported into the United States in such quantities as to be a substantial cause of serious injury, or threat thereof, to the domestic industry or industries producing articles like or directly competitive with the imported articles."

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with specialty steel produced at the Warren, Michigan plant contributed importantly to the total or partial separations of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All hourly and salaried workers engaged in employment related to the production of specialty steel at the Warren, Michigan plant of the Jones and Laughlin Steel Corporation, a subsidiary of LTV, Incorporated, Dallas, Texas, who became totally or partially separated from employment on or after December 1, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of February 1976.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade Adjustment Policy.

[FR Doc.76-6823 Filed 3-11-76;8:45 am]

[TA-W-610]

LADY MARLENE INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 20, 1976, the Department of Labor received a petition dated February 12, 1976, which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the International Ladies Garment Workers Union, on behalf of the workers and former workers of Lady

Marlene Inc., New York, New York (TA-W-610).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with brassieres and girdles-brasalettes produced by Lady Marlene Inc., 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7043 Filed 3-11-76;8:45 am]

[TA-W-629]

LAMSON AND SESSIONS CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 27, 1976, the Department of Labor received a petition dated February 20, 1976, which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Allied Industrial Workers of America, AFL-CIO, on behalf of the workers and former workers of the Kent, Ohio plant of The Lamson and Sessions Company, Cleveland, Ohio (TA-W-629.

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with nuts produced by The Lamson and Sessions Company, 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 27th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7044 Filed 3-11-76;8:45 am]

[TA-W-630]

LAMSON AND SESSIONS CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 27, 1976, the Department of Labor received a petition dated February 18, 1976, which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the International Association of Machinists and Aerospace Workers, on behalf of the workers and former workers of Birmingham, Alabama plant of The Lamson and Sessions Company, Cleveland, Ohio (TA-W-630).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with nuts and screws produced by The Lamson and Sessions Company, 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 27th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7045 Filed 3-11-76;8:45 am]

[TA-W-631]

LAMSON AND SESSIONS CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 27, the Department of Labor received a petition dated February 23, 1976, which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America, AFL-CIO, on behalf of the workers and former workers of the Chicago, Illinois plant of The Lamson and Sessions Company, Cleveland, Ohio (TA-W-631).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221 (a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with screws produced by The Lamson and Sessions Company, 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 27th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7046 Filed 3-11-76;8:45 am]

[TA-W-605]

LEBANON KNITTING MILLS

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 13, 1976, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the International Ladies Garment Workers Union, on behalf of the workers and former workers of Lebanon Knitting Mills, Pawtucket, Rhode Island (TA-W-605).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with double knit fabrics produced by Lebanon Knitting Mills, 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 13th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7047 Filed 3-11-76;8:45 am]

[TA-W-616]

L AND W BRASSIERE CO., INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 20, 1976, the Department of Labor received a petition dated February 12, 1976, which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the International Ladies Garment Workers Union, on behalf of the workers and former workers of L and W Brassiere Company, Inc., New York, New York (TA-W-616).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with brassieres, blouses and bikinis produced by L and W Brassiere Company, Inc. 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7048 Filed 3-11-76;8:45 am]

[TA-W-333]

LUDLOW TYPOGRAPH CO.

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-333: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 14, 1975 in response to a worker petition received on that date which was filed by the International Union of Electrical, Radio and Machine Workers on behalf of workers formerly producing printing matrices at Ludlow Typograph Company, Chicago, Illinois.

The notice of investigation was published in the FEDERAL REGISTER (40 FR 55913) on December 2, 1975. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principaly from officials of Ludlow Typograph Company, 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 22 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) 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.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of production workers at Ludlow Typograph declined 30.8 percent in 1974 from 1973. The average number of production workers declined 37.3 percent in the last quarter of 1974 compared to the like period in 1973. In the first three quarters of 1975, average employment declined sharply compared to the same period in 1974. On October 31, 1975, Ludlow Typograph terminated operations in its Chicago, Illinois plant and all production workers were laid off at that time.

Sales or Production, or Both, Have Decreased Absolutely. Production at Ludlow Typograph Company's Chicago plant declined 25.9 percent from 1973 to 1974 and declined 27.4 percent in the first nine months of 1975 compared to the first nine months of 1974.

Increased Imports Contributed Importantly. Printing matrices used in hot metal printing machines are uniquely constructed for each company's machine. Since matrices are not interchangeable, each company has the entire market for its own products.

Imports of printing matrices by Ludlow, used exclusively in Ludlow machines, increased in the fourth quarter of 1975 compared to the fourth quarter in 1974. By October 1975, 100 percent of Ludlow's printing matrices were being supplied by its British plant.

The evidence developed during the course of the investigation indicates that employment and production declines at Ludlow Typograph Company have resulted from the company's decision to transfer production from the Chicago facility of Ludlow Typograph to the United Kingdom plant of Ludlow Industries, Limited, both wholly-owned subsidiaries of Ludlow Industries.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with printing matrices produced at Ludlow Typograph Company, Chicago, Illinois contributed importantly to the total or partial separation of the workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All hourly, piecework, and salaried workers engaged in employment related to the production of printing matrices at Ludlow Typograph Company, Chicago, Illinois who became totally or partially separated from employment on or after October 22, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 27th day of February 1976.

JAMES F. TAYLOR,
Director,
Planning and Evaluation Staff.

[FR Doc.76-6822 Filed 3-11-76;8:45 am]

[TA-W-609]

MELODY BRA CORP, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 20, 1976, the Department of Labor received a petition dated February 12, 1976, which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the International Ladies Garment Workers Union, on behalf of the workers and former workers of Melody Bra Corp, Inc., Long Island City, New York (TA-W-609).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with bras and girdles produced by Melody Bra Corp., Inc., 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 sub-division. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7049 Filed 3-11-76;8:45 am]

[TA-W-618]

MELTON SHIRT CO., INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 20, 1976, the Department of Labor received a petition dated February 5, 1976, which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Amalgamated Clothing Workers of America, on behalf of the workers and former workers of Melton Shirt Company, Inc., Batavia, New York (TA-W-618).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with lightweight cotton shirts and heavy duty shirts produced by Melton Shirt Company, Inc., 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7050 Filed 3-11-76;8:45 am]

[TA-W-604]

M. T. SHAW, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 13, 1976, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Boot and Shoe Workers Union, AFL-CIO, on behalf of the workers and former workers of M. T. Shaw, Inc., Coldwater, Michigan (TA-W-604).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's welt shoes produced by M. T. Shaw, Inc., 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 13th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7051 Filed 3-11-76;8:45 am]

[TA-W-389]

N. L. INDUSTRIES, TITANIUM PIGMENT DIVISION

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-389: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 5, 1975 in response to a worker petition received on that date which was filed by the Oil, Chemical, and Atomic Workers Union on behalf of workers and former workers producing titanium dioxide pigment at the South Amboy plant of N. L. Industries.

The notice of investigation was published in the Federal Register on December 22, 1975 (40 FR 59275). No public hearing was requested an none was held.

The information upon which the determination was made was obtained principally from the U.S. International Trade Commission, U.S. Department of Commerce, industry analysts and Department of 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:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) 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.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met. The evidence developed in the Department's investigation reveals that aggregate imports of titanium dioxide pigment declined 43 percent from 1973 to 1974 and declined 46 percent in the first nine months of 1975 compared to the same period of 1974.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that imports did not contribute importantly to the total or partial separation of workers as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1976.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.76-6831 Filed 3-11-76;8:45 am]

[TA-W-596]

PROGRESSIVE KNITTING MILLS OF PENNSYLVANIA, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 13, 1976, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Knit Goods Union, ILGWU, on behalf of the workers and former workers of Progressive Knitting Mills of Pennsylvania, Inc., Philadelphia, Pennsylvania (TA-W-596).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's and boys' swim wear produced by Progressive Knitting Mills of Pennsylvania, Inc., 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. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began of threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than 22 March 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 13th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7052 Filed 3-11-76;8:45 am]

[TA-W-344]

QUALITY COAT CO., INC. NEW YORK, NEW YORK

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of La-

bor herein presents the results of TA–W–344; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 21, 1975 in response to a worker petition received on November 21, 1975 which was filed by the Amalgamated Clothing Workers of America, on behalf of workers and former workers producing women's raincoats, outer coats and storm coats at Quality Coat Company, Inc., New York, New York. The investigation was expanded to include workers and former workers of Quality Coat Company, New York, New York.

The notice of investigation was published in the FEDERAL REGISTER on December 9, 1975 (40 FR 57412). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Quality Coat Company, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) 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.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of production workers at Quality Coat Company, Inc., declined 9 percent in 1974 from 1973 and increased 5 percent in the first three quarters of 1975 compared to the same period in 1974.

The average number production workers at Quality Coat Company, a subsidiary of Quality Coat Company Inc. declined 7 percent in 1974 from 1973 and did not change in the first three quarters of 1975 compared to the same period in 1974.

Sales or Production, or Both, Have Decreased Absolutely. Production at Quality Coat Company, Inc. declined 5.4 percent in 1974 compared to 1973 and 6.5 percent in 1975 compared to 1974.

Increased Imports Contributed Importantly. Imports of women's, children's and infant's coats declined 21 percent in 1974 from 1973 and increased 3 percent in the first eight months of 1975 compared to the same period in 1974.

Imports of women's, children's and infant's raincoats declined 23 percent in 1974 from 1973 and did not change in the first eight months of 1975 compared to the same period in 1974.

The evidence developed in the Department's investigation indicated that major customers of Quality Coat decreased their purchases from the firm because of declining sales due to general economic conditions or because they switched purchases to other domestic manufacturers.

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, outer coats and storm coats produced at the Quality Coat Company, Inc. and Quality Coat Company, New York, New York did not contribute importantly to the total or partial separation of the workers at that firm.

Signed at Washington, D.C. this 27th day of February 1976.

JAMES F. TAYLOR,
Director,
Planning and Evaluation Staff.

[FR Doc.76–7029 Filed 3–11–76;8:45 am]

[TA–W–335]

RATNER CLOTHES CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–335: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 14, 1975, in response to a worker petition received on November 14, 1975, which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing men's suits, sportcoats and slacks at the San Diego and Chula Vista, California and Yuma, Arizona plants of Rather Clothes Corporation, a subsidiary of the Ratner Corporation, San Diego, California.

The notice of investigation was published in the FEDERAL REGISTER (40 FR 55914) on December 12, 1975. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ratner Clothes Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) 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.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. Total employment of production workers at Ratner Clothes' three plants began to decline in November, 1975. The average number of production workers declined 25.8 percent in the first three quarters of 1975 compared to the like period in 1974. Average weekly hours declined 10.0 percent in the first nine months of 1975 compared to the like period in 1974.

Sales or Production, or Both, Have Decreased Absolutely. Ratner Clothes sells all clothing produced at its three plants. Sales by Ratner Clothes declined 11.4 percent in the fourth quarter of 1974 compared to the like period of 1973. Sales declined 20.8 percent in the first nine months of 1975 compared to the like period of 1974. Production declined 36.5 percent in the first nine months of 1975 compared to the like of 1974.

Increased Imports Contributed Importantly. Imports of men's and boys' suits increased relative to domestic production and consumption in each year from 1971 through 1973. While imports of men's and boys' suits fell slightly in 1974 compared to 1973, the ratios of imports to domestic production and consumption in 1974 of 9.9 percent and 9.0 percent, respectively, were well above the 1971–1973 average of 8.6 percent and 7.9 percent, respectively. In the first 9 months of 1975, imports of men's and boys' suits increased 86 percent compared to the first 9 months of 1974. The ratio of imports to domestic production increased from 8.7 percent in the first 9 months of 1974 to 19.9 percent in the first 9 months of 1975.

Imports of men's and boys' sportcoats increased their share of the domestic market each year from 1971 through 1974. The ratio of imports to domestic production increased from 24.6 percent in the first 9 months of 1974 to 41.9 percent in the first 9 months of 1975.

Imports of men's and boys' tailored trousers increased 37 percent in the first nine months of 1975 compared to the first nine months of 1974. The ratio of imports to domestic production increased from 23.6 percent in the first nine months of 1974 to 44.8 percent in the first nine months of 1975.

The investigation has indicated that employment and production at Ratner Clothes in recent years has been subject to the adverse impact of competition by imported men's clothing. Ratner clothes are primarily marketed through major retail chains. These retail chains have increased imports of less expensive men's clothing.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's suits, sportcoats and slacks produced at the San Diego and Chula Vista, California and Yuma, Arizona plants of Ratner Clothes Corporation contributed importantly to the total or partial separation of the workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All employees engaged at the San Diego and Chula Vista, California and Yuma, Arizona plants of Ratner Clothes Corporation, a subsidiary of Ratner Corporation, San Diego, California who became totally or partially separated from employment on or after October 28, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of February 1976.

JAMES F. TAYLOR,
Director,
Planning and Evaluation Staff.

[FR Doc.76-6824 Filed 3-11-76;8:45 am]

[TA-W-602]

RCA CORP.

Investigation Regarding Certification of Eligibility to Apply for Worker Adjustment Assistance

On February 13, 1976, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of the Electronic Component Division and Distributor and Special Products Division of the Harrison, New Jersey plant of RCA Corporation, New York, New York (TA-W-602).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with electronic test equipment produced by RCA Corporation, 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 13th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of
Trade Adjustment Assistance.

[FR Doc.76-7054 Filed 3-11-76;8:45 am]

[TA-W-624]

RCA CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 27, 1976, the Department of Labor received a petition dated Feb. 13, 1976, which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Distributor and Special Products Division's Cherry Hill, New Jersey plant of RCA Corporation, New York, New York (TA-W-624).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with electron tubes produced by RCA Corporation 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 27th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of
Trade Adjustment Assistance.

[FR Doc.76-7055 Filed 3-11-76;8:45 am]

RCA CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 27, 1976, the Department of Labor received a petition dated Feb. 13, 1976, which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Distributor and Special Products Division's Deptford, New Jersey plant of RCA Corporation, New York, New York (TA-W-625).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with electron tubes produced by RCA Corporation 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the

Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 27th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7056 Filed 3-11-76;8:45 am]

[TA-W-626]

RCA CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 27, 1976, the Department of Labor received a petition dated Feb. 18, 1976, which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Distributor and Special Products Division's Atlanta, Georgia plant of RCA Corporation, New York New York, (TA-W-626).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with electron tubes produced by RCA Corporation or an appropriate subdivision thereof have contributed importantly to an absolutely 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 27th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7057 Filed 3-11-76;8:45 am]

[TA-W-627]

RCA CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 27, 1976, the Department of Labor received a petition dated February 18, 1976, which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Distributor and Special Products Division's Des Plaines, Illinois plant of RCA Corporation, New York, New York (TA-W-627).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with electron tubes produced by RCA Corporation 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 27th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7058 Filed 3-11-76;8:45 am]

[TA-W-615]

REALFORM GIRDLE CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 20, 1976, the Department of Labor received a petition dated February 12, 1976, which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the International Ladies Garment Workers Union, on behalf of the workers and former workers of Realform Girdle Company, Brooklyn, New York (TA-W-615).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with girdles produced by Realform Girdle Company, 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7053 Filed 3-11-76;8:45 am]

[TA-W-606]

ROHR INDUSTRIES, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 13, 1976, the Department of Labor received a petition filed under

Section 221(a) of the Trade Act of 1974 ("the Act") by the International Association of Machinists and Aerospace Workers, on behalf of the workers and former workers of the Riverside, California plant of Rohr Industries, Inc., Chula Vista, California (TA-W-606).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with aerospace and subassemblies produced by Rohr Industries, Inc. 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 13th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7059 Filed 3-11-76;8:45 am]

[TA-W-399]

RUSSELL, BURDSALL & WARD, INC.

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-399: 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 12, 1975 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing metal fasteners at the Los Angeles, California plant of Russell, Burdsall, & Ward, Incorporated.

The notice of investigation was published in the FEDERAL REGISTER (41 FR 849-850) on January 5, 1976. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Russell, Burdsall, & Ward, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make 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:

(1) That a significant number of proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) 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 decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. Workers at the Los Angeles plant of Russell, Burdsall, & Ward have experienced both reduced hours and involuntary separations since December 1974. Employment levels declined six percent in 1974 from 1973 and declined 29 percent in 1975 from the prior year's level. Average weekly hours for production workers declined 27 percent in 1975 from 1974. Employees of the firm's Portland, Oregon warehouse have also experienced reduced hours.

Sales or Production, or Both Have Decreased Absolutely. Sales of metal fasteners by the Los Angeles plant declined 23 percent in 1974 from 1973 and declined 60 percent in 1975 from 1974. Production remained unchanged in 1974 from 1973 and declined 55 percent in 1975 from 1974. Inventory levels at the Los Angeles plant increased 72 percent in 1975 reflecting an attempt by the plant to maintain a stable level of production during periods of declining sales.

Increased Imports Contributed Importantly. Imported metal fasteners have penetrated the domestic market for such products at a steadily increasing rate in recent years. Imported metal bolts increased 81 percent from 1970 to 1974 while domestic production was increasing 16 percent. Imported metal bolts increased their share of the domestic market from 11.6 percent in 1970 to 17.1 percent in 1974. Imports of metal screws increased 94 percent from 1970 to 1974 during which time domestic production was increasing only 22 percent. Imported metal screws increased their share of the domestic market from 19.4 percent in 1970 to 28.1 percent in 1974.

The evidence developed in the Department's investigation indicates that declines in sales, production, and employment at the Los Angeles plant were due to a steadily increasing shift by the plant's customers to imported metal fasteners. The customers cited the fact that metal fasteners of comparable quality to those produced by Russell, Burdsall, & Ward's Los Angeles plant can be purchased at a 20-40 percent lower price. Employment reductions also occurred at Russell, Burdsall, & Ward's Portland, Oregon warehouse which stores and distributes products of the Los Angeles plant.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with metal fasteners produced by the Los Angeles plant of Russell, Burdsall, & Ward contributed importantly to the total or partial separation of workers of that plant and its warehouse in Portland, Oregon. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers employed at the Los Angeles, California and Portland, Oregon facilities of Russell, Burdsall, & Ward, Incorporated who became or will become totally of partially separated from employment on or after December 5, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of February 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-6825 Filed 3-11-76;8:45 am]

[TA-W-597]

SAND 'N SURF INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 13, 1976, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Knit Goods Union, ILGWU, on behalf of the workers and former workers of Sand 'N Surf Inc., Philadelphia, Pennsylvania (TA-W-597).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's swim wear and ladies slacks produced by Sand 'N Surf Inc., or an appropriate subdivision thereof have contributed impor-

tantly 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 13th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7060 Filed 3-11-76;8:45 am]

[TA-W-267]

SCOTESE BROTHERS

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-267: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 24, 1975 in response to a worker petition received on that date which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing men's and boys sportcoats at Scotese Brothers, Philadelphia, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER on November 5, 1975 (40 FR 51523). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Scotese Brothers, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) 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.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of workers at Scotese Brothers declined 37 percent from 1974 to 1973 and declined 75 percent in the first three quarters of 1975 compared to the first three quarters of 1974. In the fourth quarter of 1974, average quarterly employment declined 39 percent compared to the third quarter of 1974 and 59 percent compared to the fourth quarter of 1973.

Sales or Production, or Both, Have Decreased Absolutely. Sale of sportcoats by Scotese Brothers declined 30 percent by value in 1974 compared to 1973. In the fourth quarter of 1974, sales of sportcoats were 35 percent below levels for the comparable quarter of 1973. Sales declined 62 percent by value in the first three quarters of 1975 compared to the first three quarters of 1974.

Increased Imports Contributed Importantly. Imports of men's and boys' sportcoats increased their share of the domestic market each year from 1972 through 1974. The ratio of imports to domestic production and consumption increased from 17.1 percent and 14.6 percent respectively in 1972 to 22.3 percent and 18.2 percent respectively in 1974. The ratio of imports to domestic production and consumption increased from 24.5 percent and 19.7 percent respectively in the first seven months of 1974 to 41.9 percent and 29.5 percent respectively in the first seven months of 1975.

The evidence developed in the department's investigation indicates that customers of the manufacturers for whom Scotese performs contract operations increased their purchases of imported sportcoats while reducing purchases from Scotese's manufacturer/customers. The resultant decline in orders caused sales declines and separations of workers at Scotese.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with sportcoats produced by Scotese Brothers contributed importantly to the total or partial separation of workers of that company. In accordance with the provisions of the Act, I make the following certification:

"All hourly, piecework and salaried workers of Scotese Brothers, Philadelphia, Pennsylvania who became totally or partially separated from employment on or after October 14, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974."

Signed at Washington, D.C. this 2nd day of March 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-6826 Filed 3-11-76;8:45 am]

[TA-W-608]

SPLENDORFORM BRASSIERE CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 20, 1976, the Department of Labor received a petition dated February 12, 1976, which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the International Ladies Garment Workers Union, on behalf of the workers and former workers of Splendorform Brassiere Company, New York, New York (TA-W-608).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with brassieres produced by Splendorform Brassiere Company, 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjust-

ment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7061 Filed 3-11-76;8:45 am]

[TA-W-397]

SPORT FASHION, INC.

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-397: 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 12, 1975 in response to a worker petition received on December 12, 1975 which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing women's blouses and dresses at Sport Fashion, Inc., Nutley, New Jersey.

The notice of investigation was published in the FEDERAL REGISTER on January 5, 1975 (41 FR 850). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Sport Fashion, Inc., its customers, the Clothing Manufacturers Association of the U.S.A., the Department of Commerce, the International Trade Commission, 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:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) 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.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of production workers at Sport Fashion declined 44 percent in 1974 compared to 1973. The average number of production workers declined 33 percent in the first nine months of 1975 compared to the first nine months of 1974.

Sales or Production, or Both, Have Decreased Absolutely. Production at Sport Fashion declined 45 percent in 1974 compared to 1973. Production declined 32 percent in the first nine months of 1975 compared to the first nine months of 1974.

Increased Imports Contributed Importantly. Imports of women's, girls' and infants' blouses increased from 67.6 million units in the first nine months of 1974 to 76.8 million units in the first nine months of 1975.

The Department's investigation revealed that Sport Fashion since 1974 has produced primarily women's blouses almost exclusively for one company. This company sells the blouses under its own label to retail stores. Beginning in August 1974, Sport Fashion's customer began importing its own blouses because of lower prices. As a result Sport Fashion has virtually terminated its regular production of blouses and now fills orders for its customer only on a sporadic basis.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's blouses produced by Sport Fashion, Inc. contributed importantly to the total or partial separation of workers of that firm. However, because the firm was closed for a large part of 1974 as well as 1975 it is possible that none of the workers will meet the requirement, of Section 231(2) of the Trade Act, of employment for at least 26 of the 52 weeks immediately preceding total or partial separation. In accordance with the provisions of the Act, I make the following certification:

All employees of Sport Fashion, Inc., Nutley, New Jersey who became totally or partially separated from employment on or after March 28, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1976.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.76-6827 Filed 3-11-76;8:45 am]

[TA-W-601]

TELEDYNE VASCO

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 13, 1976, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America, AFL-CIO, on behalf of the workers and former workers of the Monaca, Pennsylvania plant of Teledyne Vasco, a division of Teledyne Incorporated, Los Angeles, California (TA-W-601).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with specialty steel flat rolled, such as high speed and tool steel sheets, circles and bars produced by Teledyne Vasco, 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 13th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.78-7062 Filed 3-11-76;8:45 am]

[TA-W-623]

TELEDYNE WISCONSIN MOTORS

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 20, 1976, the Department of Labor received a petition dated February 12, 1976, which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Automobile Workers of America, on behalf of the workers and former workers of Teledyne Wisconsin Motors, West Allis, Wisconsin, a division of Teledyne, Inc., Los Angeles, California (TA-W-623). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or

directly competitive with heavy duty air cooled engines 5–65 horsepower produced by Teledyne Wisconsin Motors 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7063 Filed 3-11-76;8:45 am]

[TA-W-611]

YOUTHCRAFT FOUNDATIONS CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 20, 1976, the Department of Labor received a petition dated February 12, 1976, which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the International Ladies Garment Workers Union, on behalf of the workers and former workers of Youthcraft Foundations Company, Brooklyn, New York, a division of Russ Togs, Inc., Long Island City, New York (TA-W-611).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with girdles and loungewear produced by Youthcraft Foundations Company, 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7064 Filed 3-11-76;8:45 am]

[TA-W-617]

WARNER GEAR CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 20, 1976 the Department of Labor received a petition dated Feb. 10, 1976 which was filed under Section 221 (a) of the Trade Act of 1974 ("the Act") by the United Automobile Workers of America, on behalf of the workers and former workers of Warner Gear Co., Muncie, Indiana, a division of Borg Warner Corporation, Chicago Illinois (TA-W-617).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with automotive transmissions (3 speed) produced by Warner Gear Company 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7065 Filed 3-11-76;8:45 am]

[TA-W-607]

WASHINGTON STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 20, 1976, the Department of Labor received a petition dated February 6, 1976, which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America, AFL–CIO, on behalf of the workers and former workers of Houston, Pennsylvania and Washington, Pennsylvania plants of Washington Steel Corporation, Washington, Pennsylvania (TA–W–607).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with flat rolled stainless steel sheet and strip produced by Washington Steel Corporation 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. The investigation 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. A group meeting the

eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7066 Filed 3-11-76;8:45 am]

[TA-W-637]

ATLAS TILE AND MARBLE WORKS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 27, 1976, the Department of Labor received a petition dated January 30, 1976, which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Brooklyn, New York plant of Atlas Tile and Marble Works, Inc., New Rochelle, New York (TA-W-637). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with marble produced by Atlas Tile and Marble Works, Inc., 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. The investigation 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. A group meeting the eligibility requirements of section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 27th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7111 Filed 3-11-76;8:45 am]

[TA-W-638]

BENDIX CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 27, 1976, the Department of Labor received a petition dated February 22, 1976, which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Electrical Components Division, Sidney, New York of Bendix Corporation, Southfield, Michigan (TA-W-638). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with systems and components produced by Bendix Corporation 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. The investigation 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. A group meeting the eligibility requirements of section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW Washington, D.C. 20210.

Signed at Washington, D.C., this 27th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7112 Filed 3-11-76;8:45 am]

[TA-W-639]

CHARLES RABIN AND CO., INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 27, 1976 the Department of Labor received a petition dated February 17, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the Amalgamated Clothing Workers of America, on behalf of the workers and former workers of Frackville, Pa., plant of Charles Rabin and Co., Inc., New York, New York (TA-W-639). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's lounging robes produced by Charles Rabin and Co., Inc. 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 27th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7113 Filed 3-11-76;8:45 am]

[TA-W-598]

D. SEIDMANN'S SONS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 13, 1976, the Department of Labor received a petition filed under section 221(a) of the Trade Act of 1974 ("the Act") by the Knit Goods Union, ILGWU, on behalf of the workers and former workers of D. Seidmann's Sons, Inc., Philadelphia, Pennsylvania (TA-W-598). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with knitted headwear, dickeys, scarfs produced by D. Seidmann's Sons, Inc., 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. The investigation 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. A group meeting the eligibility requirements of section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 13th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7119 Filed 3-11-76;8:45 am]

[TA-W-614]

ENCHANTRESS FOUNDATIONS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 20, 1976, the Department of Labor received a petition dated February 12, 1976, which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the International Ladies Garment Workers Union, on behalf of the workers and former workers of Enchantress Foundations, Inc. New York, New York (TA-W-614). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with brassieres and girdles produced by Enchantress Foundations, Inc., 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. The investigation 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. A group meeting the eligibility requirements of section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 20th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7114 Filed 3-11-76;8:45 am]

[TA-W-521]

FRANK SALTZ AND SONS, INC. PASSAIC, NEW JERSEY

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-521: 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 19, 1975 in response to a worker petition received on that date which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing men's suit coats and sportcoats at Frank Saltz and Sons, Inc., Passaic, New Jersey.

The notice of investigation was published in the FEDERAL REGISTER on January 12, 1976 (41 FR 1832). No public hearing was requested an none was held.

The information upon which the determination was made was obtained principally from officials of Frank Saltz and Sons, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) 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.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant total or partial separations. The average number of production workers at Frank Saltz and Sons, Inc. decreased 20 percent in 1974 from the 1973 level. Employment of production workers declined 26 percent in 1975 compared to 1974.

Sales or production, or both, have decreased absolutely. Total production at the Frank Saltz firm of men's suit coats and sportcoats declined 36 percent from 1973 to 1974 and 29 percent in 1975 compared to 1974.

Increased imports contributed importantly. Imports of men's and boys' suits increased relative to domestic production and consumption in each year from 1971 to 1973. While imports of men's and boys' suits fell slightly in 1974 compared to 1973, the ratios of imports to domestic production and consumption in 1974 of 9.9 percent and 9.0 percent, respectively, were well above the 1971–1973 average of 8.6 percent and 7.8 percent, respectively. In the first 9 months of 1975, imports of men's and boys' suits increased 86 per-

cent compared to the first 9 months of 1974. The ratio of imports to domestic production increased from 8.7 percent in the first 9 months of 1974 to 19.9 percent in the first 9 months of 1975.

Imports of men's and boys' sportcoats increased their share of the domestic market each year from 1971 to 1974. The ratio of imports to domestic production and consumption increased from 17.1 percent and 14.6 percent, respectively, in 1972 to 22.3 percent and 18.2 percent, respectively, in 1974. The ratio of imports to domestic production increased from 24.6 percent in the first 9 months of 1974 to 41.9 percent in the first 9 months of 1975.

The evidence developed during the Department's investigation indicates that employment and production at Frank Saltz and Sons, Inc. have been adversely affected by increased imports of men's clothing. The major portion of Saltz production is for manufacturers of complete men's apparel. Customers of these manufacturer have reduced purchases of men's apparel in favor of less expensive imported clothing.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's suit coats and sportcoats produced at Frank Saltz and Sons, Inc. contributed importantly to the total or partial separations of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All hourly, piecework and salaried workers at Frank Saltz and Sons, Inc., Passaic, New Jersey who became totally or partially separated from employment on or after December 10, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade of 1974.

Signed at Washington, D.C., this 27th day of February 1976.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.76-7102 Filed 3-11-76;8:45 am]

[TA-W-632]

GILMORE STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 27, 1976, the Department of Labor received a petition dated February 18, 1976, which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America, on behalf of the workers and former workers of Gilmore Steel Direct Reduction Division of Gilmore Steel Corporation, Portland, Oregon (TA-W-632). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with steel produced by Gilmore Steel Corporation, or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of 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. The investigation 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. A group meeting the eligibility requirements of section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 27th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7115 Filed 3-11-76;8:45 am]

[TA-W-636]

GTE SYLVANIA INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 27, 1976, the Department of Labor received a petition dated February 4, 1976, which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America, AFL-CIO, on behalf of the workers and former workers of Seneca Falls, New York, New York plant of GTE Sylvania, Inc., Stamford, Connecticut (TA-W-636). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with television picture tubes produced by GTE Sylvania Inc. 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 27th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76 7116 Filed 3-11-76;8:45 am]

[TA-W-404]

INTERNATIONAL HARVESTER CO., TRUCK DIVISION, INDIANAPOLIS, INDIANA

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-404: 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 17, 1975 in response to a worker petition received on December 17, 1975 which was filed by the International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW) on behalf of workers formerly producing engines and component parts for trucks at the Indianapolis, Indiana plant of International Harvester Company, Truck Division, Chicago, Illinois.

The notice of investigation was published in the FEDERAL REGISTER on January 7, 1976 (41 FR 1343). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of International Harvester Company, the U.S. International Trade Commission, the U.S. Department of Commerce, Motor Vehicle Manufacturers Association, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assist-

ance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers at such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) 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.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant total or partial separations. The average number of production workers declined 20.8 percent from 1974 to 1975. Beginning in the first quarter of 1975, average employment declined in three consecutive quarters, from the previous quarter.

The average number of salaried workers declined 15 percent from 1974 to 1975.

In 1975, separations equaled 64.5 percent of average employment. Significant layoffs occurred in the second and third quarters of 1975.

Sales or production, or both, have decreased absolutely. All data were recorded in fiscal year periods extending from November to October.

International Harvester's sales of pickup trucks, assembled at Springfield, declined 26.0 percent from FY 1973 to FY 1974 and declined 70.7 percent from FY 1974 to FY 1975.

Indianapolis produced engines and components only.

The dollar value of production of component parts (brake drums) declined 51.1 percent in the third quarter of FY 1975 compared to the third quarter of FY 1974.

The dollar value of production of engines declined 20.3 percent in the third quarter of FY 1975 compared to the third quarter of 1974.

Approximately 23.0 percent of engines and components produced at Indianapolis were used in the production of pickup trucks at Springfield in FY 1974. The proportion declined to 8.6 percent in the first seven months of FY 1975, as production of pickup trucks was reduced. All engines for pickup trucks were produced at Indianapolis.

Increased imports contributed importantly. Imports of vehicles like or directly competitive with pickup trucks produced by the IH Truck Division increased from 143 thousand units in 1971 to 321 thousands units in 1974. The ratios of imports to domestic production and consumption increased from 12.7 percent and 11.5 percent, respectively in 1971 to 22.4 percent and 19.4 percent in 1974. The I/P and I/C ratios increased from 23.1 percent and 19.8 percent, respectively in the first nine months of 1974 to 27.6 percent and 23.2 percent in the first nine months of 1975.

Imports of sportwagons and medium-duty and heavy-duty trucks like or directly competitive with other trucks manufactured by IH are negligible. Travelalls and Travelettes are not like or directly competitive with pickup trucks. Both vehicles have a four-door two-seat construction that is more closely alligned with sportwagons.

Beginning in 1974 and continuing through 1975, IH's sales of all sizes of trucks declined as a result of economic conditions. Sales of pickup trucks, in particular, were adversely affected by increased fuel coats. Imported pickup trucks offered a practical alternative to IH's model. Functionally comparable to the IH pickup truck, imports offered greater fuel economy and a lower retail price. Imports gained an increasing share of the pickup truck market formerly held by domestic producers. Only one domestic producer supplied a greater share of the U.S. pickup market in 1974 compared with 1971. Two other domestic producers also import considerable quantities of pickup trucks.

Sales of IH pickup trucks (which are higher priced than other domestic models) declined sharply in 1974. In FY 1973, light-duty trucks represented 28.2 percent in the first seven months of FY proportion declined to 19.6 percent in FY 1974. In January 1975, the company announced its decision to discontinue all light-duty truck production. Final assembly of light-duty trucks was performed at Springfield. Pickup trucks represented approximately 67 percent of total light-duty truck production in FY 1973, 82 percent in FY 1974, and 72 percent in the first seven months of FY 1975. In addition, various components used in the production of pickup trucks were manufactured at Indianapolis. Consequently, as production schedules for pickup trucks were reduced, production of components at Indianapolis declined and employees were separated. Production of Travelalls, Travelettes, and pickup trucks was discontinued in May 1975.

Conclusion. After careful review of the facts obtained in this investigation, I conclude that increases of imports like or directly competitive with pickup trucks produced by the Truck Division of International Harvester Company contributed importantly to the total or partial separation of workers at the Indianapolis plant. In accordance with the provisions of the Act, I make the following certification:

All hourly, piecework and salaried workers engaged in employment related to the production of pickup trucks at the Indianapolis plant of International Harvester Company Truck Division who became totally or partially separated from employment on or after November 25, 1974 and before June 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of February 1976.

JAMES F. TAYLOR,
Director,
Planning and Evaluation Staff.

[FR Doc.76-7103 Filed 3-11-76;8:45 am]

[TA-W-406]

INTERNATIONAL HARVESTER CO., TRUCK DIVISION, SHADYSIDE, 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-406: 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 17, 1975 in response to a worker petition received on December 17, 1975 which was filed by the International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW) on behalf of workers formerly producing component parts for trucks at the Shadyside, Ohio plant of International Harvester Company, Truck Division, Chicago, Illinois.

The notice of investigation was published in the FEDERAL REGISTER on January 7, 1976 (41 FR 1343). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of International Harvester Company, the U.S. International Trade Commission, the U.S. Department of Commerce, Motor Vehicle Manufacturers Association, 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.

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) 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.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant total or partial separations. The average number of production workers declined 14.7 percent from 1974 to 1975. From the second quarter of 1974 to the fourth quarter of 1975 average em-

ployment declined in each quarter compared to the same quarter of the previous year.

The average number of salaried workers declined 21.9 percent from 1974 to 1975.

In 1975, separations equaled 60.5 percent of average employment. Significant layoffs occurred in the first three quarters of 1975.

Sales or production, or both, have decreased absolutely. All data were recorded in fiscal year periods extending from November to October.

International Harvester's sales of pickup trucks, assembled at Springfield, declined 26.0 percent from FY 1973 to FY 1974 and declined 70.7 percent from FY 1974 to FY 1975.

Shadyside produced components only.

The dollar value of production of component parts (sheetmetal stampings) declined 0.8 percent in the third quarter of FY 1975 compared to the third quarter of FY 1974. Component production declined 12 percent from the first to the second quarter of FY 1975 and 28.4 percent from the second to the third quarter. Approximately 50.0 percent of components produced at Shadyside were used in the production of pickup trucks at Springfield in FY 1974. The proportion declined to 42.9 percent in the first seven months of FY 1975, as production of pickup trucks was reduced.

Increased imports contributed importantly. Imports of vehicles like or directly competitive with pickup trucks produced by the IH Truck Division increased from 143 thousand units in 1971 to 321 thousand units in 1974. The ratios of imports to domestic production and consumption increased from 12.7 percent and 11.5 percent, respectively in 1971 to 22.4 percent and 19.4 percent in 1974. The I/P and I/C ratios increased from 23.1 percent and 19.8 percent, respectively in the first nine months of 1974 to 27.6 percent and 23.2 percent in the first nine months of 1975.

Imports of sportwagons, medium-duty, and heavy-duty trucks, like or directly competitive with other trucks manufactured by IH are negligible. Travelalls and Travelettes are not like or directively competitive with pickup trucks. Both vehicles have a four-door two-seat construction that is more closely aligned with sportwagons.

Beginning in 1974 and continuing through 1975, IH's sales of all sizes of trucks declined as a result of economic conditions. Sales of pickup trucks, in particular, were adversely affected by increased fuel costs. Imported pickup trucks offered a practical alternative to IH's model. Functionally comparable to the IH pickup truck, imports offered greater fuel economy and a lower retail price. Imports gained an increasing share of the pickup truck market formerly held by domestic producers. Only one domestic producer supplied a greater share of the U.S. pickup market in 1974 compared with 1971. Two other domestic producers also import considerable quantities of pickup trucks.

Sales of IH pickup trucks (which are higher priced than other domestic models) declined sharply in 1974. In FY 1973, light-duty trucks represented 28.2 percent of total IH truck production. The proportion declined to 19.6 percent in FY 1974. In January 1975, the company announced its decision to discontinue all light-duty truck production. Finally assembly of light-duty trucks were performed at Springfield. Pickup trucks represented approximately 67 percent of total light-duty truck production in FY 1973, 82 percent in FY 1974, and 72 percent in the first seven months of FY 1975.

In addition, various components used in the production of pickup trucks were manufactured at Shadyside. Consequently, as production schedules for pickup trucks were reduced, production of components at Shadyside declined and employees were separated. Production of Travelalls, Travelettes, and pickups was discontinued in May 1975.

Conclusion. After careful review of the facts obtained in this investigation, I conclude that increases of imports like or directly competitive with pickup trucks produced by the Truck Division of International Harvester Company contributed importantly to the total or partial separation of workers at the Shadyside plant. In accordance with the provisions of the Act, I make the following certification:

All hourly, piecework and salaried workers engaged in employment related to the production of pickup trucks at the Shadyside plant of International Harvester Company Truck Division who became totally or partially separated from employment on or after November 25, 1974 and before June 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of February 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-7104 Filed 3-11-76;8:45 am]

[TA-W-407]

INTERNATIONAL HARVESTER CO., TRUCK DIVISION, SPRINGFIELD, 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-407: 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 17, 1975 in response to a worker petition received on December 17, 1975 which was filed by the International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW) on behalf of workers formerly producing component parts for trucks at the Springfield, Ohio plant of International Harvester Company, Truck Division, Chicago, Illinois.

The notice of investigation was published in the FEDERAL REGISTER on January 7, 1976 (41 FR 1343). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of International Harvester Company, the U.S. International Trade Commission, the U.S. Department of Commerce, Motor Vehicle Manufacturers Association, 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.

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) 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.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant total or partial separations. The average number of production workers declined 35.4 percent from 1974 to 1975. Average employment declined in each quarter of 1975 from the previous quarter.

The average number of salaried workers declined 23.1 percent from 1974 to 1975.

In 1975, separations equaled 106.4 percent of average employment. Labor turnover data show that layoffs occurred in the fourth quarter of 1974. Significant layoffs continued in the first three quarters of 1975.

Sales or production, or both, have decreased absolutely. All data were recorded in fiscal year periods, extending from November to October.

International Harvester's sales of pickup trucks assembled at Springfield declined 26.0 percent from FY 1973 to FY 1974 and declined 70.7 percent from FY 1974 to FY 1975.

International Harvester's sales of Travelalls and Travelettes assembled at Springfield declined 36.5 percent from FY 1973 to FY 1974 and declined 47.1 percent from FY 1974 to FY 1975.

International Harvester's sales of medium-duty trucks assembled at Springfield declined 0.2 percent from FY 1973 to FY 1974 and declined 16.9 percent from FY 1974 to FY 1975.

Production of pickup trucks at Springfield declined 12.0 percent from FY 1973 to FY 1974, and declined 68.2 percent in the first seven months of FY 1975 compared to the first seven months of FY 1974. Production of pickup trucks was discontinued in May 1975.

Production of Travelalls and Travelettes, declined 62.0 percent from FY 1973 to FY 1974 and declined 34.4 percent in the first seven months of FY 1975 compared to the first seven months of FY 1974. Production of Travelalls and Travelettes was discontinued in May 1975.

Production of medium-duty trucks increased 9.5 percent from FY 1973 to FY 1974 and declined 25.8 percent from FY 1974 to FY 1975.

Pickup trucks represented 43.5 percent of all finished trucks assembled at Springfield in FY 1974 and 22.6 percent in the first seven months of FY 1975.

Increased imports contributed importantly. Imports of vehicles like or directly competitive with pickup trucks produced by the IH Truck Division increased from 143 thousand units in 1971 to 321 thousand units in 1974. The ratios of imports to domestic production and consumption increased from 12.7 percent and 11.5 percent, respectively in 1971 to 22.4 percent and 19.4 percent in 1974. The I/P and I/C ratios increased from 23.1 percent and 19.8 percent, respectively in the first nine months of 1974 to 27.6 percent and 23.2 percent in the first nine months of 1975.

Imports of sportwagons and medium-duty trucks like or directly competitive with other trucks produced by IH are negligible. Travelalls and Travelettes are not like or directly competitive with pickup trucks. Both vehicles have a four-door two-seat construction that is more closely aligned with sportwagons.

Beginning in 1974 and continuing through 1974, IH's sales of all sizes of trucks declined as a result of economic conditions. Sales of pickup trucks, in particular, were adversely affected by increased fuel costs. Imported pickup trucks offered a practical alternative to IH's model. Functionally comparable to the IH pickup truck, imports offered greater fuel economy and a lower retail price. Imports gained an increasing share of the pickup truck market formerly held by domestic producers. Only one domestic producer supplied a greater share of the U.S. market in 1974 compared with 1971. Two other domestic producers also import considerable quantities of pickup trucks.

Sales of IH pickup trucks (which are higher priced than other domestic models) declined sharply in 1974. In FY 1973, light-duty trucks represented 28.2 percent of total IH truck production. The proportion declined to 19.6 percent in FY 1974. In January 1975, the company announced its decision to discontinue all light-duty truck production. Final assembly of light-duty trucks was performed at Springfield. Production of Travelalls, Travelettes, and pickup trucks was discontinued in May 1975.

Conclusion. After careful review of the facts obtained in this investigation, I conclude that increases of imports like or directly competitive with pickup trucks produced by the Truck Division of International Harvester Company contributed importantly to the total or partial separation of workers at the Springfield plant. In accordance with the provisions of the Act, I make the following certification:

All hourly, piecework and salaried workers engaged in employment related to the production of pickup trucks at the Springfield plant of International Harvester Company Truck Division who became totally or partially separated from employment on or after November 25, 1974 and before July 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of February 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-7105 Filed 3-11-76;8:45 am]

[TA-W-408]

INTERNATIONAL HARVESTER CO., TRUCK DIVISION, SAN LEANDRO, CALIFORNIA

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-408: 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 17, 1975 in response to a worker petition received on December 17, 1975 which was filed by the International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW) on behalf of workers formerly producing heavy-duty trucks at the San Leandro, California plant of International Harvester Company, Truck Division, Chicago, Illinois.

The notice of investigation was published in the FEDERAL REGISTER on January 7, 1976 (41 FR 1343). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of International Harvester Company, the U.S. International Trade Commission, the U.S. Department of Commerce, Motor Vehicle Manufacturers Association, 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:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) 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 declined in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant total or partial separations. The average number of production workers declined 63.1 percent in the first seven months of 1975 compared to the first seven months of 1974. All production employment was terminated in July 1975.

The average number of salaried workers declined 66.7 percent in the first seven months of 1975 compared to the first seven months of 1974.

Sales or production, or both, declined absolutely. All data were recorded in fiscal year periods, extending from November to October.

International Harvester's sales of heavy-duty trucks assembled at San Leandro declined 11.5 percent from FY 1973 to FY 1974 and declined 43.1 percent from FY 1974 to FY 1975.

Production of heavy-duty trucks at San Leandro increased 10.7 percent from FY 1973 to FY 1974 and declined 2.6 percent in the first five months of FY 1975 compared to the first five months of FY 1974. Production was terminated in March 1975.

Increased imports contributed importantly. Imports of heavy-duty trucks, like or directly competitive with those manufactured at San Leandro are negligible.

The San Leandro plant was closed for economic reasons not related to import competition. San Leandro produced heavy-duty trucks exclusively. As demand for heavy-duty trucks declined, the need for a plant to handle the west coast market disappeared. In addition, compliance with more stringent Federal brake standards, effective in March 1975, would have required extensive retooling of production processes at the San Leandro plant. IH felt that large capital expenditures at San Leandro were not justified, considering the plant's marginal production.

Production of the CONCO was transferred from San Leandro to Fort Wayne. Production of heavy-duty cabs was transferred from San Leandro to Springfield. The transfer filled excess capacity created by reduced production of medium- and heavy-duty trucks at those plants. The transfers were in no way related to the termination of light-duty truck production.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with heavy-duty

trucks produced at San Leandro did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C., this 27th day of February 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-7107 Filed 3-11-76;8:45 am]

[TA-W-405]

INTERNATIONAL HARVESTER CO., TRUCK DIVISION, FORT WAYNE, INDIANA

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-405: 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 17, 1975 in response to a worker petition received on December 17, 1975 which was filed by the International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW) on behalf of workers formerly producing Scouts, heavy-duty trucks and component parts at the Fort Wayne, Indiana plant of International Harvester Company, Truck Division, Chicago, Illinois.

The notice of investigation was published in the FEDERAL REGISTER on January 7, 1976 (41 FR 1343). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of International Harvester Company, the U.S. International Trade Commission, the U.S. Department of Commerce, Motor Vehicle Manufacturers Association, 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:

(1) That a significant number or proportion of the workers at such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) 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.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant total or partial separations. The average number of production workers declined 16.1 percent from 1974 to 1975. From the second quarter of 1974 to the fourth quarter of 1975, average employment declined in each quarter compared to the same quarter of the previous year.

The average number of salaried workers declined 17.9 percent from 1974 to 1975.

In 1975, separations equaled 57.6 percent of average employment. Labor turnover data show that layoffs occurred in the fourth quarter of 1974. Significant layoffs continued in the first three quarters of 1975.

Sales or production, or both, have decreased absolutely. All data were recorded in fiscal year periods extending from November to October.

International Harvester's sales of pickup trucks, assembled at Springfield, declined 26.0 percent from FY 1973 to FY 1974 and declined 70.7 percent from FY 1974 to FY 1975.

International Harvester's sales of Scouts assembled at Fort Wayne declined 13.5 percent from FY 1973 to FY 1974 and declined 14.6 percent from FY 1974 to FY 1975.

International Harvester's sales of heavy-duty trucks assembled at Fort Wayne increased 19.0 percent from FY 1973 to FY 1974 and declined 37.5 percent from FY 1974 to FY 1975.

Production of Scouts declined 11.3 percent from FY 1973 to FY 1974 and declined 11.9 percent from FY 1974 to FY 1975.

Production of heavy-duty trucks increased 9.3 percent from FY 1973 to FY 1974 and declined 39.9 percent from FY 1974 to FY 1975.

The dollar value of production of component parts (axles, differentials, transmissions, etc.) declined 18.7 percent in the third quarter of FY 1975 compared to the third quarter of FY 1974. Approximately 5.7 percent of components produced at Fort Wayne were used in the production of pickup trucks at Springfield in FY 1974. The proportion declined to 2.8 percent in the first seven months of FY 1975.

Increased imports contributed importantly. Imports of vehicles like or directly competitive with pickup trucks produced by the IH Truck Division increased from 143 thousand units in 1971 to 321 thousand units in 1974. The ratios of imports to domestic production and consumption increased from 12.7 percent and 11.5 percent, respectively in 1971 to 22.4 percent and 19.4 percent in 1974. The I/P and I/C ratios increased from 23.1 percent and 19.8 percent, respectively in the first nine months of 1974 to 27.6 percent and 23.2 percent in the first nine months of 1975.

Imports of sportwagons, and heavy-duty trucks like or directly competitive with Scouts and heavy-duty trucks assembled at Fort Wayne are negligible.

In FY 1974, only 5.7 percent of components produced at Fort Wayne were used in the final assembly of pickup trucks at Springfield. This proportion declined further, to 2.8 percent in the first seven months of FY 1975.

In addition, components represented only 8.0 percent of the value of total production (including finished trucks) at Fort Wayne in FY 1974 and 10.5 percent in the first seven months of FY 1975.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with pickup trucks, sportwagons, and heavy-duty trucks produced by the Truck Division of International Harvester Company did not contribute importantly to the total or partial separations of the workers at the Fort Wayne plant.

Signed at Washington, D.C., this 27th day of February 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-7108 Filed 3-11-76;8:45 am]

[TA-W-401]

JAY KNITWEAR INC., PHILADELPHIA, PENNSYLVANIA

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-401: 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 12, 1975 in response to a worker petition reecived on that date which was filed by the Knit Goods Union, Philadelphia, Pennsylvania on behalf of workers formerly producing men's and ladies' knitted sportwear at the Jay Knitwear Inc., Philadelphia, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER on January 5, 1976 (41 FR 848). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from an official of the Jay Knitwear Inc., it customers, the U.S. Department of Commerce, and the Knit Goods Union, 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:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) 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.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant total or partial separations. The average number of production workers and average weekly hours worked declined 13 percent and 19 percent respectively in 1974 compared to 1973. The average number of production workers declined 25 percent in the fourth quarter of 1974 compared to the same quarter in 1973. The firm went out of business in December, 1974.

Sales or production, or both, have decreased absolutely. Sales of ladies knit tops and pants which constituted 80 percent and 20 percent, respectively of total sales in 1974 at Jay Knitwear declined 30 percent in 1974 compared to 1973. Sales declined 56 percent in the fourth quarter of 1974 compared to the same quarter in 1973. Production was equal to sales.

Increased imports contributed importantly. Imports of women's misses', juniors' and infants' knit shirts increased absolutely from 68.4 million units in 1970 to 194.4 million units in 1974.

The ratio of imports to domestic consumption and production for women's, misses, juniors' and infants' knit shirts increased from 32.0 percent and 47.0 percent respectively in 1970 to 40.0 percent and 66.7 percent, respectively in 1974.

Imports of women's, girl's, and infants' knit slacks and shorts increased annually from 38.5 million units in 1970 to 80.1 million units in 1973 before declining to 52.1 million units in 1974.

The ratio of imports to domestic consumption and production for women's, girls, and infants' knit slacks and shorts increased from 46.3 percent and 86.1 percent in 1970 to 47.8 percent and 91.5 percent in 1971 and declined annually thereafter to 29.5 percent and 41.9 percent in 1974.

A survey of major apparel distributors in the U.S. concerning purchases of domestic and imported women's and misses' knitted shirts including blouses and shirts, indicates that imports of such products increased 33 percent from 1973 to 1974.

Major retail customers of ladies knitted shirts, blouses, and pants for companies of which Jay Knitwear, Inc. was a subcontractor increased their import purchases of such garments while their domestic purchases for the same garments decreased or increased at a much slower rate in 1974 compared to 1973.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' knitted sportswear produced at the Jay Knitwear Inc., Philadelphia, Pennsylvania contributed importantly 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 Jay Knitwear, Inc., Philadelphia, Pennsylvania who became totally or partially separated from employment on or after November 28, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February 1976.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.76-7106 Filed 3-11-76;8:45 am]

[TA-W-635]

KENNECOTT COPPER CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 27, 1976, the Department of Labor received a petition dated February 18, 1976, which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the International Association of Machinists and Aerospace Workers, on behalf of the workers and former workers of Nevada Mines Division, McGill, Nevada of Kennecott Copper Corporation, New York, New York, (TA-W-635).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with copper produced by Kennecott Copper Corporation, 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. The investigation 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. A group meeting the eligibility requirements of section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 27th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7117 Filed 3-11-76;8:45 am]

[TA-W-547]

MOUNTAINTOP, PENNSYLVANIA PLANT OF RCA CORP., NEW YORK, NEW YORK

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-547: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 13, 1976 in response to a petition received on that date, which was filed by three former employees of the RCA Corporation whose employment was related to the production of semiconductor devices at the Mountaintop, Pennsylvania plant of the RCA Corporation, New York, New York.

The notice of investigation was published in the FEDERAL REGISTER (41 FR 4381) on January 29, 1976. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the RCA Corporation, Department of Commerce, International Trade Commission 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:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) 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.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the first two criteria have been met it is deter-

mined that criterion three has not been met.

Imports of articles like and directly competitive with the articles produced at the Mountaintop plant declined both absolutely and relatively in the first 10 months of 1975 compared to the same period in 1974. Transistor imports in the first 10 months of 1975 were 60 percent less than the same period in 1974. Such imports were eqivalent to 98 percent of domestic production in the first 10 months of 1975 compared to 136 percent of domestic production in the same period of 1974.

This is the second decision on adjustment assistance relating to the Mountaintop plant. An earlier decision (TA–W–7) issued June 13, 1975, certified all hourly and salaried workers at the Mountaintop plant who became totally or partially separated from employment on or after October 19, 1974, and before March 31, 1975. In the course of the current investigation, it was determined that employment levels at the Mountaintop plant remained relatively stable in the latter half of 1975 and that the layoffs of salaried employees which occurred in December 1975 was unrelated to import competition.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with power transistors produced by the Mountaintop, Pennsylvania plant of RCA Corporation did not contribute importantly to the total or partial separation of workers after March 30, 1975, and that workers separated from employment after that date are not eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February 1976.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.76–7109 Filed 3–11–76;8:45 am]

[TA–W–525]

OXFORD TILE CO., CAMBRIDGE, OHIO

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–525: 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 19, 1975 in response to a worker petition received on December 19, 1975 which was filed by the International Brotherhood of Pottery and Allied Workers on behalf of workers formerly producing ceramic wall tile at the Cambridge, Ohio plant of the Oxford Tile Company.

The notice of investigation was published in the FEDERAL REGISTER on January 12, 1976 (41 FR 1835). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Oxford Tile, its customers, the Tile Council, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affrmative 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:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales, production, or both, of such firm or subdivision have decreased absolutely, and

(3) 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.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant total or partial separations. The average number of production workers declined 7 percent from 1973 to 1974 and 49 percent from 1974 to 1975. Average weekly hours worked by production workers declined 8 percent from 1973 to 1974 and 33 percent from 1974 to 1975.

Sales or production, or both, have decreased absolutely. Sales of ceramic wall tile from the Cambridge plant declined 13 percent in 1974 compared to 1973, and 33 percent in 1975 compared to 1974. Production declined 12 percent from 1973 to 1974 and 44 percent in 1975 compared to 1974.

Increased imports contributed importantly. Imports of articles like or directly competitive with those produced at the Cambridge plant fluctuated throughout the 1970's. Imports of ceramic wall tile decreased from 62.0 million square feet in the first nine months of 1974 to 37.7 million square feet in the first nine months of 1975.

The ratios of imports to domestic consumption and production decreased from 27.3 percent and 37.2 percent respectively in the first nine months of 1974 to 22.1 percent and 28.2 percent respectively in the first nine months of 1975.

Sales and production declined during 1974 and 1975 due to the depression in the construction industry.

Customers surveyed during the course of the investigation have not switched to imported ceramic wall tile. Only two of the eleven customers surveyed purchase any imported tile, and one of those is decreasing purchases of imported tile.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ceramic wall tile produced at the Cambridge, Ohio plant did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C., this 27th day of February 1976.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76–7110 Filed 3–11–76;8:45 am]

[TA–W–633]

PENN FOOTWEAR CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 27, 1976, the Department of Labor received a petition dated February 19, 1976, which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the Boot and Shoe Workers' Union, on behalf of the workers and former workers of Penn Footwear Company, Nanticoke, Pennsylvania (TA–W–633). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with children's, ladies' casual shoes and babies' infant shoes produced by Penn Footwear Company 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 The investigation 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. A group meeting the eligibility requirements of section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 27th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7118 Filed 3-11-76;8:45 am]

[TA-W-634]

TOP-O-MART CLOTHES, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 27, 1976, the Department of Labor received a petition dated February 3, 1976, which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the Amalgamated Clothing Workers of America, on behalf of the workers and former workers of Top-O-Mart Clothes, Inc., Vineland, New Jersey (TA-W-634). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purposes of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's suits and sport coats produced by Top-O-Mart Clothes, Inc. 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. The investigation 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. A group meeting the eligibility requirements of section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 27th day of February 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-7120 Filed 3-11-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-12157; File No. S7-618]

GENERAL INQUIRY ON EXCHANGE RULES

Announcement Relating to Membership and Association With Members; Publication of Staff Synopsis Reviewing History; Request for Comments

MARCH 2, 1976.

The Commission today announced that it was undertaking a general inquiry with respect to rules of national securities exchanges ("exchanges") relating to membership and association with members in light of the amendments made by the Securities Acts Amendments of 1975 [1] to the Securities Exchange Act of 1934.[2] As indicated more fully below, a principal concern recently with such rules has been the issue of "foreign membership." In order to provide background information for interested persons, the Commission also is releasing the following staff synopsis relating to exchange membership and association with members, with emphasis on foreign aspects.

I. INTRODUCTION

On February 8, 1974, the Commission published a release requesting comments on a series of questions concerning the issues of foreign membership in the national securities exchanges and foreign access to the U.S. securities markets (the "Foreign Membership Release").[3] Information was sought on the need for, and desirability of, changes in the rules, policies, practices, and procedures of the Commission and of the exchanges and the National Association of Securities Dealers, Inc. (the "NASD") with respect to the appropriate terms and conditions for foreign participation, by whatever means, in the U.S. securities markets. Although the Commission previously had referred to aspects of "foreign access," [4] the Foreign Membership Release marked the first time that the Commission formally had requested a discussion of the issues and problems by interested persons. Theretofore, exchanges had had the primary responsibility for prescribing conditions under which foreign persons could obtain membership or access.[5] Generally, the New York Stock Exchange, Inc. (the "NYSE") and the American Stock Exchange (the "Amex") placed strict restrictions on the availability of membership or access to foreign persons in comparison to the regional exchanges. With the enactment of the 1975 Amendments, the statutory framework within which foreign membership questions may be considered was revised substantially. The effect of that revision was initially reviewed in an exchange of letters between the NYSE and the Commission.[6]

On February 5, 1976, the NYSE filed with the Commission pursuant to Section 19(b)(1) of the Act proposed Rules 309 and 310 [7] which would limit foreign membership on the NYSE. On February 25, 1976, the Commission advised the NYSE of the forthcoming institution of the inquiry on exchange rules relating to membership and association with members and suggested withdrawal of such proposed rules pending the completion or further progress of the inquiry.[8]

II. HISTORY

A. *Background.* For several years there has been a dichotomy in the treatment by exchanges of foreign entities applying for membership. The NYSE and the Amex have over the years regulated membership on their respective exchanges by reference to three basic criteria: financial responsibility, competency and the characteristics of any controlling person of the applicant (the so-called "parent test"). Of course, an applicant has always been required to purchase a seat from an existing seatholder.

The parent test was designed to prohibit membership for broker-dealer applicants if their parent was an institution or a foreign entity. The restriction was generally thought to be an attempt to prevent institutions and foreign entities from having an opportunity to "recapture" commissions paid on their portfolio brokerage transactions; the parent, of course, would have a claim on any profits of the subsidiary derived from brokerage commissions paid by the parent to the subsidiary. While the abolition of fixed minimum commission rates has largely eliminated the need to view ownership of exchange member firms by institutions as a recapture device, NYSE rules continue to apply a "primary purpose" test, provide that ownership of the capital or profit of a member organization, by all persons as a group who are not United States or Canadian citizens shall not exceed 45%, require each applicant to be a U.S. citizen, and forbid any member corporation from having a board of directors with less than a majority of members or allied members of the exchange.[9] In the 1960's, the regional exchanges saw an opportunity to compete with the NYSE and the Amex for business and adopted comparatively liberal rules with respect to membership by subsidiaries of institutions and foreign entities to become members. The Midwest Stock Exchange, for example, grants membership to any applicant who is at least 21 years old and a citizen of the United States or an approved country, e.g., United Kingdom, Switzerland, West Germany, Belgium, France, The Netherlands, Italy, and Japan, and who satisfies other basic criteria.[10] And many such subsidiaries did become members, particularly of the PBW, Boston and Pacific Stock Exchanges.[11]

Following three months of hearings in the Fall of 1971, the Commission determined that exchanges should be required to have uniform membership provisions in certain respects.[12] During the period in which fixed minimum commission rates for exchange transactions were permitted to continue in effect, the Commission was persuaded that institutions should not be permitted to have broker-dealer subsidiaries on exchanges solely for the purpose of recapturing commission dollars.[13] At the same time,

See footnotes at end of document.

however, the Commission did not perceive any "reason either of law or policy" [14] why exchanges should be able to exclude broker-dealer subsidiaries of institutions if those subsidiaries intended to do business for the general public. In other words, before the complete phase-out of fixed rates, institutions would have to treat their subsidiaries as separate profit centers and not as recapture mechanisms. This determination "necessarily implied elimination of the so-called 'parent test.'" [15]

The Commission did not come to firm conclusions at that time, however, with respect to subsidiaries of foreign entities. The Commission recognized that: "[I]t is relevant to a discussion of exchange membership to consider whether brokers conducting a public business but controlled or owned by foreign entities should be permitted to become members of our exchanges." [16] But operating under the Act prior to its revision by the 1975 Amendments, the Commission offered only a suggestion for resolution of the foreign membership question "in the context of reciprocal access to foreign securities exchanges, with the goal of open access under equivalent competitive conditions for all qualified brokers of all nations." [17]

In 1973, the Commission adopted Rule 19b-2, now rescinded,[18] with respect to the appropriate utilization of exchange membership during the transition to competitively determined commission rates. In noting that it was abrogating the parent test, the Commission stated:

> As adopted, Rule 19b-2 requires each securities exchange registered with the Commission to make exchange membership available to any person or entity, assuming minimum stnadards of financial responsibility and competency are met, provided only that each member demonstrate his commitment to compete for the public's exchange securities business.[19]

The Commission continued, however, to hold open the foreign membership question: "The Commission is not now prepared to mandate that all exchanges must permit such members [*i.e.*, affiliates prepared to mandate that all exchanges must not. This issue needs more study and analysis." [20] The Commission reiterated this position three months later:

> The interest of foreign investors in purchasing and selling U.S. securities has increased considerably within the last few years. Commensurate with this increased trading interest, foreign brokers and foreign banks performing the brokerage function have increasingly sought wider access to our securities markets to perform brokerage services for their customers. Subsidiaries of a number of such foreign banks and brokers currently are members of those national securities exchanges which permit such membership * * *.
>
> At least until competitive rates are introduced domestically, it may be expected that the interest of foreign broker-dealers and institutions in membership on and access to U.S. exchanges will continue to be strong. This interest, however, raises a number of problems, including difficulties of adequate exchange surveillance and inspection programs, particularly in view of secrecy laws in some countries, and foreign enforcement of exchange rules * * *.
>
> In view of these potential regulatory problems, and the general paucity of data and expertise in this area, the Commission feels that it is necessary and appropriate to study and analyze the terms and conditions, if any, upon which foreign participation in our securities markets should be permitted. To assist the Commission in studying the subject of foreign access, we contemplate issuing a release in the near future requesting public comments on a variety of issues.[21]

Subsequently, in response to the Foreign Membership Release, 47 respondents submitted approximately 400 pages of comments. They represented foreign banks, foreign broker-dealers, U.S. affiliates of foreign broker-dealers, national securities exchanges, the NASD, the Securities Industry Association (the "SIA"), U.S. broker-dealers, one foreign stock exchange, the Association of German Stock Exchanges, and other persons. A summary of the responses is set forth as Appendix A.

The NYSE in response to the Foreign Membership Release revised and reissued its policy statement. Its three-pronged position stated:

> (1) There should be a uniform national policy (in place of the separate approaches of the NYSE and the Amex in comparison to the regional exchanges).
>
> (2) Foreign-controlled broker-dealers operating in the U.S. should be required to conform to all U.S. laws, including the Class-Steagall Act.
>
> (3) Foreign access generally should be permitted only on the basis of "mutual nondiscrimination," under which U.S. broker-dealers would be accorded national status in foreign countries.[22]

The principle of "mutual nondiscrimination," as expounded by the NYSE, means that direct access to exchanges for a broker-dealer controlled by a foreign institution (not doing commercial banking in the United States) would be linked to a grant of "national treatment," in the country of organization of the foreign institution, for U.S. controlled broker-dealers. National treatment in turn, contemplates a U.S. broker-dealer (or its subsidiary) being subject to regulation which, in the NYSE's judgement, is equal to but no greater than what a broker-dealer would receive in its domiciliary country.[23]

The impact of the National Banking Act of 1933 (the "Class-Steagall Act") on the issue of the provision of brokerage services and exchange membership has been the subject of some controversy. While one commercial bank is a NYSE member, the NYSE generally has maintained that a combination of commercial banking and brokerage activities is prohibited by the Glass-Steagall Act.[24] The Glass-Steagall Act generally prohibits national banks and Federal Reserve member banks from engaging both in commercial and investment banking activities, that is, "dealing" in corporate securities. It also prohibits those engaged in an investment banking business from accepting deposits subject to check. In continental Europe, however, banks frequently conduct both commercial and investment banking activities. U.S. banks, operating through "Edge Act" corporations, are released from the proscriptions of the Glass-Steagall Act with respect to investment banking activities in those countries which permit a combination of commercial and investment banking, nad generally compete in all areas of activities permitted in the particular country.[25]

In practice, an anomaly has developed in the administration and interpretation of the Glass-Steagall Act in the United States. Foreign banks have formed two sets of subsidiaries to operate in the United States; one does commercial banking as a state chartered bank (or the parent may open an agency, branch, or representative office licensed under state law), without joining the Federal Reserve, and therefore escapes that part of the prohibition of the Glass-Steagall Act applicable to commercial banks. The other subsidiary does investment banking. No question has been raised under the Glass-Steagall Act; yet, it is accepted that an American bank (or investment bank) could not achieve the same result by, for example, using an off-shore subsidiary as a vehicle through which to control an investment banking (or commercial banking) business.[26] The anomaly has generated proposed legislation which would retroactively cure the initial interpretative lacuna; in some versions, the proposal would grandfather existing foreign-controlled and combinations of subsidiaries doing investment banking and commercial banking within the United States.[27]

B. *The 1975 Amendments.* Section 6 of the Act, before the 1975 Amendments, did not make any reference to standards for exchange membership and provided specifically that nothing in the Act was to be construed to prevent any exchange from adopting and enforcing any rule not inconsistent with the Act.[28] The 1975 Amendments radically altered the statutory framework, by providing in amended Section 6 of the Act a comprehensive set of standards for exchanges. The 1975 Amendments were the culmination of a five-year legislative process to overhaul the Act and to provide additional regulatory authority to the Commission in order to facilitate the development of a national market system.

While the legislative drafting had started several years earlier, the Senate did not address the issue of membership standards on exchanges until January 17, 1975, when S. 249 was introduced.[29] That bill contained the membership provisions which later became law on June 4, 1975; Section 6(b)(2) states generally that any registered broker-dealer may become a member subject only to the provisions of Section 6(c) which delineates the grounds upon which membership may be denied.

S. 249, as introduced on January 17, 1975, was in effect a consolidation of all the previous Senate securities bills, i.e., S. 470 (commission rates and institutional membership), S. 2519 (national

See footnotes at end of document.

market system), S. 2474 (municipal securities) and S. 2058 (clearing and processing) which had been passed in the preceding Congress but not acted upon by the House. The membership provisions of S. 249 as introduced on January 17, 1975, were taken from H.R. 5050.

The House never directly addressed the issue of foreign ownership of an exchange member firm, preferring a broader examination of the "seat" concept. H.R. 5050 as originally introduced on March 3, 1973, contained what was called an "open membership" provision. Proposed Section 6(b)(2), as set forth in H.R. 5050, would have required:

> [That] * * * the rules of the exchanges provide that any broker or dealer registered under this title may become a member of such exchange in conformity with the requirements of subsection (m) of this section.

Section 6(m) of H.R. 5050 then stated the only grounds on which membership could be denied; failure to meet competency and financial responsibility standards. In addition, Section 6(m) permitted an exchange to limit the number of members allowed on the floor, but not the number of memberships generally available. The NYSE, in its testimony on H.R. 5050,[30] stated that it could not support the open membership and competitive commission rate provisions.[31] While the NYSE submitted its foreign access position for the record,[32] the NYSE witnesses focused on the more fundamental ramifications of open exchange membership. While S. 249, as introduced on January 17, 1975, had the open membership provisions (including the provision permitting an exchange to limit *only* the number of members permitted on the floor), the 1975 Amendments as finally enacted included a Section 6(c)(4) which permits exchanges to limit the number of all members, not just those permitted on the floor, subject to Commission oversight.

During early 1975, the NYSE for the first time pressed publicly for a right to limit membership by subsidiaries of foreign entities. A NYSE memorandum of comments on S. 249 noted:

> Subparagraphs (A) and (B) of paragraph (2) [of proposed new § 6(c)] severely limit the bases on which an exchange may deny or condition membership or bar a person from becoming associated with a member. As written paragraph (2) would require the exchange to admit to membership foreign broker-dealers or broker-dealers having foreign parents. In addition, a whole host of other requirements would necessarily be eliminated as a matter of federal law. For example, the longtsanding NYSE requirement that the "primary purpose" of every member organization must be the transaction of business as a broker or dealer in securities would be abrogated, though there has been no showing, to our knowledge, that this provision is not an entirely appropriate requirement based upon sound regulatory considerations. Indeed, the Commission has not quarreled with this position.
>
> Subsection (c) of the Bill should be amended so as to permit an exchange to deny or condition membership or to bar or to condition a natural person from becoming associated with a member on any basis provided in its rules which is found acceptable by the Commission and is consistent with the requirements of the Act, and the rules thereunder.[33]

The NYSE stated that one of the five most important deficiencies in the legislation was the manner in which foreign access was treated. The NYSE Chairman summarized the extensive NYSE memorandum of objection as follows:

> If I may just summarize now, the major problems we find in the current draft of S. 249—and which are discussed at greater length in the memorandum attached to my prepared statement:
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> * * * * *
>
> 5. We believe the bill should not permit open access to U.S. markets for foreign broker-dealers without the addition of suitable reciprocal provisions.[34]

Both the House and Senate were made aware of the opposition of the NYSE to the fact that Section 6 would permit a subsidiary of a foreign entity to become a member of an exchange. Nevertheless, the basic membership provisions were not revised.[35] Instead, an amendment to Section 6(c), i.e., Section 6(c)(3)(C), was proposed, authorizing an exchange to bar any person from becoming associated with a member if such person does not agree: (1) to supply to the exchange information with respect to its relationship and dealings as specified by exchange rules; and (2) to permit the examination of its books and records to verify the accuracy of any information so supplied. Section 6(c)(3)(C) provides only that the associated person must permit examination. The drafting thus allows development of flexible procedures, under appropriate circumstances, for examination of associated persons by a reputable third party. Section 6(c)(3)(C) would insure that an exchange could monitor compliance with, for example, Section 11(a), which makes it unlawful for a member to effect a transaction on the exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises investment discretion. The prohibition on members' trading for an associated person is sufficiently broad so as to prohibit a member firm from effecting any transaction for the account of a parent or sister corporation, regardless of the economic interests of the parent or sister corporation in the account. That prohibition reaches all transactions effected by a member for an omnibus account carried in the name of its parent or subsidiary or other associated person—foreign or domestic.[36] Absent any justifiable regulatory reason, however, it would appear appropriate to subject transactions by a member firm for its foreign subsidiaries to the same tests as transactions by a member firm for its foreign parent. Many of the problems which are viewed as stemming from increased access to United States securities markets by foreign persons may be present also in the case of existing member firms doing business for foreign subsidiaries and affiliates.[37]

Thus, while the Act no longer permits exchanges to use any variation of a "parent" test, there are a variety of provisions that may be brought to bear on regulatory problems including those, if any, associated with foreign membership. For example, whereas questions relating to membership and association with members are treated primarily in Section 6, the Commission is authorized to adjust regulation to fit particular circumstances by provisions such as Sections 11(a) and 23(a). In general, however, the provisions of Section 6 appear to be primarily the relevant provision for exchange rules.

C. *Recent Developments.* On November 13, 1975, James J. Needham, Chairman of the NYSE, wrote Chairman Hills to review the recent history of the dialogue between the Commission and the NYSE with respect to foreign membership.[38] The Chairman responded on December 4, 1975, pointing out:

> (1) The 1975 Amendments altered the context in which "foreign access" issues could be considered;
>
> (2) The Commission's staff was of the view that, under Section 6 of the Act, an exchange may not deny membership to a registered broker-dealer solely because it is owned or controlled by foreign persons; and
>
> (3) Exchanges, subject to Commission review under Section 19(b) of the Act, and the Commission possess broad discretionary authority to regulate, in furtherance of the purposes of the Act, the utilization of foreign controlled or affiliated members.

The Commission subsequently proposed for comment[39] Securities Exchange Act Rule 11a1–2, which would apply a look-through approach to transactions effected for affiliates of members regardless of whether the affiliates were foreign or domestic and whether or not the foreign affiliate was a parent of a member firm or a subsidiary of a member firm. The Commission has also asked a number of questions relating to foreign membership in the context of Section 11(a) of the Act with a view to refocusing the analysis of issues and problems, if any, presented by foreign membership and membership generally in terms of the new statutory scheme under the 1975 Amendments as well as the changes in the United States securities markets which are occurring as a consequence of the elimination of fixed commission rates.

In regard to the recent filing of two proposed rule changes by the NYSE, the Commission, as noted earlier, advised the NYSE of the forthcoming inquiry on exchange rules relating to membership and association with members and suggested the NYSE consider withdrawal of such proposed rules pending completion or further progress of the inquiry.[40] Proposed NYSE Rule 309 would exclude from membership any member organization whose parent is not a citizen of the United States or a corporation or partnership created or organized under the laws of the United States, but whose parent's nation of domicile and/or principal place of business grants "similar access or affiliation" to U.S. broker-dealers and

See footnotes at end of document.

their affiliates. Proposed NYSE Rule 310 would prohibit a member organization, or its associate, from being or functioning as a commercial bank within the United States or any State thereof.[41]

The Commission has today written to each exchange as follows:

The Commission is currently considering making an inquiry with respect to certain exchange rules pertaining to membership and association with members that do not appear to comply with Section 6 of the Securities Exchange Act of 1934 (the "Act"). In particular, it appears to the Commission at this time that rules of exchanges relating to membership and association with members, such as the rules of your exchange which are described in the attached Commission staff memorandum, may not be consistent, in one or more respects, with:

1. Section 6(b)(2) which requires that, subject to the provisions of Section 6(c), exchange rules provide that any registered broker or dealer or natural person associated with a registered broker or dealer may become a member of such exchange and any person may become associated with a member thereof;

2. Section 6(b)(5) which requires in part that the rules of exchanges be designed to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest and that they may not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by the Act matters not related to the purposes of the Act or the administration of the exchange; and

3. Section 6(b)(8) which requires that exchange rules not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Under the Act, the Commission may determine to follow one or more courses of action with respect to particular exchange rules. Under Section 19(c), the Commission may, for example, amend exchange rules if necessary or appropriate to insure the fair administration of the exchange, to conform exchange rules to requirements of the Act and the rules and regulations thereunder applicable to exchanges or otherwise in furtherance of the purposes of the Act. Alternatively, the Commission is authorized under Section 31(b) of the Securities Acts Amendments of 1975, among other things, to impose limitations on the activities, functions and operations of an exchange if the Commission finds, after notice and opportunity for hearing, that the exchange rules do not comply with the Act and if six months' written notice has been given specifying the respects in which the exchange is not in compliance with the Act. In addition, of course, the Commission could determine, in many situations, to adopt its own substantive rules directly or to invoke other remedies as appropriate to ensure compliance with the provisions of the Act.

While the Commission is specifying in this letter certain areas or types of exchange rules which do not appear to comply with particular provisions of the Act, the Commission has not now reached any conclusion on how it will proceed with its inquiry.[1] Nor should the identification of particular exchange rules respecting noncompliance with provisions of the Act be construed to indicate that there may not be questions with respect to compliance of other exchange rules with the Act.

Prior to any further action by the Commission, your exchange is requested to review carefully the types of rules discussed in the attached memorandum in light of the provisions of the Act specified herein. In particular, to the extent that you concur that rules of your exchange of the type described in the attached memorandum are inconsistent with the Sections of the Act cited above, we ask that your exchange, as promptly as possible and without waiting for further proceedings by the Commission, take all necessary action to adopt appropriate amendments.[2] The Commission also would appreciate receiving any presentation of views, data and arguments that you may wish to make in regard to any of the rules. We would hope that you could make, by April 15, 1976, a preliminary statement as to amendments adopted, or to be adopted, and, if applicable, a preliminary presentation as to rules which you have been advised are consistent with the Act.

The staff memorandum attached to those letters described types of exchange rules on membership and association with members which raise questions under the enumerated sections of the Act,[42] including eligibility for membership, regulation of foreign persons, restrictions on the formation and operation of member or associated corporations, partnerships and other business organizations, limitations on the primary purpose of such organizations, requirements on business associations, and rules on sponsorship.

Such exchange rules on membership and association with membership appear to deny, restrict, or condition the ability of a registered broker-dealer, or a natural person associated therewith, to acquire a membership or the ability of any person to associate with a member. In terms of eligibility rules, the NYSE and other exchanges require, for example, an applicant for election as a member to be at least 21 years old and a citizen of the United States.[43] The NYSE will not approve a member corporation unless every owner of 5% or more of the outstanding stock is a member, allied member or approved person. The Boston Stock Exchange requires every applicant to be at least 21 years of age, to obtain the sponsorship of at least two members, and to furnish a written report upon his physical condition; members may also "blackball" an applicant. Other exchanges fail to state the terms of eligibility or the type of objections by members that are sufficient to defeat a membership application.

Various exchanges have rules particularly related to foreign persons. The NYSE, for example, provides that every member partnership and member corporation must be created or organized under the laws of, and to maintain its principal place of business in, the United States or Canada or any state or province thereof and that no member firm or member corporation may have as a parent any person other than a citizen of the United States or Canada or a corporation or partnership created or organized under the laws of such countries or states or provinces thereof. The Chicago Board Options Exchange, Inc. prohibits a member organization's affiliation with a parent organization which is not organized under the laws of the United States or such other country as is approved by it. Amex Rule 319(c) provides, as does NYSE Rule 314.14, that neither the interest in capital nor in profit of a regular member organization, owned by all persons as a group who are not United States or Canadian citizens, shall exceed 45%.

Among examples of exchange rules limiting the formation and operation of member organizations or associated organizations, NYSE Rule 321 requires, for example, a member organization to show "adequate reason" for the formation of a corporate affiliate; and, a corporate affiliate may conduct only an underwriting or dealer business, investment advisory business, or business acceptable to the NYSE but may not act on an agency basis. The PBW Stock Exchange, Inc. does not allow a member to be an officer or director of, or own or control, directly or indirectly, a substantial interest in, a corporation engaged in the securities business which is not a member corporation, without the permission of the PBW. The Amex places restrictions on any regular member organization which does not have any outstanding, freely transferable security. The NYSE requires a majority of the board of directors of a member corporation to be members or allied members.

The exchanges generally have rules governing the purpose of the business of a member or member organization. The NYSE, for example, requires every member or allied member who is an employee to be engaged actively in the business of the member corporation, and the primary purpose of a member corporation to be the transaction of business as a broker or dealer in securities. Similarly, the Midwest Stock Exchange requires every member firm to be engaged actively in the securities business as a dealer or broker and not in any business to which the Midwest Stock Exchange takes exception.

The NYSE requires an applicant for membership or approval as an allied member to be sponsored by two members or allied members. The Amex has

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[1] In adopting Rule 19b-4(g), the Commission determined initially to offer exchanges an opportunity to provide relevant information on exchange rules prior to any Commission action to provide general implementation of the Securities Acts Amendments of 1975 with respect to exchange rules. Each exchange commenting on Rule 19b-4(g) has been quite critical of these requirements. Accordingly, the Commission intends to propose the repeal of Rule 19b-4(g) and will not in any event require the filing of reports by April 1, 1976.

[2] In any proceeding to review the denial of membership or the barring of any person from becoming associated with an exchange member which involved any of the types of rules described in the attached memorandum the Commission would be required to determine whether any of such rules are, or were applied, in a manner consistent with the purposes of the Act. Accordingly, to the extent that you agree that any of the types of rules described in the attached memorandum are inconsistent with the Sections of the Act cited above, your exchange may wish to consider suspending enforcement of those rules pending completion of any necessary formal action.

See footnotes at end of document.

a similar provision which, furthermore, calls for five letters of reference from members.

The exchanges have a series of rules pertaining to and affecting business connections and affiliations of members and member organizations. One NYSE rule does not allow, unless otherwise approved, a member to become: (1) a partner in any non-member business organization, (2) an officer or employee of any non-member business corporation, firm or association, (3) an employee of any firm or individual engaged in business, or (4) associated with any business outside a securities, financial, or kindred business. The Amex, for example, is authorized to require a member to discontinue any business association "whereby the interest or good repute of the Exchange may suffer." The Boston Stock Exchange prohibits, as noted earlier with respect to another exchange, an officer, director or stockholder of one member corporation from owning any stock or interest in, or possession of office as a director, or stockholder of one member corporation or member firm.

As previously noted, rules such as the exchange rules described above and as more fully described in Appendix B may be inconsistent with the requirements of the Act as revised by the 1975 Amendments. Accordingly, the Commission has instituted an inquiry with respect to such rules.

Interested persons are invited to submit written data, views, and arguments not later than May 1, 1976 as to the Commission's inquiry. Exchanges are invited to make their preliminary statements and, if applicable, preliminary presentations not later than April 15, 1976 pursuant to the inquiry letter of March 2, 1976. Copies of all submissions, including those from exchanges, will be available for inspection at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, 500 North Capitol Street, Washington, D.C. 20549, with reference to File No. S7–618.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

FOOTNOTES

[1] Pub. L. No. 94–29 (June 4, 1975) (hereinafter referred to as the 1975 Amendments).

[2] 15 U.S.C. 78 *et. seq.* (hereinafter referred to as the Act.)

[3] Securities Exchange Act Release No. 10634. At that time, foreign membership and foreign access had two different meanings. "Foreign membership" referred to membership in a United States exchange by an entity organizated under the laws of a foreign country, which is authorized to perform the functions of a broker-dealer under the laws of its country of origin, or by a broker-dealer organized under the laws of a state of the United States and owned, controlled by, or otherwise affiliated with foreign persons. "Foreign access" referred to the availability of a professional discount from the fixed commission rate, then effective, to a foreign broker-dealer or to a United States broker-dealer affiliated with foreign persons for agency orders of public customers executed on an exchange. Today, fixed minimum commission rates have been abolished generally pursuant, first, to Securities Exchange Act Rule 19b–3 and, second, to the 1975 Amendments, *i.e.*, amended Section 6(e)(1) of the Act. To that extent, current problems with respect to foreign entities, or affiliates thereof, engaged in broker-dealer activities concern the availability of membership in each exchange to such entities and are subsumed under the heading of "foreign access."

[4] *See, e.g., Statement of the Securities and Exchange Commission on the Future Structure of the Securities Markets,* at 21–22, 24 (1972) (hereinafter referred to as the Future Structure Statement) and Securities Exchange Act Release No. 9950, at 8, 162–65 (Jan. 16, 1973).

[5] *See* Securities Exchange Act Release No. 10634, at 1–4 (Feb. 8, 1974).

[6] *See* letter dated November 13, 1975, from James J. Needham to Roderick M. Hills and letter dated December 4, 1975, from Roderick M. Hills to James J. Needham. File No. S7–618.

[7] *See* File No. S7–618.

[8] *See* letter dated February 25, 1976, from Roderick M. Hills to James J. Needham. File No. S7–618.

[9] New York Stock Exchange Constitution, Article IX, and Rule 314.14, CCH *NYSE Guide,* vol. 2, Paragraphs 1402 and 2314 (1975).

[10] Midwest Stock Exchange Bylaws, Article I, Rule 1, CCH *MSE Guide,* Paragraph 2021 (1975).

[11] The PBW Stock Exchange was particularly successful in attracting domestic institutions; the Boston Stock Exchange in attracting European institutions and broker-dealers; and the Pacific Stock Exchange in attracting subsidiaries of Japanese broker-dealers and west coast institutions.

[12] *Future Structure Statement,* at 21–22.

[13] *Id.*

[14] *Id.*

[15] *Id.*

[16] *Id.*, at 24.

[17] *Id.*

[18] *See* Securities Exchange Act Release No. 12055 (Jan. 27, 1976).

[19] Securities Exchange Act Release No. 9950, at 8 (Jan. 16, 1973).

[20] *Id.*, at 162–65.

[21] *Securities and Exchange Commission Policy Statement on the Structure of a Central Market System,* at 60–61 (March 29, 1973).

[22] *New York Stock Exchange Staff Response to SEC Release on Foreign Broker-Dealer Membership Access,* New York Stock Exchange, Inc., at 5–6, 16–17, 41 (1974); *Recommendations on Access and Membership by Foreign-Controlled Broker-Dealers to the U.S. Securities Markets,* Advisory Committee on International Capital Markets, New York Stock Exchange, Inc., at 6–11 (1974).

[23] As the principle of "mutual nondiscrimination" was advanced by the NYSE before the passage of the 1975 Amendments, it was not formulated with a view toward Sections 6 and 11 of the Act, as amended.

[24] *New York Stock Exchange, Inc. and Investment Company Institute* v. *James E. Smith, Comptroller of the Currency, Department of the Treasury,* [*Current Volume*] CCH Fed. Sec. L. Rep. ¶95,370 (D.D.C. 1975).

[25] *See* Edwards, *Regulation of Foreign Banking in the United States: International Reciprocity and Federal-State Conflicts,* 13 Colum. J. Transnat'l. L. 239 (1974); Lichtenstein, *Foreign Participation in United States Banking: Regulatory Myths and Realities,* 15 B. C. Ind. & Com. L. Rev. 879 (1974); Utley III, *Foreign Banks' Affiliation with United States Broker-Dealers: The Statutory Language and Assumptions of the Bank Holding Company Act,* 7 L. & Policy Int'l Bus. 1 (1975).

[26] *Id.*

[27] *See, e.g. S. 958,* 94th Cong., 1st Sess. (1975). S. 958 was proposed at the request of the Board of Governors of the Federal Reserve System and is substantially similar to S. 4205, a bill introduced during the 93d Congress. Congressman Rees has proposed a different bill entitled "International Banking Act of 1975," but has yet to introduce it in the Congress. On February 25, 1976, Congressmen Reuss and St Germain proposed a third bill entitled the "Financial Reform Act of 1976" which also has not been introduced in the Congress to date.

[28] Subject of course, to the former provisions of Section 19(b).

[29] 94th Cong., 1st Sess. (1975).

[30] *Hearings on H.R. 5050 before the Subcomm. on Commerce and Finance of the House Comm. on Interstate and Foreign Commerce,* 93d Cong., 1st Sess. 867–1354 (1973).

[31] *Id.*, at 871–74.

[32] *Id.*, at 1084–1102.

[33] *Hearings on S. 249 Before the Subcomm. on Securities of the Senate Comm. on Banking, Housing and Urban Affairs,* 94th Cong., 1st Sess., at 404 (1975).

[34] *Id.*, at 385.

[35] For further information with respect to the legislative process, *see* letter dated November 7, 1975, from Donald L. Calvin, NYSE Vice President, to Chairman Hills. File No. S7–618.

[36] The Commission has proposed Securities Exchange Act Rule 11a1–2 to provide relief in situations where no associated person has an economic interest in, or exercises investment discretion over, its account for which its member effects exchange transactions. *See* Securities Exchange Act Release No. 12055, at 9–10 (Jan. 27, 1976).

[37] *Id.*, at 11.

[38] Note 6 *supra.*

[39] Securities Exchange Act Release No. 12055 (Jan. 27, 1976). The Commission also announced the rescission of Securities Exchange Act Rule 19b–2, adopted Securities Exchange Act Rule 11a1–1(T), and proposed to adopt an amendment to Securities Exchange Act Rule 17a–(a)(3)(9), and a request for comment with respect to such Commission actions and Section 11(a) generally.

[40] Note 8 *supra.*

[41] *See* File No. S7–618.

[42] The staff memorandum is reprinted as Appendix B.

[43] The exchange rules herein cited or referred to may be found by examination of the staff memorandum.

APPENDIX A

SUMMARY OF COMMENTS ON SECURITIES EXCHANGE ACT RELEASE NO. 10634 (FEBRUARY 8, 1974)

On February 8, 1974, the Commission published Securities Exchange Act Release No. 10634 (the "Release") in which comments were requested in response to a series of questions concerning the issues of foreign membership in the national securities exchanges and foreign access to the U.S. securities markets. The Release was intended to obtain information on the need for, and desirability of, changes in the rules, policies, practices, and procedures of the Commission and of the national securities exchanges and the National Association of Securities Dealers, Inc. (the "NASD") "with respect to the appropriate terms and conditions for foreign participation, by whatever means, in the United States securities markets." Though the Commission had previously referred to

aspects of "foreign access," the Release marked the first time that the Commission formally had examined the issues and problems now generally subsumed under the rubric of foreign membership.

Forty-seven respondents submitted approximately 400 pages of comments on the matters raised in the Commission's 1974 Release. They represented foreign banks, foreign broker-dealers, U.S. affiliates of foreign banks, U.S. affiliates of foreign broker-dealers, national securities exchanges, the NASD, the Securities Industry Association (the "SIA"), U.S. broker-dealers, one foreign stock exchange, the Association of German Stock Exchanges, and other persons. The responses are summarized in Part II.

I. *Discussion of Comments on the Foreign Membership Release.* In general, commentators from the existing exchange member community did not appear to identify any significant problems stemming from access to United States securities markets by foreign firms that also are not present in the case of transactions by existing member firms for their foreign customers.[1] Such commentators stressed that transactions effected through foreign broker-dealers could cause problems with respect to "secrecy laws" and credit regulation; nevertheless, such problems do not necessarily appear to be fundamentally different from those encountered in regard to transactions effected by foreign subsidiaries of U.S. member firms.

It is possible, of course, to argue that the foreign subsidiary of a U.S. member will be more circumspect or perhaps more knowledgeable about compliance with U.S. laws than would a foreign parent; presumably a business group with its basic center of gravity in the United States risks more by violating U.S. laws than does the foreign centered group. As a foreign group's U.S. business becomes more important, however, there should perhaps then be an expectation that its observance of U.S. laws may become more punctilious. In the terms of regulating credit and otherwise obtaining compliance with U.S. laws then, there does not yet appear to be a sufficient basis for making a distinction between basically foreign firms with American affiliates and American firms with foreign affiliates.[2] Unless evidence to the contrary should emerge, this would tend to confirm the NASD's traditional policy of "free entry."

Based on the foregoing (and reserving the possibility that different facts might be developed), both "foreign" and "U.S." firms may be considered together in addressing the problems which may arise with respect to transactions effected in United States markets on behalf of foreign persons (and for United States nationals residing abroad or using foreign entities).

Section 11(a) Problems. To maintain the partial separation of money management and brokerage prescribed by Section 11(a)—which will have the effect of prohibiting, effective May 1, 1978, exchange members from effecting certain transactions for their own accounts or for certain associated accounts—it is necessary to be able to determine the nature of each account for which a member executes a transaction. A foreign customer may choose to have its orders executed through the omnibus account of a foreign broker-dealer carried by its U.S. exchange member subsidiary or through the omnibus account of a foreign broker-dealer subsidiary of a U.S. exchange member carried by that U.S. parent. In either case, however, the foreign broker-dealer, whichever it is, would be presumably subject to the laws of the country in which it conducts its securities business, including any "secrecy laws" prohibiting the identification of customers. The "customer," in turn, may be a bank which declines to identify the person for whom it is acting on the basis of the "secrecy laws." Thus, an exchange may have problems in determining compliance with Section 11(a), whether or not a member is foreign-controlled, so long as the member has accounts for foreign intermediaries. Those intermediaries may be acting for the account of the member, or its associated persons, or accounts over which they exercise investment discretion in violation of Section 11(a).

Various resolutions of that dilemma were proposed by commentators concerning analogous compliance problems under former Securities Exchange Act Rule 19b–2. A broker-dealer and its customer could be required to waive the application of "secrecy laws" to the fullest extent permissible. A broker-dealer could have its books and records inspected and transactions verified by an independent, reputable third party mutually agreeable to the self-regulatory organization and such broker-dealer.[3] In any event, even if approaches to Section 11(a) look through to the "customer" of a member or its affiliates,[4] that "customer" may still be a financial intermediary acting for undisclosed persons. Thus, whether waivers of secrecy laws, inspections and the like resolve compliance and other problems, there does not seem to be any reason to believe that compliance and enforcement problems under Section 11(a) necessarily would be different with respect to foreign parents of U.S. member firms compared to U.S. member firms with foreign affiliates or customers.

Of course, there may be reason to believe that protection of the integrity of American securities markets requires that participants in those markets be obliged to put aside notions about their rights to secrecy under the laws of other countries whether or not there are problems under Section 11(a).

Credit Regulation. U.S. commentators have expressed the same argument—difficulty of enforcement in the case of foreign-controlled firms—in regard to arrangements for extensions of credit for securities transactions by foreign broker-dealers. For example, a U.S. person may procure credit in violation of Section 7 of the Act and the regulations thereunder (in particular Regulation X) by going to a foreign broker-dealer or its affiliate. But a U.S. person also may violate Section 7 by going to a foreign broker-dealer subsidiary of a U.S. broker-dealer, or by obtaining secured credit from foreign banks that do not have U.S. affiliates.

It appears that a U.S. person utilizing a nominee account in a foreign bank abroad would not be any more or less able to direct its agent, the foreign bank, to execute securities transactions through a foreign subsidiary of a U.S. broker-dealer and to finance such transactions in violation of Section 7 (and Regulation X thereunder) than to execute and finance such transactions through a foreign broker-dealer (and its U.S. affiliate). In each case, the transaction would be in contravention of Section 7. Abuses may occur with both foreign entities and foreign subsidiaries of U.S. entities which execute such transactions through their respective U.S. affiliates. The potential for abuses of Section 7 and regulations thereunder do not now appear on the record at hand to provide a valid basis for discriminatory regulation. The adoption of a contrary position could lead to banning foreign affiliated firms from the over-the-counter markets as well—where they have operated without disproportionate problems for a number of years.

Economics. There seems to be a substantial possibility that the concerns raised in regard to "foregin access" are in reality predicated on questions of economics and, therefore, competition. The regional exchanges are competing with the NYSE and the Amex for trading volume in the multiply traded securities. In the past, the regional exchanges have taken the opportunity offered by NYSE's and Amex's restrictive membership policies to solicit foreign entities and to increase in size and importance. The NYSE and the Amex, on the other hand, traditionally have maintained more restrictive membership policies. Recognizing, perhaps, the economic self-interests of their membership in commission revenues from abroad,[5] the NYSE and the Amex have reacted against permitting foreign entities and their affiliates access to the U.S. securities markets other than access through the existing member firm community.

Reciprocity. The NYSE, the SIA and certain other U.S. commentators suggested that access to U.S. securities markets should be granted subject to the principle of reciprocity in one form or another. The NYSE advanced its principle of "mutual nondiscrimi-

[1] In many cases, foreign subsidiaries of U.S. broker-dealers conduct business in a manner similar to that in which a purely foreign broker-dealer conducts his business.

[2] It is not a simple task, moreover, to categorize a particular firm as an "American firm with foreign affiliates" rather than a "foreign firm with American affiliates." For example, Becker Securities Corporation is owned by a holding company, The Becker and Warburg-Paribus Group Incorporated, which in turn is owned 45% by S. G. Warburg Limited, an English merchant bank, and Banque de Paris et des PaysBas, a French banque d'affaires (which is a combination commercial and investment bank); together they have 25% of the voting power, White, Weld & Co., Incorporated is owned by White, Weld Holdings, Inc., approximately 20% of which is in turn owned by société anonyme financière de Crédit Suisse et de White Weld, 40% of which is then owned by Crédit Suisse, a Swiss bank that has a commercial banking subsidiary in the United States.

[3] Section 6(c)(3)(C) contemplates, to a degree, such a resolution.

[4] Proposed Securities Exchange Act Rule 11a1–2 would permit a "look-through" approach. In Securities Exchange Act Release No. 12055, proposing that Rule, the Commission also proposed an amendment to Securities Exchange Act Rule 17a–3(a) which, among other things, would require member firms to maintain records as to beneficial holders of accounts regardless of foreign secrecy laws. One question posed in that Release relates to whether bank customers in countries having secrecy laws (principally Switzerland) may nevertheless consent to disclosure of their identity. The Release will also provide an opportunity for interested persons to analyze the regulatory need for differential regulation of foreign affiliates under Section 11(a).

[5] For the first six months of 1975, for example, a sample survey conducted by the NYSE of a number of its members indicated that 7.8% of total commissions generated by such members, or $74.2 million, was generated from foreign commission business. *Member Firm Foreign Activity, New York Stock Exchange Research Report,* at 4 (1975). The total amount of commission dollars may be even greater if the sample were expanded to cover all member commission activity rather than only a sample group of member firms.

nation,"[6] which would deny access to a broker-dealer controlled by an entity whose country of organization does not grant national status, or grants less than its equivalent, to U.S. broker-dealers and affiliates thereof.

The argument is presented in terms of a world in which access to securities markets in many countries is closed to American firms, and, therefore, the argument has an equitable appeal. The principle of reciprocity, however, does not appear to view the exchange markets as securities markets *per se* which compete for the investment dollars of both U.S. and foreign persons. By rejecting restrictions on the accessibility of U.S. securities markets to foreign persons, the Commission may tend to assure the U.S. securities markets a competitive advantage over protected markets of other countries that remain isolated, and therefore not competitive, and to prevent retaliation overseas against U.S. broker-dealers which already enjoy substantial foreign revenues. Furthermore, there does not appear to be any evidence as to the value to American firms of obtaining the right to direct access to foreign stock exchanges.[7]

Glass-Steagall. The Commission requested comments on the National Banking Act of 1933 ("Glass-Steagall Act") with respect to the conduct of a U.S. securities business by foreign banks and U.S. affiliates thereof. The comments from the U.S. securities industry (other than those by the regional exchanges) emphasized dangers of excessive credit and market manipulation. As discussed above, such dangers may occur in the operations of U.S. banks and broker-dealers abroad as well as in the operations of foreign banks. The argumentation may be further refined to the point where it provides a valid basis to discriminate against non-U.S. banks and their affiliates. Also national banking policy is currently being reexamined by the Congress.[8]

II. *Summary of Comments.* Part II reviews all material submitted in response to the fourteen questions contained in the Release. As organized below, each question, or a segment of each question, is first set forth and and is followed by the summary of relevant comments.

Question 1. For what reasons do foreign persons, directly or indirectly, seek foreign membership on or foreign access to United States exchanges? Is there anything unique about the kind of business conducted by foreign broker-dealers or United States broker-dealers affiliated with foreign nationals, in the United States or elsewhere, or about the manner in which such business is conducted which the Commission should consider in formulating policy on foreign membership and foreign access?

A significant number of securities firms, both domestic and foreign, listed as reasons foreign firms seek entry into the national securities exchanges the ability to achieve reductions in execution costs, to minimize commission fees and receive member discounts, and to offer a full set of investment services to their customers.[9] A few U.S. affiliates of foreign entities also indicated a desire to recapture commissions under the system of fixed commission rates which then existed.[10] The desire to compete with U.S. broker-dealers abroad was noted as another reason to seek membership on or access to the national securities exchanges.[11] In regard to the foreign customer, two U.S. affiliates of foreign banks, one U.S. affiliate of a foreign broker-dealer, and the Boston Stock Exchange suggested that foreign customers seeking to purchase U.S. securities prefer to do so through the foreign-owned entity with which they do business on a regular basis.[12] Prestige was mentioned as another reason by one U.S. affiliate of a foreign broker-dealer, the Midwest Stock Exchange, and the NYSE, which also had listed the desire to lower commissions in order to attract a foreign firm's own national business and other benefits of being an exchange member.[13] The views of the SIA were substantially different from those of other commentators. It advanced as reasons a significant capital accumulation rate in excess of the absorption rates in foreign economies, the attractiveness of the liquidity and depth of U.S. securities markets, and the desire to sell foreign securities to U.S. investors. It discounted the suggestion that the foreign customer saves commission fees through the execution of transactions in the U.S. by foreign firms' U.S. affiliates.[14] Other reasons mentioned by commentators were the internationalization of the financial markets,[15] the financial strains of U.S. broker-dealers and their need for new sources of capital, the end of the interest equalization tax, and the ease of access to the U.S. securities markets.[16]

U.S. affiliates of foreign banks and the Association of German Stock Exchanges found nothing unique about the nature and character of their business[17] other than perhaps the particular type of entity utilized in foreign countries to execute securities transactions.[18] The Boston Stock Exchange also pointed out that the type of parent entity varies with its country of origin.[19] One U.S. affiliate of several foreign banks observed, as did other respondents, that foreign broker-dealers seek access to the U.S. securities markets for their existing group of customers whereas U.S. broker-dealers abroad engage in a search for new customers.[20] The NYSE stated that U.S. affiliates' customers are captives of the affiliates' foreign parent entities;[21] the Midwest Stock Exchange pointed out that foreign parents give a significant amount, if not a majority, of their listed business to U.S. broker-dealers abroad.[22] The SIA, on the other hand, found no similarity between a U.S. broker-dealer and a foreign firm or between various foreign firms. The SIA suggested also that foreign firms are not familiar with concepts of inside information or control, have alien systems of regulation, accounting and business, and that their personnel have different perceptions of U.S. laws and traditions.[23]

Question 2(a). Should any exchange be permitted to allow foreign membership on or foreign access to its facilities, and, if so, upon what specific terms and conditions?

Comments were received mostly from U.S. affiliates of foreign firms and the various national securities exchanges. The former group favored permitting the national securities exchanges to decide separately the issues of foreign membership and access.[24] They argued for the same treatment currently accorded to domestic broker-dealers.[25] Nevertheless, several of those commentators attached such specific conditions as the formation of a United States corporation,[26] sufficient capitalization of the U.S. affiliate,[27]

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[6] *See* pages 43–45 *infra*. The NYSE further proposed (1) that there should be a uniform national policy on foreign access and (2) that foreign broker-dealers should conform to all U.S. laws, including the Glass-Steagall Act.

[7] *See* Public Policy for American Capital Markets prepared by James H. Lorie for submission to the Secretary and the Deputy Secretary of the Treasury, 19 (1974).

[8] *See* Staff of House Comm. on Banking, Currency, and Housing, 94th Cong., 1st Sess., *Financial Institutions and the Nation's Economy (FINE): Discussion Principles* (Comm. Print 1975); Staff of Subcomm. on Securities, Senate Comm. on Banking, Housing, and Urban Affairs, 94th Cong., 1st Sess., *The Securities Activities of Commercial Banks-Study Outline* (Comm. Print 1975).

[9] *See, e.g.*, Response of Association of German Stock Exchanges ("AGSE"), at 3; Response of the Boston Stock Exchange ("BSE"), at 4; Response of Gadsby & Hannah, Esqs. (on behalf of A.B.D. Securities Corporation—owned by Dresdner Bank AG, Algemene Bank Nederland N.V., Banque de Bruxelles, and Bayerische Hypotheken-Und Wechsel-Bank) ("A.B.D."), at 3; Response of Midwest Stock Exchange, Incorporated ("MSE"), at 6; Response of Richardson Securities of Canada ("Richardson"), at 2; Response of Joseph Selag Incorporated ("Selag"), at 1; Response of SoGen-Swiss International Corporation (owned by Crédit Suisse, Société Générale Société Générale Alsaciene de Banque, Amsterdam-Rotterdam Bank N.V., Société Générale de Banque, and Sofina S. A. Brussels) ("SoGen-Swiss"), at 2; Response of Ultrafin International Corporation (owned by Banco Ambrosiano and Kredietbank N.V.) ("Ultrafin"), at 2. Securities Exchange Act Release No. 10634 was announced on February 8, 1974, before both the adoption of Securities Exchange Act Rule 19b–3 on January 23, 1975, which prohibits the fixing of rates of commissions by exchanges, and enactment of the Securities Acts Amendments of 1975 (the "1975" Amendments) on June 4, 1975.

[10] *See, e.g.*, Response of Europartners Securities Corporation (owned by Banco di Roma, Commerzbank AG, and Crédit Lyonnais) ("Europartners"), at 2; Response of Rowe & Pitman (parent of Rowe & Pitman Incorporated) ("Rowe"), at 4–5; SoGen-Swiss, at 2.

[11] *See, e.g.*, AGSE, at 3; BSE, at 4; Europartners, at 1; MSE, at 6; Rowe, at 4–5.

[12] BSE, at 4; A.B.D., at 4; Response of Kelley Drye Warren Clark Carr & Ellis Esqs. (on behalf of Nomura Securities International, Inc.) ("Nomura"), at 3; Selag, at 1; Response of UBS–DB Corporation (owned by Union Bank of Switzerland and Deutsche Bank A.G.) ("UBS–DB"), at 2.

[13] Response of Cazenove Incorporated (a subsidiary of Cazenove & Co.) ("Cazenove"), at 1; MSE, at 6; Response of New York Stock Exchange, Inc. Staff ("NYSE Staff"), at 1. The NYSE submitted comments from its Advisory Committee on International Capital Markets and its staff. Where there are not any significant differences of opinion, both sets of comments are referred to collectively as those of the NYSE.

[14] Response of Securities Industry Association ("SIA"), at 19–20.

[15] Response of American Bar Association ("ABA"), at 1–2; Response of The Stock Exchange (London), at 1.

[16] Response of Smith, Barney & Co. Incorporated ("Smith, Barney"), at 1.

[17] *See, e.g.*, AGSE, at 4; Europartners, at 2; A.B.D., at 4; UBS–DB, at 2.

[18] AGSE, at 4.

[19] BSE, at 4.

[20] A.B.D., at 27.

[21] NYSE Staff, at 3.

[22] MSE, at 6.

[23] SIA, at 20–21..

[24] *See, e.g.*, Response of C. & R. Pastor Securities Incorporated (a subsidiary of C. & R. Pastor Securities Limited, S.A.) ("Pastor"), at 1; Cazenove, at 2; Europartners, at 2; Rowe, at 5; Response of Swiss American Securities Inc. (a subsidiary of Crédit Suisse) ("Swiss American")), at 3.

[25] *See, e.g.*, Cazenove, at 2; Nomura, at 7–8; UBS–DB, at 3.

[26] *See, e.g.*, Pastor, at 1; Swiss American, at 3; Selag, at 1.

[27] *See, e.g.*, Selag, at 1.

and the subjection of the U.S. affiliate to all the rules and regulations of an exchange.[28]

The national securities exchanges' comments were split, with the regional exchanges taking positions opposed to that of the NYSE.[29] The Boston Stock Exchange considered every difference in treatment between a domestic broker-dealer and a foreign firm to be suspect. Unless there is likely injury to U.S. interests, the Boston Stock Exchange stated, rules governing foreign firms should allow for historic differences here and abroad in investment customs and practices, business structures, and legal restrictions between the United States and other countries.[30] The Midwest Stock Exchange opposed the adoption of any uniform rules. It urged the Commission to issue a release announcing conditions under which foreign firms must register pursuant to Section 15 of the Act. It further recommended that the regulatory organizations reach an agreement with respect to certain requirements for foreign firms and that any nonregistered foreign firm execute an agreement in which such firm appoints an agent for service of process in the U.S. and provides a degree of assurance as to the existence of adequate assets in the U.S. to fulfill any of its contractual commitments.[31] The Pacific Stock Exchange's comments were somewhat similar but are more pertinent to the next part of Question 2. The NYSE's comments also are discussed below.

Question 2(b). Should the Commission require exchanges to adopt uniform rules on foreign membership or foreign access? If not, should general parameters be established by the Commission within which exchanges could formulate independent policies and rules governing foreign membership and foreign access, and, if so, what parameters?

Of the national securities exchanges addressing these questions, the Pacific Stock Exchange and the Midwest Stock Exchange, as noted, opposed the adoption of uniform rules by the Commission. The Pacific Stock Exchange contended that uniform rules excluding member foreign affiliates were contrary to the national interest to encourage capital flows into the U.S. It also recognized that uniform rules permitting membership of foreign affiliates would encounter strong resistance by some national securities exchanges.[32] On the other hand, the NYSE would require uniform guidelines on each aspect of foreign broker-dealer access to all U.S. securities markets. The guiding principle for such uniform rules, the NYSE stated, should be "mutual nondiscrimination," under which a foreign and a domestic institution would have the same privileges and be subject to the same rules in the U.S. securities market only if national status is accorded to a U.S. broker-dealer in the country of organization of the foreign institution.[33]

Two U.S. affiliates of foreign firms endorsed the adoption of uniform rules by the Commission for all foreign broker-dealers as a means to avoid inconsistent regulation by the national securities exchanges[34] and to assure that such rules are feasible.[35] Several American broker-dealers also favored uniform rules.[36] Although some U.S. affiliates of foreign broker-dealers suggested that the Commission should determine general parameters within which the national securities exchanges would implement independent policies and rules with respect to foreign membership and access,[37] the majority of such firms indicated their preference to be regulated under the same conditions that are applicable to any domestic broker-dealer.[38] In contrast, the SIA would place U.S. affiliates of foreign firms immediately under additional regulation, which would include the maintenance of whatever records would be necessary to determine the absence of fraudulent and manipulative activities.[39]

Question 2(c). What would be the impact on our capital markets (particularly in terms of the liquidity of those markets) in the event foreign broker-dealers and United States broker-dealers affiliated with foreign nationals are given greater access to our exchanges? Would United States issuers of securities benefit from such greater access? What effect would such greater access have on the capacity of our domestic markets to attract foreign investment dollars?

The U.S. affiliates of foreign firms viewed the impact of greater foreign access to the U.S. capital markets as beneficial, suggesting that the liquidity and depth of the securities markets would improve.[40] Europartners Securities Corporation, for example, contended that foreign investors' interest in new issues of securities would increase and that the class of investors possessing U.S. securities would broaden. A.B.D. Securities Corporation detailed such benefits as increased liquidity and depth in the U.S. capital markets, net purchases of U.S. securities by foreigners, increased foreign brokerage activity, increase in number of exchange members, and stimulation of investment in U.S. securities.[41] The Association of German Stock Exchanges commented that one benefit was the attraction of more foreign investors to the U.S. securities markets.[42] Other foreign respondents suggested that the increased concentration of foreign trading in U.S. securities in the U.S. securities markets would be a benefit of increased access to the U.S. securities markets.[43] These advantages, it was urged, would aid the U.S. issuer of securities.

The American broker-dealers found no significant benefits.[44] One commentator, noting that foreign brokerage revenues are important to American broker-dealers, thought it unwise to erode the revenue base of the U.S. securities industry.[45] Another commentator characterized the business of U.S. affiliates as captive of the foreign parent; it was seen as contributing nothing beneficial to the liquidity of the U.S. securities markets.[46]

The regional exchanges found such advantages as an increase in the U.S. share of the world's securities business, a stronger secondary market in U.S. securities, and an aid to the U.S. balance of payments.[47] The NYSE agreed in principle that there would be an increase in participation and liquidity in the U.S. securities markets, but thought factors other than foreign membership or access, *i.e.*, economic factors, were responsible for greater foreign interest in U.S. securities.[48]

The SIA disagreed. First, it suggested, forgein access would diminish the liquidity of the U.S. securities markets by causing greater volume and even lower prices during periods of economic recession when foreign broker-dealers would encourage their customers "to flee" the U.S. securities markets.[49] Secondly, the SIA posited, there is no identifiable relationship between the volume of foreign purchases and sales of U.S. securties and foreign participation in the U.S. securities industry; volume depends on other elements.[50]

Question 3. In light of the purposes and provisions of the Securities Exchange Act, general competitive policies embodied in federal laws, relevant treaties and due process requirements under the Constitution, does the origin of foreign broker-dealers or foreign ownership or control of United States broker-dealers, by itself or in combination with other factors, afford a valid basis for according different regulatory treatment to such broker-dealers (by limitation of their activities, the imposition of regulatory burdens uniquely applicable to the "class" of broker-dealers to which they belong or otherwise) for purposes of foreign membership or foreign access?

The Boston Stock Exchange and several U.S. affiliates of foreign firms suggested the

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[28] *See, e.g.*, Pastor, at 1; Nomura, at 6–8; Swiss American, at 3; Selag, at 1.

[29] Traditionally, the Boston Stock Exchange, Midwest Stock Exchange, Pacific Stock Exchange, and the PBW Stock Exchange have taken different approaches with respect to the issue of foreign membership on or access to the national securities exchanges than either the NYSE or Amex.

[30] BSE, at 3.

[31] MSE, at 7–8. The Midwest Stock Exchange proposed that the agreement between regulatory organizations cover:

1. Information to be filed with the self-regulatory organization by the parent firm;
2. Acknowledgement of the power of the self-regulatory organization to require removal, separation, or discontinuance of a director, principal officer, or principal stockholder of a parent firm or business conducted by a parent firm;
3. Financial dealings between the broker-dealer and its parent;
4. Management of the broker-dealer and composition of its board of directors;
5. Parent firm securities transactions with the broker-dealer; and
6. A pledge that the parent firm will conduct itself in a manner which is consistent with the rules of the self-regulatory organization and the federal securities laws.

[32] Response of Pacific Stock Exchange, Incorporated ("PSE"), at 3. For a discussion of the comments of the Midwest Stock Exchange, *see* page 11, *supra*.

[33] Response of Advisory Committee on International Capital Markets, New York Stock Exchange, Inc. ("NYSE Advisory Committee"), at 6–8, 20–21.

[34] A.B.D., at 5, SoGen-Swiss, at 4.

[35] SoGen-Swiss, at 4.

[36] Response of Clark, Dodge & Co. Incorporated ("Clark"), at 3; Response of Goldman, Sachs & Co. ("Goldman"), at 2.

[37] Europartners, at 3; Rowe, at 6.

[38] *See* notes 24–28 *supra*.

[39] SIA, at 22. The SIA did not elaborate on that suggested requirement.

[40] *See, e.g.*, AGSE, at 4; Europartners, at 3–4; A.B.D., at 4; Rowe, at 7; Richardson, at 3; SoGen-Swiss, at 2; UBS–DB, at 3; Response of Warburg-Paribas, Inc. (personal views of A. J. Warner) ("Warburg"), at 2.

[41] A.B.D., at 4–6.

[42] AGSE, at 3.

[43] Warburg, at 2; *Cf.* The London Exchange, at 1.

[44] *See, e.g.*, Goldman, at 2; Response of Josephthal & Co. ("Josephthal"), at 2; Response of Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch"), at 16.

[45] Response of Drexel Burnham & Co. Incorporated ("Drexel"), at 2.

[46] Josephthal, at 2.

[47] BSE, at 2; MSE, at 9.

[48] NYSE Staff, at 6.

[49] SIA, at 23.

[50] SIA, at 11–12. The SIA suggested that examples of such factors are the general economic climate, the status of the balance of international payments and the dollar, the presence or absence of foreign exchange controls, diversification, liquidity and integrity of the U.S. securities markets, and the measure of fear and control exhibited by foreign nationals as to developments in their countries.

lack of any valid basis to accord different regulatory treatment to foreign broker-dealers.[51] Three commentators raised the issue of existing Treaties of Friendship, Commerce and Navigation between the United States and three countries, the Federal Republic of Germany, Netherlands, and Belgium. Such Treaties require each signatory country to grant equal treatment to the other's nationals particularly in the area of banking and finance.[52] Consequently, it was argued, present restrictions by the NYSE and the Amex on foreign membership may violate U.S. treaty obligations.[53]

Another commentator, representing a U.S. affiliate of a foreign firm, suggested that valid basis for selective regulatory treatment of foreign members exists, *i.e.*, Sections 15(b)(8) and 15A(b)(5) of the Act,[54] despite the national policy favoring competition and U.S. treaty obligations preserving certain rights of foreign persons.[55] The Midwest Stock Exchange found Section 2 of the Act as one source of authority to differentiate between types of broker-dealers.[56] Although the NYSE also mentioned Section 2, it suggested that a foreign organization should be treated as any other domestic broker-dealer provided such organization conducts its securities business as a U.S. subsidiary with its principal place of business in this country and the principle of mutual nondiscrimination is observed.[57] The SIA expressed the view that foreign access is a privilege that can be denied in the absence of certain assurances by the foreign entity. The SIA would impose special requirements on foreign persons seeking membership or access. Treaties and diplomatic accords, it argued, sanction unequal treatment and permit reasonable limitations on access.[58]

Question 4. In light of the Commission's authority under the Securities Exchange Act, what conditions, limitations or special procedures ought to be applicable to foreign broker-dealers or United States broker-dealers affiliated with foreign nationals registered under Section 15 of the Act? Should or must such entities be permitted to join the NASD, and, if so, upon what special terms and conditions, if any?

Although most commentators from domestic and foreign firms and the national securities exchanges generally endorsed regulating foreign broker-dealers under the same conditions as domestic broker-dealers conduct business,[59] some commentators were more detailed in their submissions. One U.S. affiliate of a foreign firm proposed that foreign firms have an office within the borders of the U.S., maintain minimal capital requirements, maintain required books and records in the U.S., comply with margin regulations, and have their controlling persons consent to the jurisdiction of U.S. courts for purposes of Section 20 of the Act.[60] Merrill Lynch, Pierce, Fenner & Smith Incorporated would require the registration under Section 15 of the Act of any broker-dealer which transacts a securities business abroad in or through the U.S. securities markets.[61] The Association of German Stock Exchanges recommended the establishment of an office, mandatory capital, and records and books in the U.S. as well as compliance with the regulations governing the business of a domestic broker-dealer.[62] The idea of the establishment of a U.S. subsidiary or domestic office was favored by a diverse and significant number of commentators.[63]

The NYSE commented that, although foreign firms should not be allowed to engage in the securities business in the U.S., U.S. affiliates of such firms would be acceptable provided extensive conditions were satisfied. They included the incorporation of such affiliates under state law, the registration of such affiliates pursuant to Section 15 of the Act, the maintenance of books and records identifying all affiliated persons and all beneficial owners of customer accounts, the consent of controlling persons to the jurisdiction of U.S. courts pursuant to Section 20 of the Act, the maintenance of books and records as well as a principal office in the U.S., the posting of sufficient bond to cover any fines or assessments, the exclusion of U.S. affiliates of foreign firms based in countries that have "secrecy" laws which are not waived by customers, the exclusion of U.S. affiliates of foreign firms based in countries that deny access to U.S. broker-dealers, and the rebuttable presumption that transactions for the account of an affiliate of the broker-dealer or in the name of an affiliate of the broker-dealer are for the account of such affiliate.[64] The SIA would apply the federal securities laws to transactions in U.S. securities effected by foreigners through foreign broker-dealers. The SIA suggested a need for new laws to assure the detection and prevention of manipulation abroad of U.S. securities.[65]

None of the commentators rejected the idea of membership of foreign firms or their affiliates in the National Association of Securities Dealers, Inc. ("the NASD"). Membership was endorsed generally without any special conditions or terms.[66] Nevertheless, the NYSE and one commentator from a U.S. affiliate of a foreign firm proposed similar conditions as noted in the previous paragraph.[67] The NASD had no objection to such membership provided U.S. broker-dealers received access to the securities markets of the domiciliary country of the member firm or the parent firm of the member U.S. affiliate, as the case may be, within two years of the date such firm procured membership.[68]

Question 5. To what extent and in what manner, if at all, should rules formulated by the Commission or exchanges to govern foreign membership and foreign access take into account differences between United States and foreign accounting methods and practices and between United States and foreign business practices and customs generally?

The Midwest Stock Exchange stated that differences in accounting methods were tolerable if foreign practices provided the same or greater protections as U.S. methods and practices and were consistent with the philosophy behind them.[69] The Boston Stock Exchange, on the other hand, resisted the idea of allowing for differences in foreign accounting methods, practices or customs.[70] One American broker-dealer had no objection to the use of foreign accounting methods reasonably comparable to U.S. methods.[71] Commentators from several U.S. affiliates of foreign firms noted that U.S. affiliates, as domestic corporations, already employ U.S. accounting methods.[72] A U.S. affiliate of a British broker-dealer indicated the business practices and customs of U.K. broker-dealers are similar to those of U.S. broker-dealers.[73] The NYSE suggested, as a means to avoid any accounting problems, that foreign organizations conduct their U.S. securities business through subsidiaries formed under state law.[74] This is consistent, it asserted, with the form of entity presently utilized by many U.S. affiliates of foreign firms. The SIA commented that there is no international uniformity in accounting principles, methods or practices and that, as one result, it is impossible to assure the financial integrity of foreign broker-dealers and their U.S. affiliates.[75]

Question 6(a). Since in many foreign countries banks perform broker-dealer functions (and, in some cases, may be the only entities legally permitted to do so), is there any reason in United States law or policy (particularly in light of applicable treaties between the United States and other countries, general competitive policies embodied in federal laws, and the national policy embodied in the National Banking Act of 1933 (the "Glass-Steagall Act") for specially limiting or prohibiting foreign membership or foreign access by (a) foreign broker-dealers which are banks or which are owned or controlled by or otherwise affiliated with foreign banks, or (b) United States broker-dealers owned or controlled by or otherwise affiliated with foreign banks? If not, should the Commission concern itself with the possible circumvention of the provisions of the Glass-Steagall Act by United States banks through ownership or control of, or other interests in, foreign banks which are permitted to achieve foreign membership or foreign access?

The regional exchanges concluded that neither the Glass-Steagall Act nor any other reason in United States law or policy bars or limits membership to a foreign broker-dealer.[76] The Boston Stock Exchange posited

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[51] *See, e.g.*, BSE, at 5; Europartners, at 5; Nomura, at 9; Richardson, at 3; Swiss American, 3 SoGen-Swiss, at 4; UBS–DB, at 3.

[52] AGSE, at 4; Europartners, at 5; A.B.D., at 9.

[53] AGSE, at 4; A.B.D., at 9.

[54] Sections 15(b)(8) and 15A(b)(5) were amended by the 1975 Amendments. Section 15(b)(8), with major revisions, became new Section 15(b)(7); Section 15A(b)(5) was altered substantially and became new Section 15A(g)(3).

[55] A.B.D., at 8–9.

[56] MSE, at 9.

[57] NYSE Staff, at 7–8.

[58] SIA, at 24–25.

[59] *See, e.g.*, Response of American Stock Exchange, Inc. ("Amex"), at 1; Clark, at 3; Europartners, at 6; Josephthal, at 2; Nomura, at 10; Richardson, at 4; SoGen-Swiss, at 4; UBS–DB, at 4.

[60] A.B.D., at 11. The Boston Stock Exchange requires the execution of an agreement by the parent entity of any foreign firm which is a member or has access to its facilities. Under the agreement, the parent entity submits to its jurisdiction [hereinafter referred to as "third party agreement"]. *See* BSE, at 5.

[61] Merrill Lynch, at 19–20. Merrill Lynch has more than thirty foreign subsidiaries, none of which are registered with the Commission.

[62] AGSE, at 4.

[63] *See, e.g.*, AGSE, at 4; Europartners, at 6; A.B.D., at 11; NYSE, Staff, at 9; Rowe, at 8; SoGen-Swiss, at 4.

[64] NYSE Staff, at 9–12.

[65] SIA, at 28–29.

[66] *See, e.g.*, BSE, at 5; Response of International Bar Association ("IBA"), at 2; Merrill Lynch, at 26; Response of Model, Roland & Co., Inc. ("Model"), at 1; Nomura, at 10; Warburg, at 2.

[67] *Supra* notes 60 and 64.

[68] Response of National Association of Securities Dealers, Inc. (the "NASD"), at 2.

[69] MSE, at 10.

[70] BSE, at 6.

[71] Merrill Lynch, at 27.

[72] Europartners, at 6; A.B.D., at 12.

[73] Rowe, at 9.

[74] NYSE Staff, at 15; The London Exchange, at 2.

[75] SIA, at 32.

[76] BSE, at 6; MSE, at 11; PSE, at 4

that the Glass-Steagall Act was designed to protect U.S. depositors from bank speculation in securities and from conflicts between the investment and commercial banking functions of U.S. banks. Provided the foreign firm desires membership only in furtherance of public broker-dealer activities in its country of origin, the Boston Stock Exchange argued that there is no basis on which to deny membership.[77] The Midwest Stock Exchange noted that a foreign entity without an exchange membership still has the ability to deal in U.S. securities on foreign exchanges, in the third market, and to engage in joint activities with U.S. broker-dealers.[78] Since U.S. banks and broker-dealers are engaged in extensive, profitable dealings abroad, the introduction of competition in the U.S., it contended, would not appear to be inequitable, particularly in view of the greater harm to U.S. entities abroad if other countries, presently allowing access to U.S. broker-dealers, retaliated because of denials of access to foreign firms or their U.S. affiliates.[79] In contrast, the NYSE opposed the conduct of a securities business by a foreign bank or its U.S. affiliate if such entity proposed to engage in both investment and commercial bank activities.[80] The Glass-Steagall Act, it urged, was designed to avoid the conflicts of interest between underwriting and commercial bank functions and to prevent the concentration of economic power in banks.[81] The NYSE suggested that such foreign banks should not engage in both functions in the U.S. It also posed for further consideration whether the fact that a U.S. affiliate which is acting solely as an underwriter and broker-dealer in the U.S. which is controlled by a foreign commercial bank is violating the Glass-Steagall Act.[82]

The SIA found the Glass-Steagall Act to be incompatible with foreign membership in or access to U.S. securities markets. Its comments centered on the dangers of excessive credit being available to the securities industry, of market manipulations, and of conflicts of interest between a bank's commercial and underwriting functions. The SIA further suggested that the Bank Holding Company Act of 1970 and the interpretations by the Board of Governors of the Federal Reserve System thereunder are a bar to foreign membership and access.[83] It posited that U.S. banks and broker-dealers would be at a competitive disadvantage if foreign banks achieve membership or access. Such competitive disadvantages, it asserted, would stem from the wider range of services offered by a foreign bank or its U.S. affiliate and the possible tying arrangements that might be utilized by a foreign bank or its U.S. affiliate.[84]

Several commentators from foreign broker-dealers emphasized the need to distinguish foreign firms controlled by banks from other foreign firms so as not to prohibit unreasonably access or membership to foreign broker-dealers.[85] One commentator representing a U.S. affiliate of several foreign banks suggested that the Glass-Steagall Act should not prevent such entities from securing membership on or access to national securities exchanges. That commentator argued that there is not any reason to connect foreign access to a resolution of the conflict between domestic commercial banks and domestic securities firms; that some foreign entities operate as a commercial bankers, investment bankers, and broker-dealers in their own countries and here as well and should continue to do so in light of considerations of fair international competition, international comity, and the benefits of contributions of foreign banks to the U.S. economy; and that resistence to access by affiliates of foreign banks originated from protectionist and anticompetitive sentiments in the securities industry.[86] One U.S. affiliate of several foreign banks contended that the resolution of the issue of foreign membership and access depends on a balancing of the national policy of open and free competition and the U.S. treaty obligations to grant a foreign broker-dealer the same rights as a U.S. broker-dealer in the U.S. against a national policy that separates commercial and investment banking; that the Glass-Steagall Act was not intended either to promote equal competition or to restrict fair competition, as opponents of foreign membership would have the Commission believe; and that such a construction results in prohibiting foreign banks from engaging in business in the U.S. which is permitted by foreign law and allowing U.S. banks and broker-dealers to engage in businesses abroad which are prohibited by U.S. law.[87] Other representatives of U.S. affiliates of foreign banks urged that the Glass-Steagall Act is concerned only with the structure of financial markets in this country; that the conduct of a securities business by a U.S. affiliate of foreign banks would not seriously injure any U.S. bank depositors or stockholders or affect the amount of competition among U.S. banks or U.S. broker-dealers; that any overlap between investment and commercial banking by U.S. affiliates of foreign banks is, and is likely to remain, insignificant; [88] that the Glass-Steagall Act is designed to protect only U.S. depositors; that such policy is inapplicable to securities firms affiliated with foreign banks which do not accept deposits in the U.S.; that the policies of the Act are enforced by the bank regulatory agencies and not by the Commission; that the proposals to exclude U.S. affiliates of foreign banks from membership on and access to the national securities exchanges discriminate against countries in which only banks may conduct a securities business and would bar an entire country from access to the U.S. securities markets; and that such proposals alter the balance of competition in other countries between securities firms affiliated and those not affiliated with banks with respect to their access to the U.S. securities markets.[89] The Association of German Stock Exchanges emphasized U.S. obligations under the Treaty of Friendship, Commerce and Navigation with the Federal Republic of Germany to accord to German entities national and most favored nation treatment in the financial and banking business.[90] It considered it a violation of that Treaty if U.S. banks and broker-dealers were allowed to conduct investment and commercial banking in West Germany while German banks weer restricted in their activities in the U.S. The Association noted that the German banks would be competitively disadvantaged in a situation where U.S. banks and U.S. broker-dealers could compete fully in investment and commercial banking in Germany while German banks would be prohibited from engaging in both activities in the U.S.[91]

Commentators from U.S. broker-dealers generally would regulate foreign banks as domestic U.S. banks under the Glass-Steagall Act [92] and would treat U.S. affiliates of foreign banks as any other U.S. broker-dealer.[93]

Few responses directly addressed the second part of Question Six. The majority of commentators expressed the idea that the circumvention of the Glass-Steagall Act by U.S. banks through ownership or control of, or other interests in, foreign banks presently was prohibited by the Glass-Steagall Act.[94] Both the Association of German Stock Exchanges and one U.S. affiliate of a foreign bank suggested that the problem, if it exists, is more a question of banking supervision and enforcement of the law than a reason to deny foreign membership or access [95] and that the Board of Governors of the Federal Reserve System could propose regulations to prevent such circumventions.[96] The NASD felt that U.S. banks must not achieve indirectly what is illegal directly and that care must be taken to distinguish between foreign broker-dealers and foreign broker-dealers that are banks or affiliated with banks.[97]

Question 6(b). For purposes of foreign membership or foreign access, should any distinction be made between foreign banks which, directly or indirectly, are engaged in commercial or other banking activities in the United States (by branch or otherwise) and those which are not? Would United States banks or broker-dealers be disadvantaged competitively (a) in the United States if foreign banks are permitted to achieve, directly or indirectly, foreign membership or foreign access, or (b) abroad (because of retaliatory measures or otherwise) if foreign banks are prevented from achieving foreign membership or foreign access?

The Boston Stock Exchange stated that a distinction should not be made between foreign banks engaged in banking activities in the U.S. and those not so engaged since that is a question of national policy unrelated to the Commission's determination of the membership issue.[98] One commentator, a U.S. affiliate of several foreign banks, indicated that foreign banks should be regulated generally as U.S. banks and allowed to operate within the U.S.[99] The SIA concluded that the various U.S. bank laws should apply to all foreign banks engaged, directly or indirectly, in the securities business in the U.S., regardless of their domicile.[100]

With reference to possible competitive disadvantages to U.S. banks or broker-dealers, the majority of commentators suggested that no great harm is foreseeable if foreign membership or access is granted. The regional exchanges felt that a grant of foreign access would not disadvantage U.S. banks or broker-dealers and that a denial of foreign membership or access would result in the restriction or prohibition of U.S. access abroad.[101] Amex

[77] BSE, at 6.
[78] MSE, at 11–12.
[79] *Id.*
[80] NYSE Advisory Committee, at 10.
[81] *Id.* at 11.
[82] *Id.* at 12–13.
[83] SIA, at 33–38.
[84] *Id.* at 40.

[85] Cazenove, at 4; Nomura, at 12.
[86] Europartners, at 7–10.
[87] A.B.D., at 13–15.
[88] SoGen-Swiss, at 5–6.
[89] Ultrafin, at 5–6.
[90] *Supra* note 28.
[91] AGSE, at 4–5.

[92] Clark, at 2; Goldman, at 3.
[93] Merrill Lynch, at 28.
[94] *See, e.g.*, A.B.D., at 15; NYSE Staff, at 17; SIA, at 39.
[95] AGSE, at 6.
[96] Warburg, at 3.
[97] NASD, at 3.
[98] BSE, at 6.
[99] Europartners, at 9.
[100] SIA, at 39.
[101] BSE, at 7; MSE, at 12. The Boston Stock Exchange repeated the view expressed by Ultrafin that a denial of access to a foreign bank or its affiliate would result in a complete bar to U.S. securities transactions in the U.S. by nationals in certain countries which permit only banks to conduct a securities business. *See* page 23 *supra*.
[102] Amex, at 10.

disagreed and supported a denial of access to all foreign banks conducting both a banking and securities business anywhere.[102] U.S. affiliates of foreign banks contended that the idea of an unfair competitive advantage is unsupported by facts [103]; that an existing inequity would be redressed by granting access to foreign banks and their affiliates since U.S. banks and their affiliates already are members of foreign exchanges; and that any denial of access to a foreign bank or its affiliate may result in the restriction or prohibition of activities of U.S. banks or their affiliates abroad.[104] By comparison, the SIA suggested that U.S. banks and broker-dealers would be at a disadvantage in light of foreign banks' wider range of services and possible utilization of tie-in arrangements and that retaliation is not a serious threat.[105]

Question 7(a). What particular regulatory problems can be expected to arise for self-regulatory bodies and United States public investors in light of foreign laws (particularly "secrecy" laws) and practices if foreign membership and foreign access are permitted to continue or expand? To what extent have such problems been experienced in the past? Are these problems capable of resolution, and, if so, how? Particularly, how can foreign persons affiliated with United States or foreign broker-dealers which are permitted to achieve membership on or access to exchanges be subjected to adequate inspection and other regulatory supervision? Should special disclosures be required of such foreign broker-dealers and foreign affiliates of United States broker-dealers affiliated with foreign nationals, and, if so, in what manner?

Commentators from U.S. affiliates of foreign entities indicated that no special problems exist; [106] that U.S. affiliates maintain books and records in the U.S. as does any U.S. broker-dealer; that U.S. affiliates are well capitalized; and that, since they are domestic broker-dealers, information concerning their activities is currently available to the regulatory authorities.[107] A U.S. affiliate of four foreign banks asserted that there are problems only with respect to the identity of and information about its shareholders, the subjection of any foreign shareholder to the jurisdiction of the U.S. courts, and the enforcement of Securities Exchange Act Rule 19b–2.[108] It contended that such problems ar susceptible to resolution, *i.e.*, the execution of "third party agreements" by the domestic affiliate's shareholders, as is presently required by the Midwest and Boston Stock Exchanges.[109] Commentators representing various U.S. affiliates of foreign entities and one foreign broker-dealer suggested that there is not any difference between a U.S. broker-dealer and a U.S. affiliate with respect to knowledge about a customer; [110] that problems of secrecy laws can be resolved by a waiver by the registered broker-dealer of its rights under any applicable secrecy laws, use of a U.S. subsidiary, and maintenance of books and records in the U.S.; [111] and that, as a condition to access, a U.S. entity must be able to trace the origin of any order or transaction to the client of an affiliate originating such order.[112]

The positions taken by the national securities exchanges placed the regional exchanges on opposite sides to the NYSE and Amex. On the one hand, the regional exchanges responded that no particular regulatory problems exist,[113] that secrecy laws could be a problem but that a similar problem exists where a nonmember foreign entity effects transactions through a U.S. broker-dealer on behalf of an undisclosed principal [114]; that membership at least permits a national securities exchange to discipline violations of its rules with its powers of suspension and expulsion; and that transactions effected through a U.S. affiliate of a foreign entity are visible and can be subjected to greater disclosure requirements.[115] The NYSE, on the other hand, stated that it has encountered significant problems, in connection with investigations of manipulation and inside information cases, in obtaining information pertaining to foreign transactions conducted through omnibus accounts carried by its members and that the entry of foreign entities and their affiliates would compound the problem.[116] Similar difficulties, it asserted, with secrecy laws and their restrictions on information inhibit a field examination of a foreign member.[117] The Amex noted that methods must be devised to assure effective regulation of members and that foreign secrecy laws must not be employed as a shield to avoid compliance with Rule 19b–2.[118] The SIA believed that there cannot be any effective supervision of foreign entities or their affiliates.[119] The NASD, on the other hand, indicated that it had encountered no unusual problems with respect to its foreign members.

Two commentators recommended either the execution of third party agreements whereby a foreign parent would consent to the regulatory jurisdiction of a national securities exchange [120] or to the use of a reputable third party, *i.e.*, a certified public accountant or appropriate foreign government agency,[121] to subject foreign persons affiliated with U.S. or foreign broker-dealers to adequate inspection and supervision. The Association of German Stock Exchanges [122] and one commentator from a U.S. affiliate of four foreign banks [123] stated that they would not object to special disclosure requirements that are reasonable and not violative of secrecy laws to which the foreign parent is subject, The Boston Stock Exchange saw no reason to require disclosures beyond that which a domestic broker-dealer presently makes.[124]

Question 7(b). Can foreign courts, and is it likely that foreign courts will, enforce United States securities laws, or United States judgments based on violations of those laws, against such foreign persons? Who should bear the additional regulatory costs of surveillance of such foreign persons and of enforcement against them of United States securities laws? In what manner could such foreign persons, as a class or otherwise, be required to pay for such additional regulatory costs (*e.g.*, by fee or special charge)?

Comments received from U.S. affiliates of foreign firms and the Association of German Stock Exchanges indicated that it was unnecessary to consider the actions of a foreign court if foreign firms conducted their U.S. securities business through a U.S. subsidiary subject to various U.S. regulatory authorities and U.S. courts [125] and that non-resident foreign parent entities generally would be without the jurisdiction of the U.S. courts.[126] The SIA and one domestic broker-dealer also considered it unlikely that enforcement of U.S. securities laws could be achieved outside the U.S.[127] against non-resident persons.[128] Some commentators contended that international law, including existing U.S. treaty obligations, dictated the outcome of any attempt to enforce U.S. securities laws abroad.[129] Two other respondents suggested that Canadian courts would enforce such actions [130] and that the courts of the United Kingdom would enforce judgments for money damages based on violations of U.S. securities laws where the defendant was subject to the U.S. court rendering the decision or, in certain cases, where the defendant had consented to the jurisdiction of the U.S. courts.[131]

As for additional costs of regulation and enforcement, most commentators from U.S. affiliates of foreign broker-dealers and all the national securities exchanges [132] as well as the SIA [133] endorsed the assessment of foreign entities or U.S. affiliates thereof for additional charges relating to any special costs attributable to their foreign ownership. There were a few comments, however, to the effect that such persons should be treated as any other domestic broker-dealer in that regard.[134]

Question 8(a). With regard to the "public business" test set forth in Securities Exchange Act Rule 19b–2, what regulatory problems are presented by foreign broker-dealers and United States broker-dealers affiliated with foreign nationals for purposes of foreign membership and foreign access? How do these problems differ significantly

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[102] A.B.D., at 15.

[103] UBS–DB, at 5. Swiss Federal Banking Law, UBS–DB Corporation stated, permits the conduct of a securities or banking business by a foreign entity in Switzerland, provided in part that complete reciprocity is accorded by the country in which the foreign entity maintains its residence or registered office.

[104] SIA, at 40–41.

[105] *See, e.g.*, Europartners, at 10; Rowe, at 11; UBS–DB, at 6.

[106] Europartners, at 10.

[107] A.B.D., at 17. Securities Exchange Act Rule 19b–2 was rescinded on January 27, 1976. Section 11(a) of the Act may present similar problems.

[108] *Id.*

[109] Selag, at 2.

[110] Rowe, at 11.

[111] Richardson, at 4.

[112] BSE, at 7; MSE, at 12; PSE, at 2.

[113] BSE, at 7; MSE, at 12. A U.S. affiliate of a Japanese broker-dealer pointed out that Japanese law requires all securities to be registered in the name of the actual owner. Nomura, at 14.

[114] MSE, at 12.

[115] The NYSE cautioned that its fears would prove unfounded if its proposals with respect to additional regulation of foreign-owned firms, as detailed in its response to Question Four, were accepted. *See* page 18 *supra*.

[116] NYSE Staff, at 18–20.

[117] Amex, at 7.

[118] SIA, at 42.

[119] BSE, at 5, 8. *See* note 60 *supra*.

[120] SoGen-Swiss, at 7.

[121] AGSE, at 6.

[122] A.B.D., at 18.

[123] BSE, at 8.

[124] *See, e.g.*, AGSE, at 3; A.B.D., at 18; Nomura, at 14; SoGen-Swiss, at 7; UBS–DB, at 6.

[125] Richardson, at 5; UBS–DB, at 6.

[126] Merrill Lynch, at 32.

[127] SIA, at 43.

[128] BSE, at 8; Cazenove, at 2; Europartners, at 11.

[129] Response of Blunt, Ellis & Simmons Incorporated ("Blunt"), at 2; Rowe, at 11.

[130] A.B.D., at 18–19; Rowe, at 12. A.B.D. Securities Corporation opposed the payment of enforcement costs in excess of those paid by U.S. broker-dealers.

[131] BSE, at 8; MSE, at 12; NYSE Staff, at 21.

[132] SIA, at 44. The SIA also proposed assessments against foreign members which are the object of specific proceedings.

[133] Response of Bongard, Leslie & Co. Ltd. ("Bongard"), at 4; Europartners, at 11.

from those presented by United States broker-dealers where foreign ownership or control is not involved? If such problems exist, how can they be resolved?

The commentators from U.S. affiliates of foreign entities indicated generally that the advent of negotiated commission rates would require a reassessment of Rule 19b-2 [135]; that orders placed by the parent entity with the U.S. affiliate are effected without disclosing the name of the originating customer [136]; that the parent entity may violate its legal obligation of secrecy or confidentiality with respect to customers' names by compliance with Rule 19b-2 [137]; and that both domestic and foreign broker-dealers share the same difficulty in complying with Rule 19b-2.[138] One Canadian broker-dealer found compliance with Rule 19b-2 not to be a problem since Canadian law requires a segregation of public accounts.[139] Of the national securities exchanges, the Pacific Stock Exchange believed that the problems of applying the "public business" test to member foreign affiliates are no greater than the problems of applying that test to U.S. broker-dealers.[140] The Amex stated that, since the burden of regulation falls on a national securities exchange, foreign membership should be prohibited because effective regulation would be impossible.[141] The SIA contended that it is difficult to regulate an entity which formulates its policy and management decisions, and maintains its assets, abroad.[142]

Among several resolutions of such problems proposed, the Boston Stock Exchange endorsed the Commission idea that a responsible, disinterested third party should conduct limited audits of a foreign parent's records or those of an affiliated member firm and that any classification of accounts as affiliated or unaffiliated should be independently verified.[143] The Association of German Stock Exchanges approved the idea of third party certification of such customer accounts where the certification simply ascertains percentage figures representing the mix of transactions.[144] The commentators from U.S. affiliates of foreign firms also generally favored the use of an impartial third party [145] or a party mutually agreeable to U.S. authorities and the foreign parent [146] to verify the character of transactions effected.[147]

Question 8(b). Particularly, is it feasible to "look through" a foreign affiliate of a foreign broker-dealer or of a United States broker-dealer affiliated with foreign nationals to determine the ultimate origin and nature of orders executed on an exchange before classifying those orders as "public" or "affiliated" business? Is the concept of "affiliated person" enunciated in Securities Exchange Act Release No. 9950 (January 16, 1973), adopting Rule 19b-2, and explained in Securities Exchange Act Release No. 10391 (September 13, 1973), adequate to permit business done by foreign broker-dealers to be fairly characterized either as "public" or "affiliated" in light of the kinds of business relationships which exist and the types of business done in foreign countries?

The general view of the respondents was that it is feasible to "look through" a foreign affiliate or U.S. affiliate and that procedures to do so can be fashioned. U.S. affiliates of foreign entities suggested that the "look through" approach is feasible and desirable; [148] and that, if necessary, responsible third parties may verify the origin and nature of customers' transactions of such affiliates.[149] The U.S. affiliate of a British broker-dealer suggested that the identity of foreign customers is discernible from a review of the firm's customer billings.[150] One U.S. affiliate of a Japanese broker-dealer indicated that a substantial part of its business is public although filtered through its parent entity.[151] The Association of German Stock Exchanges recommended a "look through" coupled with some form of independent verification that would avoid any breach of German law protecting the confidentiality of business relationships.[152] The Stock Exchange (London) also suggested the employment of third parties, including, if possible, the appropriate regulatory authorities in each country, to verify the origin and nature of orders.[153]

Two national securities exchanges thought the "look through" to be feasible particularly if accompanied by inspections by a reputable third person.[154] The NYSE further suggested requirements of full disclosure, access to all necessary books and records, certain other measures, and the application of Securities Exchange Act Rule 19b-2 to all registered broker-dealers.[155] In contrast, the SIA indicated that it is difficult to reach a foreign parent or to decide who is in a control relationship; that there is an absence of effective sanctions against foreign persons or ability to investigate such persons; that the concept of "control," widely found in the U.S. federal securities laws, is alien to foreign persons, who are familiar only with the laws of their own jurisdiction; that problems of accounting and secrecy remain; that criminal statutes pertaining to requirements of secrecy cannot be waived; that audits or verifications by third persons are questionable in that there is no uniformity in auditing standards abroad; that transactions between a member of a national securities exchange and its parent should be presumed to be not "public business" absent strong evidence to the contrary; and that, in conclusion, a "look through" approach is not feasible.[156]

In regard to the concept of "affiliated person," there were few comments. While the Midwest Stock Exchange did not have any problems with the concept,[157] the Boston Stock Exchange indicated a preference for a more definite and more narrow determination of affiliation.[158] It noted that it has encountered problems in the application of the concept of "control" to interlocking relationships of networks of companies or to situations where shareholders are not customarily disclosed or where beneficial ownership is not determinable. It suggested that "affiliated business" for foreign firms be defined to include their own business, the business of their officers and directors, the business of controlled accounts to the same extent that it is so treated in the case of domestic securities firms, and the business of "affiliates." The definition of affiliate, the Boston Stock Exchange urged, should be limited to entities which own, are owned by, or are under common ownership with the foreign firm through a chain of 25% or greater equity ownership, or less than 25% share ownership when coupled with arrangements resulting in "actual and active control of the policies and operations of such other firm." [159]

Question 9. Would any jurisdictional, regulatory and enforcement problems that may be presented by foreign membership and foreign access be diminished if the Commission were to require foreign broker-dealers and United States broker-dealers affiliated with foreign nationals seeking or enjoying membership on or economic access to an exchange to provide that exchange and the Commission periodically, in connection with contractual undertakings to make various disclosures and to subject themselves to the jurisdiction of United States courts, with (a) an opinion of United States counsel as to (i) the identities of "affiliated persons" of such entities and compliance by such entities with exchange rules concerning the utilization of membership and the nonmember access discount, and (ii) the amenability of such entities to service process within the United States and the ability of United States courts to assert jurisdiction over such entities for the purpose of determining liabilities arising out of violations by such entities of the federal securities laws; and (b) an opinion of counsel licensed or admitted to practice in the relevant foreign jurisdiction as to (i) whether adequate steps have been taken to ensure that foreign "secrecy" laws or contractual obligations regarding confidentiality do not prevent disclosure by such entities of all information necessary to reveal the identities of their "affiliated persons" and of those beneficially interested in transactions to be effected by such entities on an exchange and to permit exercise of the Commission's investigatory powers under Section 21 of the Securities Exchange Act, and (ii) the enforceability in such jurisdiction of any judgment based on violations of United States federal securities laws rendered by a United States court of competent jurisdiction? Would such a requirement be appropriate and practical? Would it be satisfactory, from a regulatory point of view, to require instead that exchanges themselves obtain such opinions with respect to different foreign countries and different kinds of foreign entities? Would it be appropriate to deny foreign access and foreign membership if satisfactory opinions of the kind described above could not be obtained? Are there satisfactory means other than opinions of counsel

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[135] Europartners, at 11.
[136] A.B.D., at 20.
[137] Selag, at 20; Swiss American, at 4; UBS-DB, at 7-8.
[138] Swiss American, at 5.
[139] Richardson, at 8.
[140] PSE, at 4.
[141] Amex, at 5.
[142] SIA, at 46.
[143] BSE, at 8-9.
[144] AGSE, at 7. Section 11(a)(1) of the Act, as amended, makes it unlawful, with certain exceptions, for any person acquiring membership in a national securities exchange after May 1, 1975, to effect any transaction on such exchange for its own account, the account of an associated person, or an account with respect to which it or an associated person thereof exercises investment discretion. It implements what has been termed the "100-0" test, which requires a member to conduct exclusively either a money management business or a broker-dealer operation. Section 11(a)(1) will be effective as to other members of national securities exchanges on May 1, 1978, and may be extended to other persons by Commission rule pursuant to Section 11(a)(2).
[145] Selag, at 2; Swiss American, at 4.
[146] Selag, at 2.
[147] *See also* UBS-DB, at 8.
[148] *See, e.g.*, Cazenove, at 2; A.B.D., at 20; Nomura, at 15; Rowe, at 12.
[149] A.B.D., at 20.
[150] Rowe, at 12.
[151] Nomura, at 15.
[152] AGSE, at 7.
[153] The London Exchange, at 2.
[154] *See, e.g.*, BSE, at 10; MSE, at 3.
[155] NYSE Staff, at 25. In its response to Question Four, the NYSE proposed a number of measures to provide what it believed to be adequate regulation of foreign firms. *See* page 18 *supra*.
[156] SIA, at 48-52.
[157] MSE, at 13.
[158] BSE, at 10.
[159] *Id.* at 11.

for determining the identities of foreign "affiliated persons" of foreign broker-dealers and United States broker-dealers affiliated with foreign nationals?

The respondents generally found no merit in the proposal that foreign broker-dealers and U.S. broker-dealers affiliated with foreign nationals procure various opinions of counsel regarding significant issues of regulatory concern. Foreign broker-dealers, U.S. affiliates of foreign firms, and one U.S. broker-dealer suggested that opinions from U.S. subsidiaries of foreign firms are unnecessary and not practical[160]; that legal opinions do not diminish jurisdictional, regulatory, or enforcement problems; that such problems are more easily handled by such means as a consent to service of process or independent third party verification of a firm's customer mix[161]; that U.S. affiliates already registered with the Commission and doing business in the U.S. are subject to the jurisdiction of the U.S. courts and that opinions of counsel achieve nothing substantive[162]; that opinions relating to a broker-dealer's capacity to comply miss the essential issue of whether or not such broker-dealer is satisfying the law regularly and consistently[163]; that opinions are not necessary in view of such alternatives as consent to access to records and waiver of secrecy laws to the extent permissible[164]; that the U.S. would be better served to look for a comparable regulatory framework in a foreign country rather than attempt an extension of the U.S. securities laws to a foreign broker-dealer[165]; and that counsel is unlikely to render an opinion, for example, on the enforceability in foreign jurisdictions of judgments based on violations of U.S. securities laws or to the effect that foreign banking practices or laws would not affect the Commission's investigatory powers outside the U.S.[166]

The SIA had doubts about the proposal. It believed that there would be no material decrease in problems of enforcement and that counsel eventually would rely only on affidavits of clients in lieu of a personal investigation of the actual underlying facts.[167] It is suggested that the means to determine the identities of affiliated persons is to have full access to relevant books and records of the foreign controlling person.[168] The Boston Stock Exchange found the proposal to be neither appropriate nor practical since an attorney would require personal investigation and discussion with each account alleged to be affiliated or personal examination of underlying records abroad. It further questioned the necessity or appropriateness of such investigations into factual matters when no violation of any law or regulation had been alleged. Rather, the Boston Stock Exchange indicated, it would prefer to solicit the disclosure of necessary information in connection with a specific inquiry subject to its powers of suspension and expulsion.[169] The NYSE reached a similar conclusion as to the merits of the Commission's proposal. As other commentators had noted, the NYSE pointed out that the presence of U.S. affiliates in the U.S. would help to avoid many regulatory difficulties.[170]

Question 10. Is it necessary or desirable for the Congress to grant additional authority to the Commission to enhance its ability to (a) prohibit, condition or limit foreign membership and foreign access or to remove barriers thereto to the extent necessary or appropriate in the public interest or for the protection of investors or to maintain fair, orderly and honest markets, (b) condition or limit registration of foreign broker-dealers or United States broker-dealers affiliated with foreign nationals as broker-dealers under Section 15 of the Securities Exchange Act, or (c) prohibit, condition or limit membership by such persons in the NASD?

The majority of commentators stated that the Commission has sufficient authority to deal with the issues at hand. The responses of the U.S. affiliates of foreign entities and certain national securities exchanges indicated that the Commission possesses sufficient authority under Sections 15, 19 and 23 of the Act.[171] The NYSE proposed an amendment to the Act to authorize the Commission to deny, suspend, or revoke the registration of any foreign-controlled U.S. applicant or registrant which violates, or unable to establish satisfactorily its compliance with, applicable limitations and conditions.[172] Another commentator suggested the passage of amendments to the Act to require the registration of all broker-dealers using any jurisdictional means to effect transactions in any nonexempt securities and to alter Sections 7 and 8 to provide an exemption from such provisions to any registered broker-dealer conducting a business abroad in foreign securities.[173]

The SIA contended that the Commission has ample power to prohibit, condition, or limit foreign participation in U.S. securities markets.[174]

Question 11. What procedures are employed currently by exchanges permitting foreign membership and foreign access, in fulfillment of their regulatory duties, to effect appropriate surveillance and discipline of foreign broker-dealers and United States broker-dealers affiliated with foreign nationals to ensure compliance by such entities with the Securities Exchange Act, exchange constitutions and the rules and regulations promulgated thereunder, and do these procedures appear to be operating effectively? In the case of foreign access, do exchange obligations to regulate different categories of nonmember broker-dealers (if there are any such obligations) vary depending on whether foreign origin, ownership or control is involved?

Several national securities exchanges reviewed aspects of their procedures with respect to foreign membership or access. The Boston Stock Exchange noted that it permits foreign membership and excludes professional access to foreign broker-dealers; that it inspects all member firms annually without any special treatment or exemption for members which are foreign firms or U.S. affiliates thereof; that it obtains jurisdiction over the parent entity by its execution of a third party agreement; that all U.S. listed business is conducted on a fully disclosed basis through domestic member firms; and that such members have complied fully with U.S. securities laws and the Constitution and rules of the Boston Stock Exchange.[175] Similarly, the Midwest Stock Exchange indicated its satisfaction with its foreign members. It examines at least once a year its members, including Canadian members and U.S. affiliates of foreign firms. Nonmember access is granted only to registered broker-dealers.[176] The Pacific Stock Exchange added that it requires a foreign entity to form a U.S. affiliate in order to become a member.[177] In contrast, the Amex justified its limitations on foreign membership on the basis of the difficulties of surveillance and enforcement of foreign entities.[178] It prohibits foreign participation in any member organization beyond 45% of capital or profits.[179] The NYSE stated that it restricts foreign membership, although its permits Canadian broker-dealers to become members provided they meet all requirements (including Section 2 of Article IX of the NYSE Constitution, which requires the individual member qualifying any firm or corporation as a member organization to be a U.S. citizen), limit their business to agency transactions and other approved enterprises, borrow funds pursuant to special loan agreements with Canadian banks, and hold designated amounts of securities and other assets in the U.S.[180]

One U.S. affiliate of several foreign banks generally endorsed the procedures of the Boston Stock Exchange and the Midwest Stock Exchange, but criticized the Boston Stock Exchange's policy of permitting foreign membership without maintenance of an office, capital, and books and records in the U.S.[181] Other comments indicated satisfaction with the present situation[182] and with the national securities exchanges' handling of foreign nonmember access.[183]

Question 12. Will the advent of competitively determined commission rates for all transactions regardless of size in May 1975 significantly reduce or eliminate incentives to foreign membership on exchanges, membership by foreign broker-dealers or United States broker-dealers affiliated with foreign nationals in the NASD, or registration of such persons as broker-dealers under Section 15 of the Securities Exchange Act? Are foreign broker-dealers or United States broker-dealers affiliated with foreign nationals which have acquired exchange memberships likely to retain or dispose of such memberships after elimination of fixed commission rates? Should the Commission defer any changes in its present policy of allowing exchanges to make independent decisions with respect to foreign membership (within certain minimum standards established by the Commission) until fixed commission rates have been eliminated?

To a significant extent, the commentators thought that competitively determined commission rates would not necessarily reduce or eliminate incentives to achieve foreign participation in the U.S. securities markets. U.S. affiliates of foreign firms or foreign broker-dealers suggested that the clearing operations of the Midwest Stock Exchange were an incentive to seek membership[184]; that membership was desirable not in order to recapture commission dollars but to conduct

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[160] Europartners, at 14.
[161] A.B.D., at 22–23. *See also* Rowe at 13, and UBS–DB, at 8, with respect to the idea of third party verification.
[162] Nomura, at 16.
[163] Merrill Lynch, at 35.
[164] Rowe, at 13.
[165] Richardson, at 6.
[166] Swiss American, at 5.
[167] SIA, at 53.
[168] *Id.* at 54.
[169] BSE, at 11.
[170] NYSE Staff, at 34.
[171] *See, e.g.*, BSE, at 11; A.B.D., at 24; Swiss American, at 6.
[172] NYSE Staff, at 34.
[173] Merrill Lynch, at 36–38.
[174] SIA, at 55.
[175] BSE, at 12.
[176] MSE, at 14–15.
[177] PSE, at 1.
[178] Amex, at 3–4.
[179] *Id.* at 4.
[180] NYSE Staff, at 35–36.
[181] A.B.D., at 25.
[182] Rowe, at 14.
[183] Selag, at 2.
[184] Bongard, at 2.

a comprehensive securities business [185] and to offer a range of services to clients [186]; and that the objective of the foreign firms is to participate in the international financial markets.[187] One U.S. affiliate of a foreign broker-dealer revealed plans to seek additional memberships despite the end of fixed commission rates.[188] Others argued that broker-dealers would continue to seek membership apart from the absence of pressures for institutional membership [189] or that membership is more a function of volume and implies a more permanent presence in the U.S. securities markets.[190] Nevertheless, one U.S. affiliate of two foreign banks believed that negotiated commission rates may significantly reduce economic incentives to foreign membership and institutional membership for persons other than itself.[191] The Association of German Stock Exchanges doubted that foreign firms would relinquish memberships after elimination of fixed commission rates.[192]

The Boston and Midwest Stock Exchanges suggested that commission savings are not a principal incentive to membership [193] and that most foreign firms engage in a wide range of activities necessitating membership, *e.g.*, certain foreign firms are specialists on the Midwest Stock Exchange.[194]

The SIA contended that enthusiasm for membership would dampen once fixed commission rates were eliminated; that foreign firms would engage in predatory pricing and anti-competitive tactics in reliance upon alternate sources of profit; that customers of such firms would continue to pay both service fees and commissions; and that business would be attracted on the basis of protections offered by "secrecy" laws.[195] The NASD suggested that the end of fixed commission rates would not affect its membership. The ability to participate in underwritings with dealer concessions, it pointed out, is the incentive to join the NASD.[196]

The comments were mixed with respect to the idea of postponing changes in Commission policy until after the elimination of fixed rates. In favor of deferring policy changes were the Midwest Stock Exchange, the SIA, and three U.S. broker-dealers.[197] The NYSE, Boston Stock Exchange, one U.S. broker-dealer [198], two U.S. affiliates of foreign firms,[199] and the International Bar Association found no reason to defer decisions on the issue of foreign participation.

Question 13(a). Should either the Commission, the exchanges or the NASD, in formulating rules governing foreign membership and foreign access, consider whether and the extent to which foreign countries permit United States broker-dealers and foreign broker-dealers affiliated with United States nationals to (a) acquire membership on such countries' securities exchanges, (b) obtain a nonmember professional discount from any fixed rates of commissions required or permitted to be charged by members of such exchanges, or (c) engage in a public securities business in such countries?

Several commentators from U.S. affiliates of foreign banks suggested that the U.S. should take a leadership role in the internationalization of the U.S. securities markets [200] and that other countries may retaliate against U.S. banks and broker-dealers if access to U.S. securities markets is denied.[201] In regard to the effects of a denial of access to the U.S. securities markets, one U.S. affiliate of several foreign banks stated that there is not any reason to expect a shift of foreign investor business to U.S. broker-dealers abroad or to expect foreign firms to direct capital to financial markets with which they do not deal directly.[202] Moreover, one U.S. affiliate of a Japanese broker-dealer noted that there is more Japanese investor interest in U.S. securities than there is U.S. investor interest in Japanese securities and that a denial of access may cause adverse reactions on the part of other countries.[202A] Swiss American Securities Inc. argued that U.S. broker-dealers have adequate access overseas; that access to the U.S. securities markets is financially important to foreign firms; and that a foreign firm should be considered for membership or access on the merits of its application.[202B] Other commentators suggested that negotiations between the U.S. and a foreign country in regard to mutual reciprocity should commence if American broker-dealers become interested in foreign securities markets and are refused access to them [202C]; that the Commission should focus only on what is the best policy for the U.S. securities markets [202D]; that, although reciprocity could be a factor in the review of a foreign membership application by a national securities exchange, U.S. broker-dealers and banks presently compete with foreign firms abroad on similar terms [202E]; and that U.S. securities markets provide less reciprocity to foreigners not maintaining an establishment in the U.S. than do most foreign stock exchanges.[202F] The Association of German Stock Exchanges pointed out that the Federal Republic of Germany grants licenses to foreign firms to engage in the securities business on the same terms that German entities are granted their licenses.[202G]

Of the national securities exchanges, the regional exchanges generally opposed the use of reciprocity as a basis for Commission policy.[203] The Boston Stock Exchange expressed the view that the U.S. needs and, in turn, would receive, an inflow of foreign investment capital if foreign membership were permitted. The Midwest Stock Exchange contended that it is difficult to measure reciprocity and that the U.S. should encourage the internationalization of the financial markets.[204] The NYSE did not agree. It proposed the adoption of its principle of mutual nondiscrimination, under which foreign and domestic institutions would have the same privileges and be subject to the same rules in the U.S. securities markets only if national status is accorded to a U.S. broker-dealer in the country of organization of the foreign institution.[205] The NASD concluded that membership in its Association should be open to qualified non-bank broker-dealers provided a U.S. broker-dealer is granted full and equal access to the securities markets of the foreign countries in which the foreign broker-dealer is organized within two years after acceptance of the foreign broker-dealer into NASD membership.[206]

Most U.S. broker-dealers indicated their preference for a Commission policy based on reciprocity.[207] On the other hand, one large U.S. broker-dealer preferred not to use reciprocity as a basis for policy until after the initiation and completion of a study to determine the existence of intolerable discrimination against U.S. broker-dealers. It felt that reciprocity unfortunately relates to nationality of ownership, obscures essential issues, is difficult to define or to apply, and is subject to a lack of credibility in light of extensive foreign participation in the U.S. commodities futures markets.[208] The SIA pointed out that the term "reciprocity" has several meanings; that there is a greater advantage to foreign firms receiving access here than to U.S. firms receiving access abroad; and, consequently, that "reciprocity in terms of equivalence is not attainable." [209]

Question 13(b). If so, how are such privileges to be compared with and measured against privileges extended in the United States to foreign broker-dealers and United States broker-dealer affiliated with foreign nationals? If reciprocity is not afforded United States broker-dealers by a particular nation, should foreign broker-dealers organized under the laws of that nation or United States broker-dealers affiliated with a foreign national of that nation nevertheless be permitted to achieve foreign membership or foreign access? If so, would any otherwise inappropriate restrictions or limitations imposed upon foreign broker-dealers of that nation or against United States broker-dealers owned or controlled by foreign nationals of that nation be appropriate under and within the scope of United States laws in light of the absence of such reciprocity?

The NYSE submitted a detailed analysis of the accessibility of foreign securities markets to U.S. broker-dealers. The comments by the NYSE Advisory Committee on International Capital Markets pointed out that foreign firms in the U.S. participate in the over-the-counter market, third market, regional exchanges, and as members of the NASD; that fewer U.S. broker-dealers have memberships in foreign exchanges than foreign firms have in U.S. national securities exchanges; that one factor to be noted is "extreme and severe" currency controls in other countries which impede payments to customers and other broker-dealers; and that, under foreign law, U.S. broker-dealers are often precluded from dealing directly with the public abroad.[210] The NYSE staff in its submission indicated that significant variations occur from country to country. The NYSE staff asserted that, in Japan, it is necessary to acquire a license from the government to engage in a public securities business; that the Tokyo Stock Exchange prohibits membership to any firm with more than half of

[185] Europartners, at 15.
[186] Ultrafin, at 3.
[187] A.B.D., at 26.
[188] Nomura, at 19.
[189] Selag, at 2.
[190] Richardson, at 6.
[191] UBS–DB, at 9.
[192] AGSE, at 8.
[193] BSE, at 12.
[194] MSE, at 15.
[195] SIA, at 57.
[196] NASD, at 6.
[197] They were Goldman, Sachs & Co., Josephthal & Co., and Blunt, Ellis & Simmons Incorporated.
[198] Merrill Lynch, Pierce, Fenner & Smith Incorporated.
[199] A.B.D. Securities Corporation and Rowe & Pitman.
[200] A.B.D., at 27; Rowe, at 15; UBS–DB, at 9. *See also* AGSE, at 8.
[201] Nomura, at 21.
[202] A.B.D., at 28.
[202A] Nomura, at 21.
[202B] Swiss American, at 6. *See also* SoGen-Swiss, at 10–11.
[202C] Selag, at 3.
[202D] The London Exchange, at 2.
[202E] Europartners, at 15.
[202F] Warburg, at 4.
[202G] AGSE, at 7.
[203] BSE, at 13; MSE, at 16.
[204] *Id.*
[205] NYSE Advisory Committee, at 8; NYSE Staff, at 41.
[206] NASD, at 8.
[207] *See, e.g.*, Response of Carl Marks & Co. Inc. ("Marks"), at 1; Response of The First Boston Corporation ("First Boston"), at 1; Goldman, at 4.
[208] Merrill Lynch, at 40–42.
[209] SIA, at 62–66.
[210] NYSE Advisory Committee, at 22–24.

its shares in foreign hands; that foreign persons may not control more than one quarter of a member's board of directors; and that non-Japanese may not exercise a controlling influence over a member corporation.[211] In Switzerland, the NYSE staff indicated, there are two classes of licenses, a class A license and a class B license, and that only the class A license, which only two foreign banks possess, permits access to the Zurich Exchange; that a foreign broker-dealer generally must organize as a bank; that the conditions upon organization as a Swiss bank include a requirement of complete reciprocity with the country where the bank's main office is located, a name revealing non-Swiss origin, and an agreement to protect Swiss currency; and that there are certain pressures to prohibit the conduct of a public business.[213] One U.S. affiliate of two foreign banks added, in regard to Switzerland, that foreign broker-dealers are well represented among persons possessing class B licenses, which authorize the conduct of a securities business outside the exchanges; and that American Express International Banking Corporation is the only American firm out of twenty-six persons holding a class A license, which authorizes the execution of transactions on exchanges.[213]

In regard to French law, the NYSE staff noted, members of the Paris Bourse must be French and such members must have been recommended by a French organization of broker-dealers. Moreover, the NYSE staff pointed out, securities may be deposited only in banks or with French broker-dealers and not with U.S. broker-dealers.[214] In Germany, the NYSE staff stated, a foreign broker-dealer needs government approval and the manager of such broker-dealer must be German; books must be maintained at each branch office; annual audits are conducted; and such broker-dealers are considered to be German entities.[215] In the United Kingdom, the NYSE staff indicated, access may be achieved without regard to nationality. Since, however, all individuals in The Stock Exchange (London), *e.g.*, partners, directors, or shareholders, must be members as well, access is more difficult to procure than it appears at first. In addition, the NYSE staff pointed out, The Stock Exchange (London) requires in part a member to undergo a period of apprenticeship with a British broker-dealer.[216] In Canada, the NYSE staff noted, the question of access is decided by each province and the Province of Ontario has been the most restrictive. For example, applicants for a license to operate a securities business may not have more than twenty-five percent foreign ownership. Foreign firms which already possess the necessary license are somewhat protected by a grandfather clause, but remain subject to restrictions on growth.[217]

Other commentators discussed restrictions in foreign securities markets. The Stock Exchange (London) indicated that membership is not limited to nationals; that a foreign broker-dealer may conduct a securities business; and that reciprocity is an "essential factor" in the issue of foreign access provided a broker-dealer complies with a local jurisdiction's laws.[218] One U.S. affiliate of two foreign banks suggested that, in Germany, licenses to engage in a securities business are not denied on the basis of national origin.[219] A U.S. affiliate of a Japanese broker-dealer noted that Merrill Lynch has branch offices in Japan and is a member of the Japanese equivalent of the NASD.[220]

Question 14(a). In the event foreign membership and foreign access are permitted to continue or expand, does the Securities Exchange Act confer sufficient authority on the Commission and the Board of Governors of the Federal Reserve System to enable them to prevent evasion of margin regulations governing securities credit transactions (*i.e.*, Regulation X, G, T and U) by foreign broker-dealers and foreign affiliates of United States broker-dealers affiliated with foreign nationals?

Foreign entities generally contended that present provisions of the Act, including Section 7, confer adequate regulatory authority upon the Commission and the Board of Governors of the Federal Reserve System.[221] Two foreign firms indicated their objection to any extension of margin regulation to transactions between a foreign affiliate of a member and those of its customers who are not U.S. citizens or nationals.[222] Similarly, it was suggested, margin regulations do not apply to a transaction between a foreign broker-dealer and its non-U.S. customers if transactions are executed through an unaffiliated U.S. broker-dealer.[223]

The various self-regulatory organizations responded that existing statutory authority is sufficient. The Boston Stock Exchange expressed the view that a foreign firm which knowingly extends more credit than Regulation X or T permits to a U.S. borrower may be an aider and abettor of the borrower's violation of Regulation X or T.[224] The Midwest Stock Exchange was unsure whether or not the Act confers sufficient authority.[225] The NYSE commented that U.S. affiliates of foreign firms should be bound by margin regulations and that the foreign parent organizations with their own sources of credit should not be.[226] The NASD stated that the present provisions of the Act provide ample authority to regulate foreign firms and U.S. affiliates thereof, provided they are either NASD members or SECO broker-dealers.[227]

The SIA contended that Section 30(b) reads as if the Act is inapplicable to persons transacting business outside of the U.S. and that Section 7(f), with its references only to U.S. persons, appears not to apply to non-U.S. persons.[228] One commentator from a U.S. broker-dealer found Regulation T to apply to any registered foreign securities firm and its U.S. securities business.[229]

Question 14(b). Should such regulations apply at all to foreign broker-dealers or foreign affiliates of United States broker-dealers affiliated with foreign nationals and customers of such entities or in some other way than such regulations apply to United States broker-dealers where foreign ownership or control is not involved? If so, what steps should be taken (including the adoption of additional regulations) to modify, if necessary, and to ensure compliance with the intent and purposes of, such regulations? If not, what impact will noncompliance with the margin regulations by such entities have on our securities markets and on competition within those markets?

One Canadian firm suggested that the U.S. should regulate the U.S. borrower and that Canadian margin regulations apply to Canadian citizens' dealing with a Canadian broker-dealer.[230] The Boston Stock Exchange also commented that there should not be any U.S. regulation over a transaction in which a foreign person lends foreign currency to other foreign persons for securities transactions.[231] The NYSE asserted that it is unnecessary to regulate credit extended by foreign organizations to foreign nationals and that to do so would create an unnecessary deterrent to foreign participation in the U.S. securities markets.[232] It further noted, however, that Regulation T applies to transactions executed in the U.S. for foreign customers through foreign branch offices of U.S. broker-dealers and that legislation should be enacted to permit U.S. broker-dealers abroad to compete in such situations on equal terms with foreign entities which are unrestricted by Regulation T.[233] The SIA suggested that the margin regulations apply to any foreign-organized broker-dealer or U.S. affiliate thereof which transacts securities business in the U.S.[234] It also proposed that different margin regulations should apply to any foreign entity, depending on whether or not the controlling parent organization is subject to existing U.S. restrictions on the extension or maintenance of credit.[235] Nevertheless, the SIA stated that a problem would remain in the enforcement of Regulation T's prohibition against arrangements by broker-dealers of credit which they themselves may not extend or maintain.[236]

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[211] NYSE Staff, at 51–52.
[212] *Id.* at 52–53.
[213] UBS–DB, at 10–11.
[214] NYSE Staff, at 49.
[215] *Id.* at 49–51.
[216] *Id.* at 54–56.
[217] *Id.* at 47–49. An application for registration by The First Boston Corporation was denied in 1971. In 1974, Paine Webber was denied permission to acquire, and thereby obtain grandfather status with respect to, duPont Glore Forgan Canada Limited since Ontario will not permit the grandfather status to be transferred upon a change in control of a registrant. *See* First Boston and Response of Paine Webber Jackson & Curtis Incorporated ("Paine Webber"). Paine Webber, in its response, atached a copy of the order of the Ontario Securities Commission that denied its application to acquire and continue the registration of duPont Glore Forgan Canada Limited. The grandfather status currently accorded pre-1971 foreign firms, though permanent, is limited by Ontario Securities Act Regulation 6(e) which provides that grandfathered firms may not increase their capital beyond their "permissible capital" on the date the new regulation came into effect.
[218] The London Exchange, at 1. Cazenove also reviewed certain requirements to membership in The Stock Exchange (London), stating that national origin does not bar the conduct of a securities business in the United Kingdom. Cazenove, at 3.
[219] UBS–DB, at 10–11.
[220] Nomura, at 21.
[221] *See, e.g.*, Europartners, at 16; A.B.D., at 29; Nomura, at 22; UBS–DB, at 13.
[222] A.B.D., at 29; Richardson, at 7.
[223] A.B.D., at 29.
[224] BSE, at 14.
[225] MSE, at 17–18.
[226] NYSE Staff, at 59.
[227] NASD, at 9.
[228] SIA, at 67.
[229] Merrill Lynch, at 45.
[230] Bongard, at 4.
[231] BSE, at 14.
[232] NYSE Staff, at 60.
[233] *Id.* at 61.
[234] SIA, at 69.
[235] *Id.* at 72.
[236] *Id.*

APPENDIX B

MEMORANDUM

Types of Exchange Rules on Membership and Association with Members Which Raise Questions Under the Sections of the Act Discussed in the Letter Dated March 2, 1976 [1]

1. *New York Stock Exchange, Inc. ("NYSE").*

(a) *Constitution.* Article IX covers membership, member firms, and member corporations:

Section 2 requires an applicant for election as a member to be at least 21 years of age and a citizen of the United States.[2]

Section 7 covers approval of member partnerships and corporations and allied members and approved persons. Subsection (b) provides that the NYSE Board shall not approve a corporation as a member corporation unless, for example, (1) every director holds of record and owns beneficially voting stock; at least a majority of the directors are members or allied members; and each director not otherwise a member or allied member is an approved person; (2) every member or allied member who is an employee is actively engaged in its business and devotes the major portion of his time to it; (3) every owner of 5% or more of the outstanding voting stock of a member corporation is a member, allied member or approved person; and (4) the primary purpose of a member corporation is the transaction of business as a broker or dealer in securities. Subsection (f) prohibits, unless exempted by rule or otherwise, a party from being a member, allied member or approved person in more than one member firm or member corporation. Other than a requirement for approval by the NYSE Board in subsection (a), no standards for an approved person are prescribed.[3]

Section 8 prohibits, unless permitted by the NYSE Board, any member or allied member from having as a general partner in a member firm any person who is not a member or an allied member of the NYSE. A member or allied member may not be the holder of voting stock in a member corporation unless all the holders required to be approved by the NYSE Board are so approved. Every member partnership and member corporation is required to be created or organized under the laws of, and to maintain its principal place of business in, the United States or Canada or any state or province thereof. A member firm or member corporation may not have as a "parent" any person other than a citizen of the United States or Canada or a corporation or partnership created or organized under the laws of such countries or states or provinces thereof.[4]

Article XIV concerns expulsion and suspension of members or allied members:

Section 18 authorizes the NYSE Board to require a member or allied member to dissolve any partnership or to sever all connection therewith (whether or not such partnership is a member firm) or require a member or allied member to sever all connection with a corporation (whether or not it is a member corporation) and cease to be a stockholder, officer or director therein or employee thereof or may require the discontinuance of a business, office or headquarters or business connection "whereby the interest or good repute of the Exchange may suffer." No standards are articulated.

(b) *Rules.* Rule 301, which regulates transfers of membership, provides, for example, that an applicant for membership shall be sponsored by two members or allied members. An applicant for approval as an allied member is required to have similar sponsorship.

NYSE Rule 314 requires every member and allied member in a member organization to have a fixed interest in the entire business. Certain persons are not permitted to own more than the maximum allowable interest of the direct or indirect profits of a member organization lacking any outstanding, freely transferable security. Participants in a member organization who are not citizens of the United States or Canada may not own as a group in excess of 45% of the capital or profit of such organization.

NYSE Rule 318 restricts business connections of members and allied members. The primary purpose of every member organization is required to be the transaction of business as a broker or dealer in securities and in activities kindred to the securities business.[5] Individual members, unless otherwise approved by the NYSE Board, may not become (1) a partner in any non-member business organization, (2) an officer or employee of any non-member business corporation, firm or association, (3) an employee of any firm or individual engaged in business, or (4) associated with any outside securites, financial, or kindred business. Each individual member is required to be actively engaged in the securities business and to devote the major portion of his time thereto. Each member and allied member in a member organization are similarly restricted. "Primary purpose" is defined in terms of a presumption depending on whether 50% of gross income is derived from permissible sources.

NYSE Rule 321 requires a member organization to show "adequate reason" for desiring a corporate affiliate; the holders of non-voting stock, debentures and/or notes of an affiliate, who are not members or allied members, may have no more than 45% of the direct or indirect profits of such affiliate; and a corporate affiliate may conduct only an underwriting or dealer business, investment advisory business, or business acceptable to the NYSE but may not act on an agency basis.

NYSE Rule 324 requires a member organization to demonstrate "adequate reason" to form an associated partnership.

2. *American Stock Exchange ("Amex").*

(a) *Constitution.* Article IV relates to membership generally:[6]

Section 1(a)(2) requires every applicant for regular membership to be at least 21 years of age, a citizen of the United States and to engage actively in the business of the member organization.

Section 2 requires the approval of the Amex Board of any general partner or holder of voting stock in a member corporation prior to the association by such person with a member or approved person or a special or limited partner from being assoicated with more than one member organization. No standards for approval are articulated. Every member firm, member corporation and member who is not a general partner in a member firm or a director, executive officer or holder of voting stock in a member corporation is required pursuant to Subsection (d) to have as its or his principal purpose the conduct of a public securities business. A member corporation is required to have at least a majority of its directors be members of the exchange and any other director who is not a member be an approved person. The activities of an applicant corporation are limited by the condition that the primary activity of the corporation be the transaction of business as a broker or dealer in securities. Subsection (m) requires that each member firm be a partnership and every member corporation be a corporation created or organized under the laws of, and shall maintain its principal place of business in, the United States or Canada, or any state or province thereof. Subsection (n) permits a member firm or member corporation to have as a parent any party who is a citizen of the United States or Canada or a corporation or partnership created or organized under the laws of the United States or Canada, or any state or province thereof, but no other country of organization.[7]

Article V relates to discipline of members and contains a provision regulating business associations:

Section 7(a) authorizes the Amex Board to require a member to dissolve a partnership or to sever all connection therewith (whether or not such partnership is a member firm), to sever all connection with a corporation (whether or not it is a member corporation) and cease to be a stockholder, officer or director therein or employee thereof, or to discontinue a business, office or headquarters or business connection "whereby the interest or good repute of the Exchange may suffer." No standards are articulated. Section 7(b) permits the Amex Board to require a member to discontinue a business connection whenever it appears that a member, individually or through his member firm or member corporation or through any partner of his member firm or through any officer, director or employee of his member

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[1] The statements herein are not complete and are subject to the detailed provisions of the rules of each exchange in question. Wherever particular provisions are referred to, the statements are qualified in their entirety by such reference.

[2] The requirements of age and U.S. citizenship reappear in supplementary material that follows Rule 301. Rule 301 sets forth conditions under which a transfer of membership may occur.

[3] Section 3(g) of Article I defines an approved person only as a party who is not an employee, a member or an allied member of a member corporation, who has become an approved person pursuant to Article IX, and who is a director of a member corporation or who beneficially owns 5% or more of the outstanding voting stock of a member corporation. Article IX requires two-third's approval by the NYSE Board and "filing such applications and executing agreements as prescribed by the NYSE * * *."

[4] NYSE Rule 2 defines parent to be any party who has the power to exercise controlling influence over the management or policies of such other party, unless such power is solely the result of an official position with such other party. The Rule further states:

Any party who owns beneficially, either directly or indirectly, more than 25% of the voting securities of a first corporation or more than 25% of the outstanding voting securities of any other corporation which directly or through one or more subsidiaries owns beneficially more than 25% of the outstanding voting securities of the first corporation shall be presumed to be the first corporation's parent. Any party who does not so own more than 25% of the voting securities of a corporation shall be presumed not to be such corporation's parent. Any such presumption may be rebutted * * *.

[5] *See* Securities Exchange Act Release No. 12055 (Jan. 27, 1976).

[6] *See* SR-Amex-76-2 in which Amex proposed amendments to Article IV.

[7] The definition of parent is generally similar to that of the NYSE, as outlined in note 4 *supra*. *See* definition of "parent" in Rules of Board of Governors, CH *ASE Guide*, Paragraph 9202A (1975).

corporation or association that such nonmember corporation or association dominates the business of the member or member firm or member corporation, or controls the policy of such business.

(b) *Rules.* The Amex requires an applicant for regular membership to be at least 21 years of age and generally not older than 60 years of age, comply with restrictions on citizenship, pass a physical examination, procure the sponsorship of two members or members' partners who have known the applicant for a substantial period of time or from other sponsors acceptable to the Amex, and produce five letters of reference. An applicant for an associate membership must satisfy similar conditions. An allied membership application also calls for sponsorship by two members or partners of members.

Rule 313 prohibits any party from being a member in more than one member organization with certain exceptions. One or more regular member organizations, however, may, with the approval of the Amex, own all the voting stock of another regular or associate member corporation other than certain qualifying shares. Rule 314 provides that the primary activity of every member organization shall be the transaction of business as a broker or dealer in securities.

To form an affiliated company, a member organization must demonstrate to the Amex an adequate reason and comply with restrictions on its ownership and on the composition of its capitalization. No standards are articulated. A corporate affiliate may conduct only an underwriting or dealer business, an investment advisory business, or any other business acceptable to the Amex so long as such business does not include dealings on an agency basis.

Rule 319 restricts a regular member organization which does not have any outstanding, freely transferable security. Regular members or allied members in a regular member organization or employees of a regular member corporation, for example, are one of the limited classes of persons permitted to own any interest in such member organization entitling them to participate to an amount in excess to 45% in the direct or indirect distribution of the profits of such firm or corporation. Moreover, in the case of such member organization, the regular members and allied members and employees of a regular member corporation, for example, are required to own an interest in such regular member corporation entitling them to participate in an amount of at least 35% in the direct or indirect distribution of the profits of such corporation. Rule 319(c) provides that neither the interest in capital nor in profit of a regular member organization, owned by all persons as a group who are not United States or Canadian citizens, shall exceed 45%. Among special regulations governing Canadian member organizations, a Canadian member organization, for example, may conduct only an agency business as a securities and commodities broker, plus related "minimum risk activities" such as an investment advisory service.

3. *Boston Stock Exchange.*

(a) *Constitution.* Section 1 of Article XI requires every applicant to be at least 21 years of age, to obtain the sponsorship of at least two members, and to furnish a written report upon his physical condition. An applicant is excluded from membership if fifteen members decide to "blackball" him.

Section 3 of Article XIX provides that no member or allied member shall be a general partner, a special partner or a holder of more than 5% of stock of any class in more than one member corporation at the same time.

(b) *Rules.* Section 1(a) of Chapter XXV provides that a member corporation shall be a corporation, the principal corporate purpose of which is the transaction of business as a broker or dealer in securities, organized under the laws of Massachusetts, or the laws of any other approved state.

Subsection (d) prohibits the ownership of stock or other interest in a member corporation directly or indirectly by any bank or by an officer or employee of any bank, except as otherwise permitted. Other restrictions include a prohibition of ownership by an officer, director or stockholder of one member corporation of any stock or interest in, or possession of office as a director or officer of, another member corporation or member firm. Subsection (1) does not allow a member to be an officer or director of, or to control, directly or indirectly, a substantial interest in, a corporation engaged in the securities business which is not a member corporation except with permission. Section 2 implements now rescinded Securities Exchange Act Rule 19b–2 [8] and in part requires each member, member firm, or member corporation to have as the principal purpose of its membership the conduct of a public securities business.

4. *Chicago Board Options Exchange, Inc. (the "CBOE").*

(a) *Constitution.* Section 2.1 of Article III allows the CBOE to determine the terms of membership. Section 2.2 requires that members have a principal purpose of their membership the conduct of a public securities business.

(b) *Rules.* Rule 3.1 of Chapter III repeats the "conduct of a public securities business" requirement found in Article III of the CBOE Constitution. Rule 3.2 restricts the ownership of memberships to individuals who are at least 21 years of age, citizens of the United States or of such other countries as the CBOE approves and actively engaged in, as well as devote the major portion of their time to, the securities or commodities business. Rule 3.3 requires member corporations to organize under the laws of one of the states of the United States and all member organizations to engage actively in the securities, commodities and other businesses approved by the CBOE. Rule 3.3 further provides that all general partners, executive officers, and a majority of directors shall be actively engaged in the business of the member organization.

Rule 3.6 prohibits a member organization's affiliation with a parent organization which is not organized under the laws of the United States or such other country as the CBOE approves and does not submit a description of its directors, officers, principal shareholders, principal partners, its types of business, and an annual financial statement.

5. *Cincinnati Stock Exchange. Rules.* Section 23 restricts the class of associate members. Section 25 provides that an applicant must be at least 21 years of age, a citizen of the United States, and recommended by two members in good standing. Section 32(b) allows, in the case of death or resignation of a member, for a decrease in the number of outstanding regular memberships through the redemption of the membership upon application by the legal representative of the deceased member.

6. *Detroit Stock Exchange.* (a) *Constitution.* Section 1 of Article XI appears (1) to require that an applicant for membership have sponsors and (2) to provide that an application may be denied on the basis of unspecified objections of other members.

Section 2 of Article XIII requires an applicant to be at least 21 years of age and a citizen of the United States or Canada.

Section 7 of Article XIX grants the Governing Committee the authority to require dissolution of a partnership, business, office, or headquarters, or business connection "whereby the interest or good repute of the Exchange may suffer." No standards are articulated. Section 8 states that, whenever it appears to the Governing Committee that a member, individually or through his firm, or a partner or partners therein, has such a business connection with a corporation or association not registered on the Exchange that the corporation or association dominates the business of the member or firm, or controls the policy of such business, the Governing Committee shall require the discontinuance of such business connection.

Section 1 of Article XX conditions the registration of a corporate firm and restricts, in connection with the provisions of Section 8 of Article XIX, the business associations of a member.

(b) *Rules.* Section 2 of Chapter XIII provides that a member may not be associated with an investment trust by participating in its organization or management unless the Committee on Arbitration and Business Conduct has determined that it does not have any objection to such association.

Section 1 of amended Chapter XXII provides, among other things, that every member or member firm shall have as its principal purpose the conduct of a public securities business.

7. *Intermountain Stock Exchange.*

(a) *Constitution.* Section 3 of Article II proscribes the ownership of more than one membership by an individual, although a corporation or partnership is permitted to own one or more memberships. Section 5 contains provisions banning members of other exchanges located in Salt Lake City from membership.

Article III limits associate memberships to persons not less than 21 years of age and a citizen of the United States, who are engaged individually as a member of a firm or as an executive officer of a corporation in the business of buying and selling securities as a broker or dealer.

(b) *Rules.* Rule 1 of Article I requires an individual applicant for membership to be a citizen of the United States and at least 21 years of age. Rule 1 further provides that a corporation applicant must be organized under the laws of one of the states of the United States and qualified to do business in the State of Utah, and have as its principal corporate purpose the transaction of business as a broker and dealer in securities. Rule 4 requires each applicant to have two acceptable sponsors, at least one of whom must be a member. Rule 15 generally does not allow a former member, member firm, or member corporation, who has sold his or its membership, to stand for reelection to membership until six months after the date of sale.

Rule 3 of Article IX provides that no partnership shall be registered as a member firm unless it shall be actively engaged in the securities business as a dealer or broker. Rule 10 prohibits a person from being a partner in more than one member firm or from being an officer, director or stockholder of a member corporation. Rule 11 prevents a member from being a general partner in a partnership doing business as a dealer or broker in securities unless the partnership is a member firm. Rule 12 requires every member who is a general partner in a member firm to be actively engaged in the business of his firm and devote the major portion of his time thereto and to abstain from participation in any business to which objection is made.

Rule 2 of Article X stipulates, with exceptions, that the corporate purpose of a member corporation must be the transaction of business as a dealer or broker in securities and that such member corporation must be ac-

[8] *See* note 5 *supra.*

tively engaged in such business. Rule 7 specifies that no member corporation generally shall be subsidiary of another corporation and that its officers and directors must have contributed or own at least 30% of the total capital represented by all classes of stock. Rule 8 proscribes the affiliation of an officer, director, or substantial stockholder of a member corporation with another corporation, or as a general or limited partner of a firm except in certain cases.

8. *Midwest Stock Exchange, Incorporated ("MSE").*

(a) *Constitution.* Article II provides that an individual may not own more than one membership whereas a partnership or corporation may own one or more memberships with the consent of the MSE.

(b) *Rules.* Rule 1(a) of Article I stipulates that an individual applicant or member must be at least 21 years of age and a citizen of the United States, Canada or other approved country.[9] A corporation is required to be organized under the laws of one of the states of the United States, the Canada Corporations Act, or any statute of an approved country. Rule 1(c) specifies that every member and member organization generally shall have as the principal purpose of its membership the conduct of a general and public securities business.

Rule 3 of Article XIV requires a member firm to be engaged actively in the securities business as a dealer or broker. Rule 12 generally requires every member who is a general partner to be actively engaged in the business of his firm and devote a major portion of his time thereto. A member may not participate in any business to which the MSE takes exception.

Rule 7(a)(2) of Article XV permits a member corporation to be a subsidiary of a parent firm not organized and doing business in the United States or Canada if in part (1) the parent is engaged in the business as a broker-dealer in an approved country (other than the United States or Canada) and (2) the parent agrees to other requirements imposed by the MSE.

9. *Pacific Stock Exchange, Inc.*

(a) *Constitution.* Section 1 of Article VI limits the number of authorized memberships and restricts membership to individuals who are at least 21 years of age and whose chief business is that of transacting business as a broker or dealer in securities.

Section 6(a) of Article VIII restricts a member and its business connections where action by such member is "contrary to the welfare or good repute of the Exchange." No standards are articulated.

(b) *Rules.* Section 3(a) of Rule IX provides that every member firm shall have as the principal purpose of its membership the conduct of a public securities business.

10. *PBW Stock Exchange, Inc. ("PBW").*

(a) *Constitution.* Section 12–3 of Article XII provides that a corporate member must be incorporated under the laws of the Commonwealth of Pennsylvania and all of its capital stock must be owned by the PBW.

Section 12–4 of Article XII provides that the Board of Governors shall not vote upon an applicant for membership if the Committee on Admissions reports unfavorably upon the candidate or withdraws its favorable report because of objections by members. Section 12–4 appears to permit a denial of membership on the basis of members' objections. No standards are articulated.

Section 13–2 of Article XIII provides that only a corporation which has as its principal corporate purpose the transaction of a business as a broker or dealer in securities may be registered by a member as a member corporation. Such corporation must be organized under the laws of a state approved by the Committee on Admissions, aside from inconsistent language in Section 12–3 of Article XII. Section 13–3 provides that no bank or subsidiary of a bank and no investment trust may be registered as a member corporation.

Section 18–18 of Article XVIII provides that the Board may require, among other things, the discontinuance of any business connection formed by a member which may cause the interest or good repute of the PBW to suffer. No standards are articulated.

(b) *Rules.* Rule 795 provides a member shall not be an officer or director of, or own or control, directly or indirectly, a substantial interest in a corporation engaged in the securities business which is not a member corporation of the PBW, except with the written permission of the Committee on Business Conduct.

Rule 923 provides that, in the case of a "member corporation," a member of the exchange must be an officer of the member corporation and that he must own such an interest in the voting stock of the corporation as shall be acceptable to the Committee on Admissions.

11. *Spokane Stock Exchange.*

(a) *Constitution.* Article XII and its provisions require an applicant to be at least 21 years of age and a citizen of the United States or Canada, limit the number of memberships available, and grant privileges of membership only to natural persons.

(b) *Rules.* The Spokane Stock Exchange has a rule outstanding which implements now rescinded Securities Exchange Act Rule 19b–2[10] and which stipulates that each member or member organization shall have as its principal purpose the conduct of a public securities business.

[FR Doc.76–7142 Filed 3–11–76;8:45 am]

[9] Approved countries include the United Kingdom, Switzerland, West Germany, Belgium, France, The Netherlands, Italy and Japan.

[10] *See* note 5 *supra.*

[Rel. No. 12171; (SR–BSE–76–6)]

BOSTON STOCK EXCHANGE

Notice of Filing of Proposed Rule Change by and Order Approving Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), as amended by Pub. L. No. 94–29, § 16 (June 4, 1975), notice is hereby given that on March 3, 1976, the Boston Stock Exchange, 53 State Street, Boston, Massachusetts 02109, (the "BSE") filed with the Commission copies of a proposed rule change. The proposed rule change would amend Chapters XII–A, XIII and XIV of the Rules under the following interpretation: The obligation to charge a differential on an odd-lot when coupled with a round-lot is eliminated.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change. Persons desiring to make written submissions should file six copies thereof with the Secretary of Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–BSE–76–6.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder. Under Section 6(e) of the Act, exchanges will be prohibited, effective May 1, 1976, from imposing any schedule or fixing rates of commissions, allowances, discounts, or other fees to be charged by its members for acting as an odd-lot dealer. Nothing in the Act prohibits an exchange from taking action, such as that being taken currently by the BSE, in advance of May 1, 1976.

Further, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. Eliminating the requirement that a prescribed odd-lot differential be charged will promote competition in odd-lot trading; BSE members engaged, or who wish to engage, in odd-lot trading on the exchange will be able to compete on the basis of charges for odd-lot business. Additionally, the BSE rule change will enable investors to receive a reduced charge on odd-lot orders coupled with round-lot orders.

A firm engaged in the odd-lot business on the BSE and which is required to charge the fixed odd-lot differential would be at a competitive disadvantage with respect to firms which execute odd-lot transactions off the exchange and are not required to charge the odd-lot differential. Immediate removal of the requirement that a prescribed odd-lot differential be charged on odd-lot orders executed on the exchange will allow exchange members to begin competing, on an equal basis, with firms which may begin to execute odd-lot orders off the exchange without charging an odd-lot differential.

For the foregoing reasons, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of notice of filing thereof.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

MARCH 5, 1976.

[FR Doc.76–7154 Filed 3–11–76;8:45 am]

[Rel. No. 12175]

BUNKER RAMO CORP., ET AL.

Order Granting Exemptions

MARCH 8, 1976.

In the matter of applications for exemption from display requirements of rule 17a–15 by Bunker Ramo Corp. (Bun-

ker Ramo" GTE Information Systems, Inc. ("GTE"), AutEx, Inc. ("AutEx").

Notice is hereby given that the Securities and Exchange Commission has granted exemptions to certain vendors of last sale information from Rule 17a–15 (the "Rule") under the Securities Exchange Act of 1934 (the "Act") insofar as the Rule requires, through the operation of plans declared effective pursuant to its provisions, that vendor interrogation systems display consolidated last sale information in accordance with specified requirements. The exemptions cover certain devices which currently are unable to comply with the display requirements specified in the Rule and in the joint industry plan for the operation of the consolidated transaction reporting system filed with and declared effective by the Commission in accordance with the Rule (the "Plan").

In addition to requiring national securities exchanges, the National Association of Securities Dealers, Inc., and certain non-member broker-dealers to file plans with the Commission for the consolidated reporting of transactions in listed securities, the Rule provides that any such plan filed with the Commission must contain provisions requiring vendors of market information to agree to display last sale information only in accordance with certain requirements, including the following:

> The plans also shall require that any person displaying last sale reports [reports of prices and volume of all completed transactions] shall agree not to exclude such reports based upon the market in which a transaction was executed and that any public display of selected last sale reports be clearly identified as only reporting selected transactions classified as to size, category of security, or other criteria. Each such composite tape or interrogation system, in displaying last sale reports, shall identify the marketplace where each such transaction was executed.[1]

The display requirements prescribed by the Rule were clarified by the Commission in an interpretative release issued on March 28, 1975.[2] In that release, the Commission described the minimum display requirements under the Rule as follows:

> Interrogation systems must be able to display the most recent last sale price as reported in the consolidated system, accompanied by, absent an exemption, a market identifier indicating the market place in which the most recent last sale occurred, and, in addition, simultaneously or upon separate inquiry, by some non-misleading display of volume. A display of volume which is either (i) the volume associated with the most recent last sale in the consolidated system, or (ii) cumulative volume on a consolidated basis will be deemed nonmisleading and in compliance with the Rule.[3]

Paragraph (h) of Rule 17a–15 provides that the Commission may exempt from the provisions of the Rule, either unconditionally, or on specified terms and conditions, any exchange, association, broker, dealer, or vendor if the Commission determines that:

> It is not necessary in the public interest or for the protection of investors that such exchange, association, broker, dealer, vendor, . . . be subject to the provisions of this Rule.

Bunker Ramo, GTE and AutEx each have applied for an exemption from the display requirements of the Rule and the Plan. The Commission finds, consistent with the provisions of paragraph (h) of the Rule and upon the terms and conditions stated herein, that exemptions should be granted to these applicants.

GTE Information Systems, Inc. GTE has requested an exemption for its "Stockmaster" interrogation devices presently in use until December 31, 1978.[4] GTE has represented that it is unable to modify these machines in order to comply with the requirement of the Rule that last sale reports be identified by market of execution. GTE has also indicated that it is in the process of phasing out this equipment and that, if forced prematurely to retire these machines from service, it will suffer a significant financial loss.

While the Commission believes it is important that displays of consolidated last sale reports identify the market of execution in order to assure that such reports will not be misleading, the Commission has determined that, in light of the relatively small number of machines in service, and in light of GTE's commitment to a firm date for phasing out this non-complying equipment, it is not necessary in the public interest or for the protection of investors for GTE's "Stockmaster" interrogation devices currently in use to comply immediately with the market identification requirement of the Rule and hereby exempts GTE from that requirement with respect to those "Stockmaster" devices currently in service until December 31, 1978; provided that GTE makes no new installations of "Stockmaster" equipment.

Bunker Ramo Corporation. Bunker Ramo has requested an exemption for its "Telequote III" ("TQ–III") interrogation devices from the requirement that such devices be able to display last sale information on a completely consolidated basis without discriminating between markets.[5] Bunker Ramo has indicated that technical difficulties have prevented it from completing modifications to its systems necessary to bring its equipment into compliance on a timely basis. Bunker Ramo has indicated, however, that all of its TQ–III devices will be in compliance by June 30, 1976, and has requested exemptions for these machines until that date. In the interim, Bunker Ramo has represented that the TQ–III devices would display last sale reports from the primary exchange on one inquiry, and all other reporting markets (on a consolidated basis) upon making a separate inquiry, using a closely related interrogation symbol.

Although the number of non-complying TQ–III devices presently in use by brokers and dealers is substantial, the Commission believes that an exemption of such short duration as that requested by Bunker Ramo will not adversely affect public investors.[6] Therefore, the Commission has determined that it is not necessary in the public interest or for the protection of investors that Bunker Ramo's TQ–III interrogation devices comply with the display requirements of the Rule until June 30, 1976. The Commission, therefore grants Bunker Ramo an exemption for these devices until that date.

AutEx, Inc. AutEx has requested an exemption from the requirement of the Rule that last sale reports include a display of volume informaton.[7] AutEx has indicated that, unlike the major vendors, it is a vendor of last sale information only to a limited extent. The AutEx system is primarily designed to disseminate indications of interest for large blocks of stock to block traders and institutional investors. AutEx devices display consolidated last sale information, but only in two relevant contexts:

> (i) Last sale data is used as a reference point whenever a subscriber requests a display of block trading information for a particular security. The information displayed also includes the most recent expressions of block trading interest by brokers and reports of executed block trades as well as other research and market information.
>
> (ii) Last sale prices also appear on a display of all listed securities in which a subscriber is "market minding," that is, a display for which the subscriber has requested special notice and/or display whenever any entry on that display is first available.

The Commission believes that it is not necessary in the public interest or for the

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[1] *See* Rule 17a–15(b); *See also* Joint Industry Plan, Sections V(b), VIII(f) and (g).

[2] Securities Exchange Act Release No. 11317 (March 28, 1975).

[3] *Id.* at 2.

[4] Letter from Eugene E. Mulhern, Divisional Counsel, GTE Information Systems, Inc., to Andrew M. Klein, Assistant Director, Division of Market Regulation, May 23, 1975.

[5] Letter from William F. Culman, Vice President and General Manager, Brokerage Systems, Bunker Ramo Corporation, to Andrew M. Klein, Associate Director, Division of Market Regulation, August 14, 1975. Bunker Ramo originally also requested an exemption for its Market Decision System–7 ("MDS–7") interrogation devices. That request indicated that all MDS–7 devices would be modified to conform to the display requirements of the Rule by March 31, 1976. In view of the fact that, as a result of the Commission's recent clarification (Securities Exchange Act Release No. 12138 (February 25, 1976)), vendor compliance is not required until April 30, 1976, the exemption request of Bunker for its MDS–7 devices is now moot.

[6] Bunker Ramo has indicated, however, that approximately 75 percent of the TQ–III devices will be in compliance with the display requirements of the Rule by March 31, 1976. Letter from M. Sumner, Securities Industry Liaison, Bunker Ramo Corporation, to Andrew M. Klein, Associate Director, Division of Market Regulation, February 23, 1976.

[7] Letter from Alan F. Kay, President, AutEx, Inc. to Securities and Exchange Commission, January 7, 1976.

protection of investors to require AutEx to display volume information together with last sale reports used in such a manner. It is unlikely that the absence of volume information would mislead any AutEx subscribers since the AutEx system is generally used only for specialized trading purposes. The Commission therefore grants AutEx an exemption from the requirement of the Rule that its machines include volume information in conjunction with any display of last sale reports disseminated through the AutEx system, in the manner described above.

IT IS THEREFORE ORDERED, pursuant to paragraph (h) of Rule 17a-15, and upon the terms and conditions stated herein, that exemptions from the display requirements of the Rule, as requested by Bunker Ramo, GTE and AutEx be, and they hereby are, granted.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.76-7144 Filed 3-11-76;8:45 am]

[Rel. No. 19420; (70-5803)]

CENTRAL AND SOUTH WEST CORP.

Notice of Proposed Charter Amendments To Increase Authorized Common Stock and To Amend Preemptive Rights Provisions; Order Authorizing Solicitation of Proxies in Connection Therewith

MARCH 5, 1976.

NOTICE IS HEREBY GIVEN that Central and South West Corporation, P.O. Box 1631, Wilmington, Delaware 19899, ("CSW"), a registered holding company, has filed a declaration, and an amendment thereto, with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(a), 7 and 12(e) of the Act and Rule 62 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, as amended, which is summarized below, for a complete statement of the proopsed transaction.

CSW proposes to amend its Restated Certificate of Incorporation ("Charter"), as amended, to increase CSW's authorized common stock, par value $3.50, from 56,500,000 to 58,300,000 shares. CSW presently has 51,417,892 shares of its common stock issued and outstanding. CSW states that it proposes to increase its authorized common stock to permit the issuance and sale in 1976 of a sufficient number of additional shares of common stock to raise approximately $100,000,000. CSW further states that at current market levels, such a financing would require the sale of approximately 6,000,000 common shares. Proceeds from the sale of CSW common stock would be used to help finance planned construction expenditures of the CSW subsidiary companies.

CSW also proposes to amend its charter to except from the preemptive rights provisions of the Charter the issuance of CSW common stock (i) exclusively to, or for the benefit of, employees of CSW or its subsidiaries or (ii) through or in connection with a dividend reinvestment plan. These proposed amendments broaden the Charter exceptions to preemptive rights. CSW states that the first preemptive rights amendment is proposed to permit the sale of stock on original issue to an employee stock ownership trust, if one is created. CSW states that such issuance would not be practicable if the shares had first to be offered to stockholders in satisfaction of their preemptive rights.

CSW states that the second amendment to the preemptive rights Charter provision would permit revision of CSW's dividend reinvestment plan to require investment in shares of CSW common stock on original issue rather than in already outstanding shares. Such a revision of the dividend reinvestment plan would require the approval of the CSW Board of Directors.

CSW proposes to solicit proxies from its common stockholders to be used at the annual meeting of CSW stockholders to be held on April 15, 1976. Proxies are to be solicited for the above-described proposals, for the election of directors and for approval of the appointment of independent auditors. It is stated that the management of CSW does not know of any other such business to come before the annual meeting. The proposed Charter amendments require the favorable vote of the holders of a majority of the outstanding shares of CSW common stock entitled to vote at the meeting. The Charter amendments will be voted on separately. Each amendment, if adopted, will be made effective regardless of whether any other amendment to be acted upon at the meeting is adopted.

It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction. Fees and expenses to be incurred in connection with the proposed transaction are estimated to amount to $30,500, including proxy soliciation costs of $27,000.

Notice is further given that any interested person may, not later than March 31, 1976, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing that CSW's declaration, as amended, insofar as it relates to the proposed solicitation of proxies, should be permitted to become effective forthwith pursuant to Rule 62:

IT IS ORDERED that the declaration, as amended, in so far as it relates to the proposed solicitation of proxies, be, and it hereby is, permitted to become effective forthwith, pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.76-7146 Filed 3-11-76;8:45 am]

[File No. 500-1]

C.I. MORTGAGE GROUP

Notice of Suspension of Trading

MARCH 5, 1976.

The common stock of C.I. Mortgage Group being traded on the New York Stock Exchange and the warrants of C.I. Mortgage Group being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities if C.I. Mortgage Group being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

THEREFORE, pursuant to Section 12 (k) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from 1:45 p.m. (EST) on March 5, 1976 through March 14, 1976.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.76-7145 Filed 3-11-76;8:45 am]

[Rel. No. 9192; (811-1535) (811-1536)]

CONTINENTAL BANKERS LIFE INSURANCE COMPANY OF THE SOUTH

Notice of Application

In the matter of Continental Bankers Life Insurance Company of the South, Peoples Investment Annuity Separate Account A and Peoples Investment An-

nuity Separate Account B, c/o A. H. Chamberlin, Upper Plaza, Ten Main Center, Kansas City, Missouri 64105.

NOTICE IS HEREBY GIVEN that Continental Bankers Life Insurance Company of the South ("CBL"), a Tennessee stock life insurance company, and Peoples Investment Annuity Separate Account A ("Separate Account A") and Peoples Investment Annuity Separate Account B ("Separate Account B"), separate accounts of CBL registered as diversified open-end management companies under the Investment Company Act of 1940 ("Act"), filed an application on August 21, 1975, and amendments thereto on October 8, 1975, January 2, 1976, and February 27, 1976, pursuant to Section 8(f) of the Act for an order of the Commission declaring that Separate Account A and Separate Account B have ceased to be investment companies as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicants state that Separate Account A has never sold variable annuity contracts and has no assets. Separate Account B offered variable annuity contracts until November 30, 1970, when all sales activities ceased. At the present time, CBL is the only participant in this Account. As of September 30, 1975, the net asset value of Separate Account B was $74,231.45. CBL does not intend to sell variable annuity contracts and has stated its intention to withdraw its participation in Separate Account B, thus removing all assets.

Section 3(c)(1) of the Act excepts from the definition of "investment company" any issuer whose outstanding securities are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

NOTICE IS FURTHER GIVEN that any interested person may, not later than April 5, 1976, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should hold a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of service (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following April 5, 1976, unless the Commission orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-7147 Filed 3-11-76;8:45 am]

[Rel. No. 19421; (70-5668)]

GENERAL PUBLIC UTILITIES CORP.

Notice of Filing of Post-Effective Amendment Regarding Issue and Sale of Common Stock to Shareholders Pursuant to Dividend Reinvestment Plan

MARCH 8, 1976.

NOTICE IS HEREBY GIVEN that General Public Utilities Corporation, 80 Pine Street, New York, New York 10005 ("GPU"), a registered holding company, has filed with this Commission a post-effective amendment to the declaration previously filed in this matter, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 and Rule 50(a)(1) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, as now amended, which is summarized below, for a complete statement of the proposed transaction.

By order dated June 18, 1975 (HCAR No. 19051), the Commission authorized GPU to issue and sell up to 5,341,998 additional shares of its common stock to its common stockholders pursuant to an Automatic Dividend Reinvestment Plan ("Plan"), with such Plan expiring on June 30, 1976. Under the Plan, a holder of GPU common stock may elect to have his dividends automatically invested in additional common stock of GPU. At the present time, the price of the shares to be issued by GPU to Plan participants on any dividend payment date is the average of the high and low sales price for GPU common stock on the New York Stock Exchange on such date, or, if the New York Stock Exchange is closed on that date, the next preceding day on which it is open. The Plan further provides, among other things, that participants may withdraw from the Plan at any time, and that, if notice of termination of enrollment in the Plan to end participation is received by Hartford National Bank and Trust Company, Hartford, Connecticut ("Agent") on or before the tenth day after a dividend payment date, the dividend payment for that quarter will not be reinvested.

GPU now proposes to amend the Plan in three respects: (a) to provide that the price of the new shares purchased by the reinvestment of dividends will be 95% of the average of the high and low sales prices of GPU common stock on the New York Stock Exchange on the dividend payment date, or if the New York Stock Exchange is closed on that date, then the next preceding date when the New York Stock Exchange is open; (b) to provide, in addition, that a participant may invest amounts, up to $3,000 in each quarter, for the purchase of additional new shares of GPU common stock through the Plan at a price equal to 100% of the average of the high and low sales prices of GPU common stock on the New York Stock Exchange on the quarterly dividend payment date following receipt from the participant of such optional cash payment or, if the New York Stock Exchange is closed on that date, the next preceding date on which it is open; and (c) to provide that if a participant submits a request to withdraw from the Plan and the agent's dividend reinvestment section receives such request between the record date for a dividend and the payment date for that dividend, the dividend paid on such date will be applied to purchase new shares on such payment date and such withdrawal will become effective after such dividend payment date. GPU also requests that the period within which such shares may be issued and sold be extended until June 30, 1977.

The proposed amendments to the Plan would become effective upon the increase in the number of authorized shares of common stock to be voted on at the annual meeting of GPU's stockholders on April 5, 1976. Such increase in the number of common stock has been approved by an order of this Commission dated February 20, 1976 (HCAR No. 19396).

The fees, commissions, and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. No state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than April 2, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as now amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the

General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant ot delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-7148 Filed 3-11-76;8:45 am]

[Rel. No. 9190; (812-3892)]

INSTITUTIONAL LIQUID ASSETS, INC.

Notice of Application for Exemption

MARCH 8, 1976.

NOTICE IS HEREBY GIVEN that Institutional Liquid Assets, Inc., 126 South State Street, Chicago, Illinois 60603 ("Applicant"), a no-load, open-end management company registered under the Act, filed an application on December 23, 1975 pursuant to Section 6(c) of the Act for exemption from the provisions of Rule 19b-1 under the Act limiting the distribution of long-term capital gains to not more than once annually. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are set forth below.

Applicant is a Maryland corporation which registered under the Act in October of 1975. It is designed as a vehicle through which institutions can invest short-term cash reserves in a portfolio of money market instruments consisting exclusively of marketable securities issued or guaranteed as to principal and interest by the United States Government or issued or guaranteed by agencies or instrumentalities thereof, certificates of deposit and bankers' acceptances of the 15 largest banks in the United States (after excluding the First National Bank of Chicago), and high quality commercial paper, including variable amount master demand notes. The average maturity of the portfolio could be less than one month or as long as three months depending upon market trends and conditions. In no event will the portfolio contain any securities maturing more than one year from the date of acquisition. Applicant's general investment objective is the maximization of current income to the extent consistent with the preservation of capital and the maintenance of liquidity.

Although the Applicant is particularly designed for banks seeking investment of short-term monies held in accounts for which the bank acts in a fiduciary, advisory, agency, custodian or other similar capacity, the Applicant might also be used for the investment of short-term funds held or managed by corporations, employee benefit and pension plans, insurance companies, investment counselors, educational, religious and charitable organizations, municipalities, investment bankers, brokers, and other institutions. Applicant's shares may not be purchased directly by individuals. Shares of Applicant will be sold and may be redeemed by shareholders on any business day at the net asset value per share. Net asset value will be determined once each day immediately after the declaration of dividends comprising the previous period's net income. Net income is defined to consist of (1) interest earned or accrued on portfolio securities, (2) plus or minus realized and unrealized gains and losses on portfolio securities, (3) minus estimated expenses relating to the dividend period. Dividends are declared and reinvested daily in additional full and fractional shares of the Applicant at net asset value without a sales charge, or, at the shareholder's option, paid in cash on a monthly or quarterly basis. This practice of declaring and reinvesting net income in the form of dividends enables the Applicant to maintain a fixed net asset value per share of $1.00, with all adjustments being made in the shareholder's account.

The minimum initial investment in Applicant is $25,000. No minimum amount is required for subsequent investments. All funds will be invested in full and fractional shares. Shares must be paid for in Federal Funds. Stock certificates will not be issued unless requested in writing by a shareholder.

Rule 19b-1, as here pertinent, prohibits distributions of long-term capital gains dividends more frequently than once a year. Applicant represents that it expects that the dollar weighted average maturity of its portfolio generally will range between 30 and 90 days. Thus, the Applicant will, generally, not realize any long-term capital gains. Since dividends will be declared daily and immediately reinvested in additional full and fractional shares of Applicant at net asset value, the withholding of any such gains will reduce the amount available for reinvestment and increase the price to be paid upon reinvestment because of the resulting increase in net asset value. Accordingly, the Applicant desires to distribute any such gains as part of its daily dividend so that the benefits thereof will accrue to shareholders at the time of realization.

The application alleges that the principal purposes of Rule 19b-1 are to avoid confusion of the shareholder as to what constitutes regular dividends from interest income, as opposed to capital gains, and to relieve investment company managers from pressure to realize such gains. Applicant states that such dangers are irrelevant to its operations in light of: (a) the sophistication of its shareholders; (b) the fact that it is anticipated that the average maturity of its portfolio could be less than one month or as long as three months, depending upon market trends and conditions, but in no event will the portfolio contain any securities maturing more than one year from the date of acquisition; and (c) the intention of Applicant to advise shareholders as to what portion of any distribution comprises capital gains.

Section 6(c) authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

NOTICE IS FURTHER GIVEN that any interested person may, not later than April 2, 1976, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided in Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-7149 Filed 3-11-76;8:45 am]

[Rel. No. 9191; (812-3880)]

MASSACHUSETTS CASH MANAGEMENT TRUST

Notice of Application for Exemption

MARCH 8, 1976.

NOTICE IS HEREBY GIVEN that Massachusetts Cash Management Trust, 200 Berkeley Street, Boston, Massachusetts 02116, ("Applicant"), a Massachusetts business trust registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management company, has filed on November 28, 1975, an application pursuant to Section 6(c) of the Act for an exemption from provisions of Section 19(b) of the Act and

Rule 19b–1 thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicant states that its objective is to seek as high a level of current income as is consistent with the preservation of capital and liquidity, which it seeks to achieve by investiing exclusively in the following money market instruments: (i) debt obligations issued or guaranteed as to interest and principal by the United States Government or any agency or instrumentality thereof; (ii) certain obligations of banks; (iii) certain commercial paper; and (iv) certain short term corporate obligations.

Applicant further states that it is designed to operate with a constant net asset value for each share. Applicant represents that its Net Income is determined daily as of the close of business of the New York Stock Exchange on each business day during which said exchange is open, and that all its Net Income is declared in shares as a dividend to shareholders of record at the time of such determination. It further represents that its dividends are distributed as of the close of business on the last business day of each calendar month in the form of additional shares, or, at the election of the shareholder, in cash, at the rate of one share for each one dollar of dividend income; except that, if a shareholder withdraws the entire amount in his account at any time during the month, all dividends declared during the month through the date of withdrawal will be paid to him at the same time as the proceeds from the redemption of his shares.

Applicant states that for purposes of computing dividends, Net Income will be the sum of (i) all interest income accrued on portfolio assets including discount earned, which is accrued ratably to the date of maturity; (ii) less all actual and accrued liabilities determined in accordance with generally accepted accounting principles; and (iii) plus or minus all net realized and net unrealized gains and losses on portfolio assets. Applicant further states that its securities are valued at amortized cost which the trustees have determined to constitute fair value and that expenses, including the investment advisory fee, are accrued each day.

Section 19(b) of the Act states that it shall be unlawful in contravention of such rules, regulations, or orders as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors for any registered investment company to distribute long-term capital gains, as defined in the Internal Revenue Code of 1954 ("Code"), more often than once every twelve months.

Rule 19b–1 states in part that no regulated investment company shall distribute more than one capital gain dividend, as defined in Section 852(b)(3)(C) of the Code, with respect to any one taxable year of the company.

Section 6(c) authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

NOTICE IS FURTHER GIVEN that any interested person may, not later than April 2, 1976, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application of any of the Applicants accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant with respect to whose application the request is being made, at the respective address stated above. Proof of such service (by affidavit or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–7150 Filed 3–11–76;8:45 am]

[Rel. No. 9193; (812–3909)]

MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY AND MASSMUTUAL INCOME INVESTORS, INC.

Notice of Filing of Application

MARCH 8, 1976.

Notice is hereby given that Massachusetts Mutual Life Insurance Company (the "Insurance Company") and MassMutual Income Investors, Inc., 1295 State Street, Springfield, Massachusetts 01111 (the "Fund"), a diversified, closed-end management investment company registered under the Investment Company Act of 1940 ("Act") (hereinafter collectively referred to as "Applicants"), filed an application on February 9, 1976, pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder for an order of the Commission permitting Applicants to participate jointly in a direct placement purchase of a new issue of 9¾% 15-year senior notes ("Notes") of McCormick & Co. ("McCormick'), or, in the event the Insurance Company purchases the Notes before the issuance of such order, for an order pursuant to Section 17(b) of the Act exempting from the provisions of Section 17(a) of the Act the sale by the Insurance Company of $2,500,000 principal amount of the Notes to the Fund. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants expect the total issue of the Notes to be $15,000,000 in principal amount and the Insurance Company has been offered such entire principal amount. The Insurance Company understands that McCormick is willing to sell a portion of the Notes to the Fund and, as adviser for the Fund, the Insurance Company believes that the Notes would be an attractive investment for the Fund. Applicants would like to invest concurrently in these securities. If the Fund is permitted to purchase the Notes, the Insurance Company intends to acquire $12,500,000 in principal amount of the Notes, and the Fund would acquire $2,500,000 in principal amount of the Notes. The purchase by the Fund of $2,500,000 in principal amount of the Notes has been approved by the Executive Committee of the Board of Directors of the Fund, including a majority of the "disinterested" directors of the Fund.

Section 2(a)(3) of the Act includes within the definition of the term "affiliated persons" of an investment company the investment adviser to the investment company. Therefore, as the investment adviser to the Fund, the Insurance Company is an affiliated person of the Fund.

Rule 17d–1 adopted by the Commission under Section 17(d) of the Act provides that "no affiliated person of . . . any registered investment company . . . acting as principal, shall participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement or profit sharing plan in which such registered company . . . is a participant, and which is entered into, adopted or modified subsequent to the effective date of this Rule, unless an application regarding such joint enterprise, arrangement or profit sharing plan has been filed with the Commission and has been granted by an order entered . . . prior to such adoption or modification." It also provides that in passing upon such application the Commission will consider whether the participation of such registered or controlled company in such joint enterprise, joint arrangement or profit sharing plan on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which participation is on a basis different from, or less advantageous than, that of other participants. Accordingly, Applicants have applied for an order of the Commission pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder permitting the acquisition by the Insurance Company of $12,500,000

in principal amount of the Notes and the acquisition by the Fund of $2,500,000 in principal amount of the Notes.

The Insurance Company already holds $3,300,000 principal amount of 5¾% Notes due June 1, 1976, ("Outstanding Notes") issued by McCormick. Part of the proceeds from the sale of the Notes will be used to call the Outstanding Notes and, accordingly, will be paid to the Insurance Company. The Insurance Company represents that in proposing the Notes for acquisition by the Fund, it is not motivated by any need or desire to "bail out" its present investment in McCormick. The Insurance Company further represents that its interest in the Outstanding Notes has had no effect on its decision that the Notes are an attractive investment for both the Insurance Company's general account and for the Fund.

The Insurance Company asserts that an unequal division of the $15,000,000 in principal amount of the Notes to be acquired as between the Fund and the Insurance Company is appropriate in view of the investment policies of the Fund which restrict the Fund's ability to invest in securities other than high grade interest bearing publicly marketed debt securities or cash equivalents. The Fund is permitted to invest no more than 25% of its total assets, which on December 5, 1975, was approximately $31,406,246, in securities other than those noted above and, furthermore, is permitted to invest no more than 10% of its total assets, approximately $12,562,498 on December 5, 1975, in restricted securities of the type represented by the Notes. For example, an investment by the Fund in one-half the principal amount of the Notes offered to the Insurance Company, i.e., $7,500,000, would represent 24% of the amount which the Fund can invest in securities other than high grade interest bearing publicly marketed debt securities and, when considered in connection with previous investments by the Fund in $5,000,000 of restricted securities, would result in the Fund virtually exhausting the amount permitted to be invested in restricted securities. In addition, the Fund may not (with certain exceptions not applicable to the proposed purchase of the Notes) invest more than 5% of the value of its total assets in the securities of any one issuer. Thus, the maximum investment the Fund could make in the Notes at this time would be approximately $6,281,249. The Insurance Company deems it inadvisable for the Fund to invest more than $2,500,000 in this one restricted security. Applicants submit that to make available to the Fund the opportunity to invest $2,500,000 in principal amount of the Notes is in the best interest of shareholders of the Fund.

In the event the requested order is not issued before the issuance of the Notes, the Insurance Company proposes to acquire the entire $15,000,000 principal amount of the Notes, subject to the obligation to transfer $2,500,000 of such amount to the Fund at cost plus accrued interest should an order of the Commission permitting such transaction issue within three months of such acquisition. Applicants seek an exemption pursuant to Section 17(b) of the Act permitting the sale by the Insurance Company to the Fund of $2,500,000 principal amount of the Notes in the event the requested order pursuant to Section 17(d) of the Act and Rules 17d–1 thereunder is not granted before the acquisition of the Notes by the Insurance Company. If no order of exemption is received, the $15,000,000 principal amount of the Notes will be retained for investment by the Insurance Company.

Section 17(a) of the Act, in pertinent part, provides that it is unlawful for any affiliated person of a registered investment company knowingly to sell or purchase from such registered investment company any security or other property except securities of which the investment company is the issuer. Pursuant to Section 17(b) of the Act, the Commission, upon application, may grant an exemption from such prohibition after finding that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of each registered investment company concerned and the general purposes of the Act.

Applicants state that the terms of the proposed transfer of the $2,500,000 in principal amount of the Notes from the Insurance Company to the Fund are reasonable and fair and free from overreaching. The consideration to be paid by the Fund for the Notes would equal the price paid by the Insurance Company for the Notes plus accrued interest. Applicants submit that the proposed transaction is consistent with the policy of the Fund as recited in its registration statement and that the proposed transaction is consistent with the general purposes of the Act.

Notice is further given That any interested person may, not later than April 2, 1976, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following April 2, 1976, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.76–7151 Filed 3–11–76;8:45 am]

[Release No. 34–12168; File No. SR–MSRB–76–2]

MUNICIPAL SECURITIES RULEMAKING BOARD

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on March 3, 1976 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF PROPOSED RULE CHANGE

Rule D–8. *Bank Dealer.*

The term "bank dealer" shall mean a municipal securities dealer which is a bank or a separately identifiable department or division of a bank as defined in rule G–1 of the Board.

STATEMENT OF BASIS AND PURPOSE PURPOSE OF PROFOSED RULE CHANGE

The purpose of the proposed rule change is to define the term "bank dealer" as used in rules of the Board. The proposed rule change does not effect any substantive change in the Board's rules.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The Board has adopted the proposed rule change pursuant to section 15B(b)(2) of the Securities Exchange Act of 1934 as amended (the "Act"), which authorizes the Board to adopt rules to effect the purpose of the Act with respect to transactions in municipal securities effected by brokers, dealers, and municipal securities dealers.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGE

Comments have not been received by the Board on the proposed rule change.

BURDEN ON COMPETITION

The Board has determined that the proposed rule change does not impose any burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3)(A) of the Act. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it

appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before April 12, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

MARCH 5, 1976.

[FR Doc.76-7155 Filed 3-11-76;8:45 am]

[Release No. 34-12177; File No. SR-MSRB-76-3]

MUNICIPAL SECURITIES RULEMAKING BOARD

Self-Regulatory Organizations; Proposed Rule Changes

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on March 3, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The proposed rule changes filed by the Municipal Securities Rulemaking Board (the "Board") prohibit any municipal securities broker or municipal securities dealer from effecting, inducing, or attempting to induce any transaction in municipal securities unless the municipal securities broker or municipal securities dealer and every natural person associated with it are qualified under rules of the Board. The proposed rule changes then set forth qualification standards, defining "municipal securities principal," "financial and operations principal," and "municipal securities representative" and requiring that each municipal securities broker or municipal securities dealer, except those in various exempted categories, have at least two municipal securities principals and at least one financial and operations principal. Examination requirements are prescribed for municipal securities principals, financial and operations principals and municipal securities representatives, but exemptions from such requirements for municipal securities principals and municipal securities representatives are provided for persons who were actively performing the functions of their classification on December 1, 1975 or who are registered and qualified in specified capacities with a registered securities association on the date the Board first prescribes a qualification examination for each respective classification. Persons who cease to be associated with a municipal securities broker or municipal securities dealer for two or more years would be required to take the appropriate examination upon reentering the municipal securities business. Persons entering the municipal securities industry without previously having been employed in the general securities business would be required to serve a 90-day apprenticeship. Municipal securities brokers, municipal securities dealers, and persons associated with such firms who are subject to statutory disqualifications as determined by a registered securities association or national securities exchange would not satisfy the qualification requirements of the Board's rules except as determined by the Securities and Exchange Commission (the "Commission"). Municipal securities brokers, municipal securities dealers and their associated persons would be prohibited from effecting, inducing, or attempting to induce transactions in municipal securities in contravention of restrictions imposed upon such firm or individual by the Commission, the bank regulatory agencies, or a national securities association. Municipal securities brokers and municipal securities dealers (other than bank dealers) would be required to meet specified fidelity bonding requirements.

In addition, the proposed rule changes would classify individuals as "municipal securities principals," "financial and operations principals," and "municipal securities representatives". The proposed rule changes do not designate the identity or content of the examinations which will be prescribed. Subsequent rule proposals of the Board will, however, designate the appropriate examinations.

STATEMENTS OF BASIS AND PURPOSE

PURPOSE OF PROPOSED RULE CHANGES

The purpose of the proposed rule changes is to establish standards of operational capability and professional competence for municipal securities brokers, municipal securities dealers, and individuals associated with such firms.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGES

The Board has adopted the proposed rule changes pursuant to Section 15B(b)(2)(A) of the Securities Exchange Act of 1934, as amended (the "Act"), which requires and empowers the Board to adopt rules prohibiting municipal securities brokers and municipal securities dealers from effecting transactions in municipal securities unless they meet

. . . such standards of operational capability and . . . training, experience, competence, and such other qualifications as the Board finds necessary or appropriate in the public interest or for the protection of investors.

Sections 15B(b)(2)(A) also authorizes the Board to appropriately classify municipal securities brokers and municipal securities dealers and persons associated with such firms; to apply all or portions of the qualification standards to any such class; to require persons in any such class to pass tests; and to provide that certain persons be qualified solely on the basis of standards the Board finds appropriate.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGES

The Board received letters of comment relating to the proposed rule changes from the following:

American Bankers Association ("ABA")
Bevill, Bresler & Schulman Inc. ("Bevill")
Dealer Bank Association ("DBA")
W. Dobbs & Co., Inc.
Federal Deposit Insurance Corporation ("FDIC")
Hugo Marx & Co. ("Marx")
National Association of Securities Dealers, Inc. ("NASD")
New York Stock Exchange, Inc. ("NYSE")
John Nuveen & Company, Inc. ("Nuveen")
Securities Industry Association ("SIA")
Wauterlek & Brown, Inc. ("Wauterlek")

Board summaries of these letters are presented below.

The NASD, NYSE, Wauterlek, and Nuveen letters raise questions concerning coordination of examinations prescribed by the Board with those already in use by other regulatory bodies. The Board is in the process of developing the appropriate qualification examinations and consulting with other self-regulatory organizations in this regard. As indicated above, the proposed rule changes do not prescribe specific examinations, a matter which will be the subject of future rule proposals of the Board.

The ABA, Bevill, Marx, NASD, Nuveen, and Wauterlek letters comment upon the "grandfathering" provisions of the proposed rule changes. As submitted herewith, the proposed rule changes would exempt from the testing requirements municipal securities principals and municipal securities representatives who (1) were actively performing the functions of their respective classification on December 1, 1975 (the date the provisions of the Securities Acts Amendments of 1975 (the "1975 Amendments") relating to municipal securities brokers and municipal securities dealers became effective) or (2) are duly registered and qualified as general securities principals (for municipal securities principals and municipal securities representatives) or general securities representatives (for municipal securities representatives) on the effective date of a rule of the Board first prescribing the appropriate qualification examinations. The NASD, Bevill, and Marx letters support the concept of exempting from examination requirements certain persons already engaged in

the municipal securities business. The ABA, Nuveen, and Wauterlek letters do not dispute the propriety of a "grandfather" concept, but question the date set forth in the Board's exposure draft, June 4, 1975, as being appropriate to determine eligibility for the exemption. The change in date in the proposed rule changes to December 1, 1975 is consistent with these comments. The Board notes that no letter of comment expressed opposition to the "grandfather" concept.

BOARD'S STATEMENT CONCERNING BURDEN ON COMPETITION

The proposed rule changes require persons seeking to become associated with municipal securities brokers and municipal securities dealers to satisfy testing requirements and, in the case of persons entering the securities business for the first time, apprenticeship requirements, as well as requiring municipal securities brokers and municipal securities dealers to have specified numbers of municipal securities principals. Differing exemptions are provided for various categories of persons and firms. The Board has concluded that any burden on competition imposed by the proposed rule changes is necessary and appropriate and in furtherance of the purposes of the Act.

As noted above, the Act directs the Board to adopt rules establishing standards of professional qualification which may, but need not, impose examination requirements. The Act specifically contemplates that different standards and requirements may be imposed upon different classifications of persons. The Board believes that the proposed rule changes are fair and reasonable as threshold qualification requirements for the municipal securities industry.

As the proposed rule changes indicate, the Board has concluded that examinations are an appropriate means to establish a minimum degree of knowledge in the area of municipal securities, and all persons seeking to enter the municipal securities industry as principals or representatives in the future will, therefore, be subject to these requirements. Further, a person who ceases to be associated with a municipal securities firm for more than two years will be required to take the appropriate examination before being qualified.

In establishing initial qualification requirements for municipal securities personnel, the Board has determined that it would cause serious disruption to the municipal securities industry and impose an unfair burden upon municipal securities personnel to require persons presently qualified under other relevant standards or presently functioning in the municipal securities industry to satisfy an additional examination requirement. The Board has, therefore, found it appropriate to rely to the extent possible upon existing examination and qualification standards.

In exempting from examination requirements individuals registered and qualified in an appropriate general securities category with the NASD, the Board is relying upon a generally recognized and comprehensive measure of knowledge of the general securities industry. The Board notes that the examinations required by the NASD for qualification include questions relating to the municipal securites business.

The Board has also determined that it is appropriate to provide an exemption for persons actively performing the functions of a municipal securities principal or municipal securities representative on the date the applicable provisions of the 1975 Amendments became effective for municipal securities brokers and municipal securities dealers (December 1, 1975). In providing this exemption, the Board notes that the performance of such functions and the continuance of such persons' employment in the industry demonstrates a degree of knowledge in the municipal securities area. The Board also notes that it would be unduly discriminatory to fail to provide an exemption for individuals performing municipal securities functions with municipal securities dealers which are banks or separately identifiable departments or divisions of banks since such individuals, who are presumably at least as knowledgeable of the municipal securities business as personnel registered with the NASD, would be precluded from the exemption provided for NASD registered personnel. While the Board believes an exemption is necessary for persons actively engaged in the industry, it does not believe that performance of such functions over a particular period of time is an appropriate measure of knowledge or competence.

The Board is also of the view that other factors tend to mitigate the effect of the exemptions provided. The Board notes that the experience of the NASD in the general securities industry reveals a turnover of registered personnel approximating 12½% annually, resulting in a pattern whereby a substantial percentage of industry personnel qualify pursuant to the NASD's examination requirements after a relatively short period of time, even though the NASD has consistently provided for grandfathering whenever new and upgraded testing requirements have been imposed. Furthermore, the Board believes the exemptions provided in the proposed rule changes do not lessen the protection of the public from fraudulent practices since examination requirements are not intended to test moral character or the propensity to defraud. The proposed rule changes set forth in rules G–4 and G–5 are directed in part to this concern. Finally, the Board believes the interest of investors is protected by the fact that the exemptions provided herein relate solely to the initial imposition of qualification standards upon the municipal securities industry.

The Board is, therefore, of the opinion that any burden imposed on competition by the requirements of the proposed rule changes or by the exemptions therefrom is fair and reasonable and in furtherance of the purposes of the Act.

On or before April 16, 1976, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before April 12, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

TEXT OF PROPOSED RULE CHANGE

RULE G–2. STANDARDS OF PROFESSIONAL QUALIFICATION

No municipal securities broker or municipal securities dealer shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any municipal security unless such municipal securities broker or municipal securities dealer and every natural person associated with such municipal securities broker or municipal securities dealer is qualified in accordance with the rules of the Board.

RULE G–3. CLASSIFICATION OF PRINCIPALS AND REPRESENTATIVES; NUMERICAL REQUIREMENTS; TESTING

No municipal securities broker or municipal securities dealer or person who is a municipal securities principal, financial and operations principal, or municipal securities representative (as hereafter defined) shall be qualified for purposes of rule G–2 unless such municipal securities broker or municipal securities dealer or person meets the requirements of this rule.

(a) *Definitions.* As used in the rules of the Board, the terms "municipal securities principal," "financial and operations principal" and "municipal securities representative" have the following respective meanings:

(i) *Municipal Securities Principal.* The term "municipal securities principal" means a natural person associated with a municipal securities broker or municipal securities dealer who is directly engaged in the management, direction or supervision of any of the activities of such municipal securities broker or municipal securities dealer wth respect to municipal securities enumerated in subparagraph (a)(iii) of this rule or any

processing, clearance or safekeeping functions with respect to municipal securities; *provided*, that in the case of a bank dealer the term "municipal securities principal" means a natural person associated with such bank dealer who is directly engaged in the management, direction or supervision of any of such bank dealer's municipal securities dealer activities, as such activities are defined in rule G–1(b) of the Board.

(ii) *Financial and Operations Principal.* The term "financial and operations principal" means a municipal securities principal (other than a municipal securities principal assocated with a bank dealer) whose duties include with respect to the municipal securities broker or municipal securities dealer with which such person is associated:

(A) approval of and responsibility for financial reports required to be filed with the Commission or any self-regulatory organization;

(B) final preparation of such reports;

(C) overall supervision of individuals who assist in the preparation of such reports;

(D) overall supervision of and responsibility for individuals who are involved in the actual maintenance of the books and records from which such reports are derived;

(E) overall supervision and performance of the responsibilities of the municipal securities broker or municipal securities dealer with which such person is associated pursuant to the financial responsibility rules under the Act;

(F) overall supervision of and responsibility for all individuals who are involved in the administration and maintenance of the processing and clearance functions of such municipal securities broker or municipal securities dealer; and

(G) overall supervision of and responsibility for all individuals who are involved in the administration and maintenance of the safekeeping functions of such municipal securities broker or municipal securities dealer.

Persons performing any of the functions set forth in this subparagraph (a)(ii) for a bank dealer, other than those set forth in subparagraph (a)(ii)(G), are municipal securities principals.

(iii) *Municipal Securities Representative.* The term "municipal securities representative" means a natural person associated with a municipal securities broker or municipal securities dealer, other than a municipal securities principal or a person whose functions are solely clerical or ministerial, whose activities include one or more of the following:

(A) underwriting, trading or sales of municipal securities;

(B) research or investment advice with respect to municipal securities; or

(C) any activities other than those specifically enumerated above which involve communication, directly or indirectly, between such person and public investors in municipal securities;

provided, however, that in the case of a bank dealer, the activities enumerated in subparagraphs (a)(iii)(B) and (a)(iii)(C) above shall be limited to such activities as they relate to underwriting, trading or sales of municipal securities by such bank dealer.

(b) *Numerical Requirements.*

(i) *Municipal Securities Principals.* Every municipal securities broker and municipal securities dealer shall have at least two municipal securities principals, except as follows:

(A) every municipal securities broker or municipal securities dealer which is a member of a registered securities association and which conducts a general securities business shall have at least one municipal securities principal; and

(B) every municipal securities broker or municipal securities dealer having fewer than eleven persons associated with it in whatever capacity on a full-time or full-time equivalent basis who are engaged in the performance of the activities of such municipal securities broker or municipal securities dealer with respect to municipal securities or, in the case of a bank dealer, the performance of its municipal securities dealer activities, shall have at least one municipal securities principal.

Prior to functioning as such, every municipal securities principal must be qualified in accordance with paragraph (c) of this rule. For purposes of the numerical requirements of this paragraph, a municipal securities principal may, but need not, also be qualified as a financial and operations principal.

(ii) *Financial and Operations Principals.* Every municipal securities broker and municipal securities dealer other than a bank dealer shall have at least one financial and operations principal (including the chief financial officer of such broker or dealer), each of whom shall be qualified in accordance with paragraph (d) of this rule; *provided*, that the requirements set forth in this subparagraph shall not apply to any municipal securities broker or municipal securities dealer.

(A) having associated with it a financial and operations principal registered and qualified as such with a registered securities association; or

(B) meeting the requirements of paragraph (a)(2) of rule 15c3–1 under the Act or exempt from the requirements of rule 15c3-1 in accordance with paragraph (b)(2) thereof.

(c) *Qualification Requirements for Municipal Securities Principals.* (i) Except as otherwise provided in this paragraph (c), every municipal securities principal shall take and pass an appropriate qualification examination for municipal securities principals prescribed by the Board by rule prior to being qualified as a municipal securities principal. Such examination shall test such matters as the Board may deem pertinent.

(ii) The requirements of subparagraph (i) shall not apply to any person associated with a municipal securities broker or municipal securities dealer and who

(A) was, on December 1, 1975, actively performing the functions of a municipal securities principal; or

(B) on the effective date of a rule of the Board first prescribing a qualification examination for municipal securities principals is duly registered and qualified as a general securities principal with a registered securities association.

(iii) Any person who ceases to be associated with a municipal securities broker or municipal securities dealer (whether as a municipal securities principal or otherwise) for two or more years at any time after having qualified as a municipal securities principal in accordance with the requirements of subparagraph (c)(i) of this rule or being exempted therefrom in accordance with subparagraph (c)(ii) of this rule shall take and pass the appropriate qualification examination for municipal securities principals prescribed by the Board prior to being qualified as a municipal securities principal.

(iv) The requirements of subparagraph (c)(i) shall not apply to persons who are qualified as municipal securities representatives and who become municipal securities principals, *provided* that such persons shall take and pass the appropriate qualification examination for municipal securities principals prescribed by the Board within 90 days after becoming municipal securities principals.

(v) The requirements of subparagraph (c)(i) shall not become effective until six months following the effective date of a rule of the Board first establishing a qualification examination for municipal securities principals.

(d) *Qualification Requirements for Financial and Operations Principals.* (i) Except as otherwise provided in this paragraph (d), every financial and operations principal shall take and pass an appropriate qualification examination for financial and operations principals prescribed by the Board by rule prior to being qualified as a financial and operations principal. Such examination shall test such matters as the Board may deem pertinent.

(ii) The requirements of subparagraph (d)(i) shall not apply to any financial and operations principal associated with a municipal securities broker or municipal securities dealer described in subparagraph (b)(ii)(A) or (B) of this rule.

(iii) Any person who ceases to be associated with a municipal securities broker or municipal securities dealer as a financial and operations principal for two or more years at any time after having qualified as such in accordance with the requirements of subparagraph (d)(i) or being exempted therefrom in accordance with subparagraph (d)(ii) of this rule shall take and pass the appropriate qualification examination for financial and operations principals prescribed by the Board prior to being qualified as a financial and operations principal.

(iv) The requirements of subparagraph (d)(i) shall not become effective until six months following the effective date of a rule of the Board first establishing a qualification examination for financial and operations principals.

(e) *Qualification Requirements for Municipal Securities Representatives.* (i) Except as otherwise provided in this paragraph (e), every municipal securities representative shall take and pass an appropriate qualification examination for municipal securities representatives prescribed by the Board by rule prior to being qualified as a municipal securities representative. Such examination shall test such matters as the Board may deem pertinent.

(ii) The requirements of subparagraph (e)(i) shall not apply to any person associated with a municipal securities broker or municipal securities dealer who

(A) was, on December 1, 1975, actively performing the functions of a municipal securities representative; or

(B) on the effective date of a rule of the Board first prescribing a qualification examination for municipal securities representatives is duly registered and qualified as a general securities representative or general securities principal with a registered securities association.

(iii) Any person who ceases to be associated with a municipal securities broker or municipal securities dealer (whether as a municipal securities representative or otherwise) for two or more years at any time after having qualified as a municipal securities representative in accordance with the requirements of subparagraph (e)(i) of this rule or being exempted therefrom in accordance with subparagraph (e)(ii) of this rule shall take and pass the appropriate qualification examination for municipal securities representatives prescribed by the Board prior to being qualified as a municipal securities representative.

(iv) The requirements of subparagraph (e) (i) shall not become effective until six months following the effective date of a rule of the Board first establishing a qualification examination for municipal securities representatives.

(f) *Employment.* Notwithstanding any other provision of this rule, a person who first becomes associated with a municipal securities broker or municipal securities dealer in a representative capacity (whether as a general securities representative or a municipal securities representative) or in a principal capacity without previously having qualified as a general securities representative or municipal securities representative may not take the qualification examinations referred to in paragraphs (c), (d), or (e) of this rule unless such person has been employed by such municipal securities broker or municipal securities dealer for at least 90 days, and such person shall not transact business with any member of the public or be compensated for any transactions in municipal securities effected during such period; *provided, however,* that the requirements of this paragraph (f) may be waived by a registered securities association with respect to a person associated with a member of such association, or by the appropriate regulatory agency with respect to a person associated with any other municipal securities broker or municipal securities dealer, in extraordinary cases in which such person demonstrates extensive experience in a field closely related to the business of such municipal securities broker or municipal securities dealer in municipal securities.

RULE G–4. STATUTORY DISQUALIFICATIONS

(a) Except as otherwise provided in paragraph (b) of this rule, no municipal securities broker or municipal securities dealer or natural person shall be qualified for purposes of rule G–2 if, by action of a national securities exchange or registered securities association, such municipal securities broker or municipal securities dealer has been and is expelled or suspended from membership or participation in such exchange or association, or such natural person has been and is barred or suspended from being associated with a member of such exchange or association:

(i) for violation of any rules of such exchange or association which prohibit any act or transaction constituting conduct inconsistent with just and equitable principles of trade, or which requires any act the omission of which constitutes conduct inconsistent with such just and equitable principles of trade; or

(ii) by reason of any statutory disqualification of the character described in subparagraphs (C), (D), or (E) of section 3(a) (39) of the Act.

(b) A municipal securities broker or municipal securities dealer or natural person shall be qualified for purposes of rule G–2, notwithstanding the provisions of paragraph (a) of this rule, if the Commission shall so determine upon application by such municipal securities broker or municipal securities dealer or natural person.

RULE G–5. DISCIPLINARY ACTIONS BY THE COMMISSION, BANK REGULATORY AGENCIES AND REGISTERED SECURITIES ASSOCIATIONS

No municipal securities broker or municipal securities dealer shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any municipal security in contravention of any restrictions imposed upon such municipal securities broker or municipal securities dealer by the Commission pursuant to sections 15(b)(4) or 15B(c)(2) of the Act or by an appropriate regulatory agency pursuant to section 15B (c)(5) of the Act or by a registered securities association pursuant to rules adopted under section 15A(b)(7) of the Act, and no natural person shall be associated with a municipal securities broker or municipal securities dealer in contravention of any restrictions imposed upon such person by the Commission pursuant to sections 15(b)(6) or 15B (c)(4) of the Act or by an appropriate regulatory agency pursuant to section 15B(c)(5) of the Act or by a registered securities association pursuant to rules adopted under section 15A(b)(7) of the Act.

RULE G–6. FIDELITY BONDING REQUIREMENTS

(a) No municipal securities broker or municipal securities dealer (other than a bank dealer) shall be qualified for purposes of rule G–2 unless such broker or dealer, if a member of a registered securities association, has met the fidelity bonding requirements set forth in the rules of such association, to the same extent as if such rules were applicable to such broker or dealer, or such broker or dealer, if not a member of a registered securities association, has met the fidelity bonding requirements set forth in rule 15b10–11 under the Act, to the same extent as if such rules were applicable to such broker or dealer, in each case as such requirements were set forth on February 11, 1976, the date of adoption of this rule.

(b) The requirements of this rule shall become effective on ----------, 1976 [90 days following the date of approval of the rule by the Securities and Exchange Commission].

[FR Doc.76–7156 Filed 3–11–76;8:45 am]

[Rel. No. 12177; File No. SR–MSRB–76–3]

MUNICIPAL SECURITIES RULEMAKING BOARD

Notice of Filing of Proposed Rule Change

MARCH 8, 1976.

The Municipal Securities Rulemaking Board submitted on March 3, 1976 a proposed rule change under Rule 19b–4 to establish standards of operational capability and professional competence for municipal securities brokers, municipal securities dealers, and individuals associated with such firms.

Publication of the submission is expected to be made in the FEDERAL REGISTER during the week of March 8, 1976. In order to assist the Commission to determine whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission on or before April 12, 1976. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–MSRB–76–3.

Copies of the submission and of all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of the filing will also be available at the principal office of the above-mentioned self-regulatory organization.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.76–7152 Filed 3–11–76;8:45 am]

[Rel. No. 19422; (70–5801)]

SOUTHERN CO., ET AL.

Order Approving Proposed Issue and Sale of Short-Term Notes to Banks and Dealers in Commercial Paper; Capital Contributions to Subsidiaries From Holding Company; Exception From Competitive Bidding

In the matter of the Southern Co., Atlanta, Georgia; Alabama Power Co., Birmingham, Alabama; Gulf Power Co., Pensacola, Florida; Mississippi Power Co., Gulfport, Mississippi.

The Southern Company ("Southern"), a registered holding company, and three of it wholly owned electric utility subsidiary companies, Alabama Power Company ("Alabama"), Gulf Power Company ("Gulf") and Mississippi Power Company ("Mississippi") have filed an application-declaration, and amendments thereto, pursuant to Sections 6(a), 6(b), 7 and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50 promulgated thereunder as applicable to the following proposed transactions.

Southern, Alabama, Gulf and Mississippi propose to borrow from banks and to issue and sell commercial paper from time to time on or before March 31, 1977 in the following maximum aggregate principal amounts:

Company	*Amount of proposed borrowing*
Southern	$65,000,000
Alabama	350,000,000
Gulf	65,000,000
Mississippi	35,000,000

Alabama and Mississippi state that, by post-effective amendment hereto, they may request authorization to increase their respective amounts of short-term financing to $425,000,000 and $68,000,000 respectively.

At the present time banks within the states of Alabama, Florida and Mississippi ("local banks") have made commitments to Alabama, Gulf, and Mississippi, respectively, to make bank loans in the following maximum aggregate amounts:

Company	Number of local banks	Aggregate amount of commitments
Alabama	118	$62,680,000
Gulf	16	20,580,500
Mississippi	60	23,577,500

Additional bank borrowing by Alabama, Gulf or Mississippi may be made from banks located outside the state in which each company operates. Ten of the

local banks which have made commitments to Alabama have made such commitments, totaling $9,375,000, alternatively available to Southern Company. Southern Company has also received commitments from the following banks in the maximum amounts stated:

Bank	Maximum aggregate principal amount
First National Bank of Atlanta, Atlanta, Ga	$17,500,000
Citizens & Southern National Bank, Atlanta, Ga	10,000,000
Barclay's Bank International Ltd., New York, N.Y	16,000,000
First National Bank & Trust Co. of Oklahoma City, Oklahoma City, Okla	3,000,000
	46,500,000

Southern (HCAR No. 18924), Alabama (HCAR No. 18923) and Gulf and Mississippi (HCAR No. 18901) have authority to effect short-term borrowings on or before March 31, 1976 in excess of the amounts allowed by the first sentence of Section 6(b) of the Act. It is estimated that as of March 31, 1976 Alabama and Gulf will have, respectively, $49,599,000 and $14,700,000 of short-term notes outstanding, and Southern and Mississippi will have no short-term notes outstanding. Thus, as of March 31, 1976, the outstanding short-term debt of each company will be within the limits permitted by Section 6(b).

Alabama, Gulf and Mississippi propose that from and after the effective date of the Commission's order in this matter to March 31, 1977, the exemption be increased to permit the issuance and sale of the notes to banks and commercial paper notes up to the maximum aggregate principal amounts listed above. Southern proposes, unless otherwise authorized by the Commission, that from and after the effective date of the Commission's order in this matter to the earlier of (1) March 31, 1977 or (2) the closing date of the proposed sale of interim notes (File No. 70-5797) or the sale of common stock (File No. 70-5796), whichever last occurs, Southern be permitted to issue and sell such short-term notes up to the maximum aggregate principal amount listed above.

The bank borrowings will be evidenced by notes to be dated the date of the borrowing and to mature not more than one year after the date of issue (but in no event later than June 30, 1977) in the case of Southern and not more than nine months after the date of issue in the cases of Alabama, Gulf and Mississippi. Each note evidencing bank borrowing will bear interest at an effective rate per annum in effect at the lending bank customary for companies similar to the applicants and will be prepayable, in whole or in part, without penalty or premium. Alabama, Gulf and Mississippi each maintain with the local banks from which borrowings will be made average daily operating balances adequate to meet the requirements of such banks in respect of their services to such companies. If such balances were to be maintained by Alabama, Gulf, Mississippi or Southern solely for the purpose of satisfying such a compensating balance requirement at the currently prevailing rate of 20%, the effective interest cost of the related borrowings, based on the currently prevailing prime rate of 6.75%, would be 8.44% per annum.

Although final agreement has not yet been reached, Alabama proposes to enter into arrangements with a group of nonlocal banks to provide for a line of credit in the amount of $350,000,000. Borrowings under such arrangements would bear interest at a fluctuating rate per annum equal to 110% of the higher of (a) the prime rate in effect from time to time, or (b) ½ of 1% above the latest three-week moving average interest rate payable on 90 to 119 day dealer-placed commercial paper. It is further proposed that the banks will charge a commitment fee, based on the unused portion of the commitment, at the rate of ½ of 1% per annum and an additional fee, based on the unused commitment and outstanding borrowings, at the rate of 10% of the annual interest rate in effect from time to time on outstanding borrowings. Giving effect to these fees, assuming full utilization of the commitment and based on the currently prevailing prime rate of 6.75% per annum and a three-week average commercial paper rate of 5.66% for the terminal week of February 25, 1976, the effective interest rate on borrowings will be 8.10% per annum. During any period during which the rating on Alabama's first mortgage bonds is lowered or suspended by either of the two major rating agencies, the interest rate on outstanding borrowings will be increased by the addition of ¼% per annum to the rate otherwise in effect during such period.

The banks proposing to provide this line of credit to Alabama are Citibank, N.A., The Chase Manhattan Bank (National Association), Chemical Bank, Bankers Trust Company, Morgan Guaranty Trust Company of New York, Continental Illinois National Bank and Trust Company of Chicago, Irving Trust Company, Manufacturers Hanover Trust Company and the Bank of Nova Scotia.

Southern, Alabama, Gulf and Mississippi also propose from time to time through March 31, 1977, to issue and sell commercial paper in the form of short-term promissory notes to dealers in commercial paper. The commercial paper notes will have varying maturities of not more than 270 days after the date of issue and will be sold in varying denominations of not less than $50,000 and not more than $5,000,000 and will not by their terms be prepayable prior to maturity. The commercial paper will be sold directly to or through the dealers at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for commercial paper of comparable qualities and like maturities. No commercial paper note will be isued having a maturity of more than 90 days at an effective interest cost which exceeds the effective interest cost at which the issuers could borrow from banks.

Except for a commission not to exceed ⅛ of 1% per annum payable to the dealer in respect of commercial paper sold through the dealer as agent for the issuer, no commission or fee will be payable in connection with the issuance and sale of commercial paper. The dealer, as principal, will reoffer the commercial paper at a discount rate of ⅛ of 1% per annum less than the prevailing interest rate to the issuer. The commercial paper of the issuer will be reoffered to not more than 200 customers of the dealer identified and designated in a non-public list prepared in advance by the dealer. No addition will be made to such list of customers without the approval of the Commission. The names of the dealers are: The First Boston Corporation for Southern; Lehman Brothers Commercial Paper, Inc. for Alabama; and A. G. Becker & Co. Incorporated for Gulf and Mississippi.

Southern, Alabama, Gulf and Mississippi further propose that each may from time to time borrow from the trust departments of commercial banks in lieu of borrowings or sales of commercial paper. Trust department borrowings will be made in each case pursuant to a master note agreement with the lending trust department and will bear interest at a rate or rates per annum equivalent to the rate currently charged by such trust department to other borrowers for similar borrowings, provided that such interest rate shall not exceed the discount rate currently quoted from time to time on directly placed commercial paper of 90 to 180 day maturities issued by one or more financial credit companies as specified in the applicable master note agreement. No master note shall remain due later than 12 months in the case of Southern or 9 months in the case of Alabama, Gulf and Mississippi from the date of issuance thereof. Each trust department will have the right to demand payment of all or any part of the outstanding principal on any master note, and such principal will be prepayable at any time without penalty. Each master note agreement will be terminable by either party upon 30 days' notice.

Although no arrangements have yet been finalized as to borrowings from trust departments, Southern and Alabama propose to borrow from the following trust departments:

Company	Bank trust department	Maximum aggregate principal amount
Alabama	First Alabama Bank of Montgomery, N.A., Montgomery, Ala.	$5,000,000
Southern	First National Bank of Atlanta, Atlanta, Ga.	10,000,000

Southern will use proceeds of the bank notes and commercial paper notes together with treasury funds and proceeds from the planned sales of interim notes and common stock, to make capital contributions to Alabama, Georgia Power

Company ("Georgia"), Gulf and Mississippi, to make loans to Southern Services, Inc., and to pay such notes when due. Southern proposes to make capital contributions as follows: $150,000,000 to Alabama; $59,900,000 to Georgia; $14,000,000 to Gulf; and $10,000,000 to Mississippi. Of such amounts, $52,650,000 ($50,900,000 to Georgia and $1,750,000 to Gulf) have been authorized by the Commission (HCAR No. 18924, April 9, 1975). Southern also proposes to increase the amount of such capital contributions by up to $20,000,000 should the proceeds from its proposed sale of common stock exceed $150,000,000 ratably as follows: up to $15,000,000 to Alabama, up to $3,000,000 to Gulf and up to $2,000,000 to Mississippi. Southern's bank notes and commercial paper notes are expected to be retired from the proceeds of any sale of Southern's common stock or from internal cash resources.

Alabama, Gulf and Mississippi will use the proceeds from the sales of bank notes and commercial paper to reimburse their treasuries for part of the expenditures for their construction programs and to pay at maturity outstanding bank notes and commercial paper notes incurred for such purpose. The bank notes and commercial paper will be retired from internal cash resources or from the net proceeds of any long-term financing.

The applicants-declarants request exception from the competitive bidding requirements of Rule 50 in connection with the sale of commercial paper notes pursuant to clause (a)(5)(B) thereof. It is stated, in this connection, that (a) all commercial paper which they propose to issue and sell will have a maturity not in excess of 270 days, (b) current rates for commercial paper for prime borrowers, such as applicants-declarants, are published daily in financial publications, and (c) it is not practical to invite invitations for bids for commercial paper.

The Alabama Public Service Commission has authorized the issuance of notes to banks and the issuance of commercial paper by Alabama. The Florida Public Service Commission has authorized the issuance of notes to banks and the issuance of commercial paper by Gulf. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Due notice of the filing of said application-declaration has been given in the manner prescribed in Rule 23 promulgated under the Act (HCAR No. 19381), and no hearing has been requested of or ordered by the Commission. Upon the basis of the facts in the record, it is hereby found that the applicable standards of the Act and the rules thereunder are satisfied and that no adverse findings are necessary; and that it is appropriate in the public interest and in the interest of investors and consumers that said application-declaration, as amended, be granted and permitted to become effective:

IT IS ORDERED, pursuant to the applicable provisions of the Act and rules thereunder, that said application-declaration, as amended, be, and it hereby is, granted and permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule 24 promulgated under the Act, except that the time for filing the certification thereunder with respect to the proposed transactions is extended so as to allow filing on a quarterly basis.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-7153 Filed 3-11-76;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Navy

BOARD OF VISITORS, UNITED STATES NAVAL ACADEMY

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act [5 U.S.C. App. I] notice is hereby given that the Board of Visitors, United States Naval Academy, will hold a semiannual meeting on May 3 and 4, 1976, at the United States Naval Academy, Annapolis, Maryland.

The purpose of the meeting will be to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs and academic methods of the Naval Academy. The meeting will be open to the public.

LARRY G. PARKS,
Captain, JAGC, U.S. Navy, Assistant Judge Advocate General (Civil Law).

MARCH 8, 1976.

[FR Doc.76-7122 Filed 3-11-76;8:45 am]

DEPARTMENT OF JUSTICE

FONTANA STEEL MILL, KAISER STEEL CORP.

Compliance With Air Pollution Limiting Regulations

In accordance with Departmental Policy, 28 C.F.R. 50.7, 38 FR 19029, notice is hereby given that on March 1, 1976, a proposed consent decree in *United States* v. *Kaiser Steel Corporation* was lodged with the United States District Court for the Central District of California. The proposed decree would require the Company to meet a detailed timetable to bring its various operations into compliance with the applicable air pollution control regulations.

The Department of Justice will receive until April 12, 1976, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *"United States* v. *Kaiser Steel Corporation,"* D.J. Ref. 90-5-2-1-24.

The proposed consent decree may be examined at the office of the United States Attorney, Room 1123, United States Court House, 312 North Spring Street, Los Angeles, California 90012; at the Region IX Office of the Environmental Protection Agency, Enforcement Division, San Francisco, California 94111; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue Northwest, Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.40 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

PETER R. TAFT,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc.76-7126 Filed 3-11-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA 3509]

CALIFORNIA

Proposed Withdrawal of Lands

MARCH 4, 1976.

The Bureau of Land Management, U.S. Department of the Interior, has filed application, serial number CA 3509, to withdraw from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, except for disposition under subsections (b) and (d) of section 8 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272 as amended) (43 U.S.C. 315g) subject to prior valid existing rights, the following described lands:

T. 8 S., R. 21 E., S.B.M.,
Sec. 20, All;
Sec. 21, S½;
Sec. 22, All;
Sec. 23, W½, W½SE¼;
Sec. 26, W½, W½E½;
Sec. 27, All;
Sec. 28, NE¼, W½;
Sec. 29, All;
Sec. 32, All;
Sec. 33, All;
Sec. 34, All;
Sec. 35, W½NE¼, W½.

The area aggregates 6,560.00 acres in Riverside County, California. The withdrawn lands are needed for use as the selected lands in a proposed exchange with the San Diego Gas and Electric Company for other lands in Riverside County.

The national resource lands area is being considered for the location of the proposed Sundesert Nuclear Plant Site. Approximately 1,300 acres of land equal in value, owned by the San Diego Gas and Electric Company, is proposed for exchange to BLM.

The withdrawal is needed for a five year period to preclude the possibility of conflicting claims or applications being filed on the lands prior to a decision as to final disposition of the lands. Before a final decision is made as to the disposition of the lands proposed for withdrawal, an Environmental Impact Statement will be prepared jointly by the Nuclear Regulatory Commission and the Department of the Interior.

On or before April 13, 1976, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, U.S. Department of the Interior, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

The Department's regulation provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide the maximum concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

WALTER F. HOLMES,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-7080 Filed 3-11-76;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (P.L. 93-205).

Applicant: Mr. Michael J. McElevey, 4341 SW Concord Street, Seattle, Washington 98136.

OMB NO. 42-R1570

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR *(Indicate only one)*
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Purchase and ship one pair of Brown Eared Pheasants (Crossoptilon mantchuricum) across state lines for propagation of the species

3. APPLICANT. *(Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)*
Michael J. McElevey
4341 SW Concord St
Seattle, Washington 98136
(206)-932-6877

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: 6'1" WEIGHT: 165
DATE OF BIRTH: Feb 5, 1960 COLOR HAIR: Blond COLOR EYES: Brown
PHONE NUMBER WHERE EMPLOYED
SOCIAL SECURITY NUMBER: 535-72-4944
OCCUPATION: Student
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: None

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Interstate shipment from Salem, N.H. to Seattle, Washington

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of document(s))
Not Required

9. CERTIFIED CHECK OR MONEY ORDER *(if applicable)* PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ NONE REQUIRED

10. DESIRED EFFECTIVE DATE: 2/25/76

11. DURATION NEEDED: 6 months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED *(See 50 CFR 13.12(a))* MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
Details Attached on back

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE *(In ink)*: Michael John McElevey
DATE: 1/15/76

3-200
(5/74)

DETAILS REQUIRED BY PART 17.22 OF SUBCHAPTER B OF CHAPTER I OF TITLE 50

17.22. *Requirements.* (1) I want to buy and ship one pair of Brown Eared Pheasants (*Crossoptilon mantchuricum*) in interstate commerce. They are yearling birds as I know. One male and one female.

(2) The birds were hatched in captivity.

(3) The birds are in captivity and I have never attempted to obtain any.

(4) The birds were hatched and raised by Mr. Don Meisner, Box 187, Salem, N.H. 03079.

(5, 6) The birds will be maintained and propagated at my residence: 4341 SW Concord St., Seattle, WA 98136.

(i) They will be kept in a pen approx. 8' x 6' high. The pen will be partially covered with corrugated fiberglass panelling to keep out rain and planted with azaleas, rhododendrons, bamboo, evergreens, and dwarf fruit trees. I will feed Purina Gamebird chow, supplemented with barley malt and greens. I will probably be using a Sears, 400 egg, forced air incubator. The pen floor wil have a slope for good drainage. 1'' wire mesh. Enclosed is a sketch of the area to be used.

(ii) I have had very good success raising Chinese Ringnecked Pheasants, Golden Pheasants and Coturnix Quail and I am presently keeping Impeyan Pheasants, Scintillating Copper Pheasants and Elliot's Pheasants. I am a high school student who has been in the field almost three years. I usually have straight A's on my report card, including all Science and Biology classes plus two ornithology classes. I am very interested in the subject of raising pheasants.

(iii) I am completely willing to cooperate in any breeding program and to submit any information requested by the Dept. of the Interior and to keep records on the birds.

(iv) As far as I know the birds will be shipped in standard crates made of light wood. The birds will be picked up immediately on arrival after I have been notified by the airport.

(7) There are no agreements or contracts about the birds as of yet but I have corresponded with Mr. Don Meisner about the birds through the mail.

(8) (i) The only thing the permit will cover is the sale and transportation of these "endangered" birds through interstate commerce.

(ii) Mr. Meisner will send me the birds from Salem N.H. to Seattle-Tacoma Internatn'l Airport.

(iii) I want to maintain, breed and raise the birds for the benefit of their species and as a personal challenge and for more experience in the field.

(iv) I plan to keep the birds, personally, if the permit is issued to me.

I hereby certify that the above information is true.

January 13, 1976.

MICHAEL JOHN MCELEVEY.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before April 12, 1976.

Dated: March 8, 1976.

LOREN K. PARCHER,
Acting Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-7202 Filed 3-11-76;8:45 am]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (P.L. 93-205).

Applicant: Mr. Dean Nadatani, Kauai Game Bird Farm, Post Office Box 203, Lawai, Kauai, Hawaii 96765.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (*Indicate only one*)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:
~~IMPORT~~ - ~~EX~~ SWINHOE (ENDANGERED SPECIES) FOR PROPAGATION
INTERSTATE TRANSPORT FOR BREEDING PURPOSES

3. APPLICANT: (*Name, complete address and phone number of individual, business, agency, or institution for which permit is requested*)
DEAN NADATANI
KAUAI GAME BIRD FARM
BOX 203
LAWAI KAUAI 96765 PH. 332-8736
Kauai Game Bird Farm
Lawai, Kauai, Hawaii

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT 5'7" WEIGHT 172
DATE OF BIRTH 4-11-44, COLOR HAIR BRN COLOR EYES BRN
PHONE NUMBER WHERE EMPLOYED 245 3512 SOCIAL SECURITY NUMBER 575 44 6340
OCCUPATION MECHANIC
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
RAISING PHEASANT FOR ITS BEAUTY DONATING RINGNECK FOR HUNTING TO SOME RESERVE.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
TRANSPORT ~~HABIT~~ FROM KANSAS TO Honolulu TO KAUAI
From:
Kansas Game Bird Farm
4839 North Harding
Wichita, Kansas 67220

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT ☒ YES ☐ NO
(*If yes, list license or permit numbers*)
76-0073

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(*If yes, list jurisdictions and type of documents*)
76-0073
GAME BIRD FARMERS LICENSE

9. CERTIFIED CHECK OR MONEY ORDER (*if applicable*) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF $

10. DESIRED EFFECTIVE DATE 11-30-75

11. DURATION NEEDED 1 YEAR

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (*See 50 CFR 13.12(b)*) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (*In ink*) Dean Nadatani DATE 9-26-75

3-200 (5/74) INT 1389-74

Dean Nadatani

JANUARY 24, 1976.

Mr. A. E. HESTER
Special Agent in Charge—Permits, Division of Law Enforcement, Fish and Wildlife Service, Washington, D.C.

DEAR MR. HESTER: In reply to your letter of January 13, 1976, regarding my application:

1. The Swinhoe pheasants were hatched in captivity.

2. The Swinhoe's will be raised at my farm in Lawai. Cage will be 8' x 12'.

3. The only experience is my four years of raising Reeves, Goldens, Silvers, Mikado, Ringnecks, mutants, and many others.

4. During transportation the birds will be placed in a box about 8'' x 24'' x 36.

Thank you.

DEAN NADATANI,
Lawai, Kauai.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before April 12, 1976.

Dated: March 8, 1976.

LOREN K. PARCHER,
Acting Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-7203 Filed 3-11-76;8:45 am]

Office of the Secretary

[INT FES 76-17]

SOUTH FORK NEW RIVER

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. 91-190, the Department of the Interior has prepared a final environmental impact statement for the proposed South Fork New River National Wild and Scenic River.

The proposal involves the designation of 26.5 miles of the South Fork New River, North Carolina, as a State administered component of the National Wild and Scenic Rivers System.

Copies are available for inspection at the Bureau of Outdoor Recreation, Southeast Regional Office, 148 Cain Street, Atlanta, Georgia 30303 and at the Bureau of Outdoor Recreation, Division of Resource Area Studies, Room 4256, 18th and C Streets, N.W., Washington, D.C. 20240.

A limited number of copies are also available and may be obtained by writing the Regional Director, Southeast Regional Office at the address shown above.

Dated: March 12, 1976.

STANLEY D. DOREMUS,
Acting Assistant Secretary of the Interior.

[FR Doc.76-7437 Filed 3-11-76;12:11 p.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

NATIONAL ADVISORY COUNCIL ON CHILD NUTRITION

Meeting

Pursuant to Pub. L. 92-463, notice is hereby being given that the National Advisory Council on Child Nutrition, which was established to make a continuing study of the child nutrition programs of the Department of Agriculture, is scheduled to hold a meeting on April 6-7, 1976, from 9:00 a.m. to 4:30 p.m. the first day and 9:00 a.m. to 12:00 noon the second day. The meeting will be held in Room 645, 500 12th Street, SW., Washington, D.C. The meeting will include a review of child nutrition program regulations, State Staffing Study, Special Milk Evaluation, and the Revision of the Type A Pattern. The meeting will be open to the public. Additional information can be obtained by contacting the executive secretary, Herbert D. Rorex, at 202-447-6603.

RICHARD L. FELTNER,
Assistant Secretary and Chairman, National Advisory Council on Child Nutrition.

Dated: March 8, 1976.

[FR Doc.76-7181 Filed 3-11-76;8:45 am]

DEPARTMENT OF COMMERCE

Office of the Secretary

CENSUS ADVISORY COMMITTEE ON HOUSING FOR THE 1980 CENSUS

Notice of Establishment

In accordance with the provisions of the Federal Advisory Committee Act (Public Law 92-463) and Office of Management and Budget Circular A-63 (revised—March 27, 1974), the Secretary of Commerce has determined that the establishment of the Census Advisory Committee on Housing for the 1980 Census is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee will provide technical advice and guidance in planning the forthcoming decennial Census of Housing to ensure that the major statistical requirements of decision makers are provided by the 1980 Census of Housing program. The decennial census is a prime source of the statistical intelligence needed by the many elements of government and private industry, organizational and individual citizenry, concerned with housing in this country. It provides a unique and detailed picture of the housing inventory in every city, town, and rural area of the United States. Vital decisions on the allocation of government funds, investment and credit flow policies, and production levels, as well as the effectiveness of public and private program planning, depend upon the availability and quality of the census data. The Committee, by providing technical advice and guidance, would represent an essential resource to the Census Bureau in its planning efforts to optimize the usefulness of the 1980 census housing data.

The Committee would draw on the knowledge and expertise of its members to provide advice, during the planning of the 1980 Census of Population and Housing, on housing subject-matter concepts, questionnaire content, tabulations, and data dissemination plans covering printed reports, computer summary tapes, microform, printouts, etc. The Committee would also provide advice on other relevant aspects of the overall 1980 census program, including such special and follow-on surveys as may be undertaken as part of the 1980 census (e.g., Components of Inventory Change and Residential Finance Surveys).

The Committee would consist of 18 members, including a representative from each of nine organizations and nine members appointed by the Secretary of Commerce from a broad spectrum of industrial leaders involved in housing production, marketing, financing, management; academicians knowledgeable as to housing problems and data needs; and persons concerned with the utilization, adequacy, and suitability of the Nation's housing stock.

The Committee will report and be responsible to the Director, Bureau of the Census. The Committee will function solely as an advisory body, and in compliance with the Federal Advisory Committee Act and Office of Management and Budget Circular A-63 (revised—March 27, 1974).

The Charter for the Committee will be filed 15 days after publication of this notice.

Dated: March 5, 1976.

JOSEPH E. KASPUTY,
Assistant Secretary for Administration.

[FR Doc.76-7121 Filed 3-11-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

GIFTED AND TALENTED MODEL PROJECTS

Notice of Closing Date for Receipt of Proposals

Notice is hereby given that pursuant to the authority contained in Section 404 (g) of Public Law 93-380 (20 U.S.C. 1863 (g)), proposals will be accepted for contracts from public and private agencies to establish and operate model projects.

Funds will be available for the operation of model projects to develop already successful exemplary programs for special target groups into nationally replicable models. It is anticipated that contracts in the amount of approximately $40,000 each will be awarded for Fiscal Year 1976.

Proposals for contracts for model projects may be submitted on the basis of the proposed rules published in the FEDERAL REGISTER, July 22, 1975 (40 FR 30662-30670). In particular applicants are referred to Subpart F, which sets out the elements of a model project and the criteria by which proposals for model projects will be judged, and to Subpart A, which sets forth general requirements, and general educational and programmatic criteria for the Program for the Gifted and Talented.

Types of Model Projects to be supported.—Proposals for National Model projects, are encouraged in the following special categories but all proposals complying with the regulation will be evaluated in accordance with the criteria in the regulation.

1. Those with special needs such as socially or economically disadvantaged or the handicapped.

2. Those from sparsely populated or rural areas where services are not readily available.

3. An early education program to identify and serve preschool and young gifted and talented children.

4. Those creatively gifted and talented.

5. Those talented in the visual or performing arts.

6. A community based mentor program for gifted and talented youth.

Proposals must be received by the U.S. Office of Education of Education Application Control Center on or before April 12, 1976.

A. *Proposals sent by mail.*—A proposal sent by mail should be addressed as follows: U.S. Office of Education, Grant and Procurement Management Division, Application Control Center, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Attention: 13.562. A proposal sent by mail will be considered to be received on time by the Application Control Center if:

(1) The proposed was sent by registered or certified mail not later than close of business on April 7, 1976, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The proposal is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. date of receipt, the Commissioner will rely on the time-date stamp of such mailrooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand delivered proposals.*—A proposal to be hand delivered must be taken to the U.S. Office of Education, Grant and Procurement Management Division, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. Hand delivered proposals will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Proposals will not be accepted after 4:00 p.m. on the closing date.

C. *Program information and forms.*—Further information may be obtained from the Office of the Gifted and Talented, Bureau of Education for the Handicapped, Room 2006, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. 2202.

D. *Applicable regulations.*—Awards made pursuant to this notice will be subject to: (1) The Office of Education General Provisions Regulations (45 CFR Part 100 and 100a) published in the FEDERAL REGISTER on November 6, 1973, and (2) upon becoming effective in final form, the regulation for the Program for the Gifted and Talented. The proposed regulation was published in the FEDERAL REGISTER on July 22, 1975 (40 FR 30662–30670). (20 U.S.C. 1863)

(Catalog of Federal Domestic Assistance Number 13.562 Gifted and Talented Education Program)

Dated: March 5, 1976.

T. H. BELL,
U.S. Commissioner of Education.

[FR Doc.76–7087 Filed 3–11–76;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

Meeting

Notice of Meeting of the National Advisory Council on Indian Education.

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), that the next meeting of the Full Council of the National Advisory Council on Indian Education will be held April 9, 10, 11, 1976, at the Holiday Inn, 8777 Georgia Avenue, Silver Spring, Maryland.

The National Advisory Council on Indian Education is established under Section 442 of the Indian Education Act (Pub. L. 92–318, Title IV, 20 U.S.C. 1221g). The Council, among other things, is directed to:

(1) advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate, or from which they can benefit, including sections 241aa to 241ff and 887c of this title and with respect to adequate funding thereof;

(2) review applications for assistance under sections 241aa to 241ff, 887c, and 1211a of this title, and make recommendations to the Commissioner with respect to their approval;

(3) evaluate programs and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate, or from which they can benefit, and disseminate the results of such evaluations;

(4) provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(5) assist the Commissioner in developing criteria and regulations for the administration and evaluation of grants made under section 241bb(b) of this title; and

(6) to submit to the Congress not later than March 31 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include statement of the National Council's recommendations to the Commissioner with respect to the funding of any such programs.

The April 9–11, 1976 meeting of the National Advisory Council on Indian Education shall be closed to the public, since the Council members will be reviewing proposals that must be held in confidence, under the authority of the Federal Advisory Committee Act (P.L. 92–463) and under the exemptions contained in the Freedom of Information Act, 5 U.S.C. Section 552(b)(4) and (6), (P.L. 9–23), 45 CFR § 5.71.(a) and § 5.71(b).

The proposed agenda includes:

(1) Review of Title IV proposals submitted under Parts B, C, and Part A non-LEAs.

(2) Make recommendations to the Commissioner with respect to their approval.

Records shall be kept of all Council proceedings (and shall be available for public inspection at the office of the National Advisory Council on Indian Education located at 425 13th Street, N.W., Room 326, Washington, D.C. 20004.

Signed at Washington, D.C. on March 8, 1976.

LINCOLN C. WHITE,
Executive Director.

[FR Doc.76–7123 Filed 3–11–76;8:45 am]

ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Public Meeting

Notice is hereby given, pursuant to Public Law 92–463, that the next meeting of the Advisory Council on Women's Educational Programs will be held from 9:30 a.m. to 4:00 p.m. on March 31, from 9:00 a.m. to 4:30 p.m. on April 1 and from 9:00 a.m. to 1:00 p.m. on April 2, 1976, at the Council offices, Suite 821, 1832 M Street, NW., Washington, D.C. and that the Council meeting will be preceded by a meeting of the Council's Information Resources Committee from 9:00 a.m. to 4:00 p.m. on March 30, 1976, at the same address, and that there will be meetings of the Council's Program and Legislation Committees from 2:00 p.m. to 5:00 p.m. on April 2, also at the same address.

The Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 93–380 section 408(f)(1). The Council is mandated to (a) advise the Commissioner with respect to general policy matters relating to the administration of the Women's Educational Equity Act of 1974; (b) advise and make recommendations to the Assistant Secretary concerning the improvement of educational equity for women; (c) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to section 408 of Pub. L. 93–380, including criteria developed to insure an appropriate distribution of approved programs and projects throughout the Nation; and (d) develop criteria for the establishment of program priorities.

The meetings of the full Council and of the Committees will be open to the public. The agenda for the Council meeting will include: (1) Council future plans, goals and priorities; (2) reports of committees; (3) report of Women's Program Staff; (4) panel of private programs in women's education; and (5) Council projects.

The agenda for the Information Resources Committee will include (1) rural women project; (2) reports to the Commissioner on sexism, and (3) new business.

The agenda for the Program Committee will include future plans.

The agenda for the Legislation Committee will include discussions of pending legislation.

Records will be kept of all Council proceedings and will be available at the Council offices at Suite 821, 1832 M Street, N.W., Washington, D.C.

Signed at Washington, D.C. on March 9, 1976.

JOY R. SIMONSON,
Executive Director.

[FR Doc.76-7153 Filed 3-11-76;8:45 am]

RIGHT TO READ READING IMPROVEMENT PROJECTS

Cutoff Date for Receipt of SEA Approval of Applications

Pursuant to the authority contained in Section 705 of Public Law 93-380 (20 U.S.C. 1921), notice was published in the FEDERAL REGISTER on December 16, 1975 (40 FR 58339) establishing a closing date of March 16, 1976 for the receipt of applications for Reading Improvement Project grant awards under Section 705 of Title VII (The National Reading Improvement Program) of Public Law 93-380.

Under proposed regulations for the program, 45 CFR 162.13 (40 FR 56682, December 4, 1975), and the December 16, 1975 notice of closing date, applicants for these Section 705 grant awards must file their applications directly with the Commissioner of Education by the March 16, 1976 closing date. Applicants must also provide a copy of their application to the State educational agency (SEA) of the State in which they are located 15 days prior to the submission of the application to the Commissioner, or no later than March 1, 1976.

The purpose of this notice is to establish a cutoff date for the receipt by the Commissioner of written approval of applications by the SEAs under the Reading Improvement Program. Under Section 705 (d) and (e) of Public Law 93-380 and proposed 45 CFR 162.13(a) (1) and (2), the Commissioner will not approve a Reading Improvement Project under Section 705 of Title VII of Public Law 93-380 unless the State educational agency has approved the project. Proposed 45 CFR 162.13(c) provides that failure by the SEA to indicate its approval in writing to the Commissioner within a period specified by the Commissioner shall be deemed a disapproval of the application by the SEA, and the application will not be considered for funding by the Commissioner.

The cutoff date hereby established for receipt by the Commissioner of written approval by the SEAs of applications within their States is April 5, 1976. Written approvals should be addressed to the Director, Right to Read Program, U.S. Office of Education, Room 2134, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

(20 U.S.C. 1921)

(Catalog of Federal Domestic Assistance Number 13.533, Right to Read—Elimination of Illiteracy)

Dated: March 10, 1976.

T. H. BELL,
U.S. Commissioner of Education.

[FR Doc.76-7299 Filed 3-11-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-76-595]

Assistant Secretary for Policy Development and Research

URBAN SIGNAGE

Notice of Open Forum

In order to deal with the urban problem of sign proliferation along city streets many cities have adopted graphic systems or enacted sign control ordinances. The substantial activity and interest by local communities in signage controls demonstrates that the quality and character of the visual environment is an important local concern.

As a result of this activity, attention and controversy has been growing in both public and private sectors on the design, legal and economic issues related to local government adoption of sign controls or graphic systems. Additionally, considerable research work has been performed in the signage field by both public and private sectors. What has been lacking is an open exchange of ideas, real life experiences and up-to-date data between the various public and private groups concerned and involved with signage control.

Notice is hereby given that HUD will hold a public forum for the purpose of obtaining all interested public and private views on the significant legal, economic and design issues associated with the implementation of sign control ordinances or graphic systems by local communities. It is expected that this forum will assist in providing public officials and businessmen concerned with signage with better data upon which to make sound and rational decisions on this significant local issue. It is not the purpose of this forum to develop Federal regulations on signage but rather to provide a neutral marketplace for the exchange of competing ideas. Written and oral comments are solicited.

The public forum of record will be held April 22 and 23 from 9:00 a.m. to 5:30 p.m., in the Upper Summit Room, Conrad Hilton Hotel, 720 S. Michigan Avenue, Chicago, Illinois.

Requests to appear and present comments and any other communications regarding this forum should be submitted, together with a brief outline of the topics to be presented, no later than April 7, 1976, to the Assistant Secretary for Policy Development, 451 Seventh Street, S.W., Washington, D.C. 20410, Attention: Urban Signage Forum, Room 8146. It is requested that written copies of the material to be presented at the public forum be forwarded to HUD not later than April 16, 1976.

Any other written comments and information from parties wishing to contribute but not appear at the hearing should be submitted to the same address, no later than April 16, 1976. All comments and information submitted will be available to the public under the provisions of the Freedom of Information Act (Section 552 of Title 5, United States Code).

Issued at Washington, D.C., March 8, 1976.

CHARLES J. ORLEBEKE,
Assistant Secretary for Policy Development and Research.

[FR Doc.76-7215 Filed 3-11-76;8:45 am]

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

MEETING

MARCH 9, 1976.

The National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a two-day meeting on Monday and Tuesday, April 12-13 1976. These sessions will be open to the public and will be held in Room 6802 of the U.S. Department of Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C., beginning at 9:00 a.m. both days.

The Committee, consisting of 25 non-Federal members appointed by the President from State and local governments, industry, science and other appropriate areas, was established by Congress by Pub. L. 92-125, on August 16, 1971, as amended. Its duties are to (1) undertake a continuing review of national ocean policy, coastal zone management and the progress of the marine and atmospheric science and service programs of the United States, (2) submit a comprehensive annual report to the President and to the Congress setting forth an overall assessment of the status of the Nation's marine and atmospheric activities on or before 30 June of each year, and (3) advise the Secretary of Commerce with respect to the carrying out of the purpose of the National Oceanic and Atmospheric Administration.

The agenda will include the following topics:

APRIL 12, 1976

MORNING

Briefings on:
Some issues in Defense Department marine and atmospheric research
Submersibles and diving technology

AFTERNOON

Briefings on submersibles and diving technology (continued).

Plans for 5th Annual Report

Working group sessions on topics for annual report, including tentatively: Weather modification, weather and air safety, research and air pollution control, climate programs, Sea Grant, coastal zone management, energy from the sea, Federal organization, defense oceanography, protection of

offshore assets, diving physiology, submersibles, and followup to recommendations in previous reports such as: fisheries plan, ocean engineering, etc.

APRIL 13, 1976

MORNING AND AFTERNOON

Working group sessions (continued)

The public is welcome at these sessions and will be admitted to the extent of the seating available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Dr. Douglas L. Brooks, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, Department of Commerce Building, Room 5225, Washington, D.C. 20230. The telephone number is 967-3343.

DOUGLAS L. BROOKS,
Executive Director.

[FR Doc.76-7160 Filed 3-11-76;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

FEDERAL GRAPHICS EVALUATION ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Federal Graphics Evaluation Advisory Panel to the National Council on the Arts will be held on April 6, 1976 from 9:30 a.m.-5:00 p.m. in Room 1130 of the Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C.

A portion of this meeting will be open to the public from 9:30 a.m.-12:00 noon and from 3:15 p.m.-5:00 p.m. on a space available basis. Accommodations are limited. During the open session the graphics of the U.S. Army will be discussed.

The remaining session of this meeting from 2:15-3:15 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on Federal Graphics under the National Foundation on the Arts and the Humanities Act of 1965, as amended in accordance with the President's Directives of May 16, 1927, August 23, 1974, and June 26, 1975 on Improvement of Federal Graphics. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, these sessions, which involve matters exempt from the requirements of public disclosure under the provision of the Freedom of Information Act (5 U.S.C. 552(b)(5), will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.76-7081 Filed 3-11-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket Nos. 28878, 28895, 28096; Order 76-3-45]

NORTHWEST AIRLINES, INC. AND PAN AMERICAN WORLD AIRWAYS, INC.

Order Dismissing Complaints Regarding Cancellation of Expiration Date on Category Y Tariffs

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 8th day of March 1976.

By tariff revisions[1] marked to become effective March 9 and March 14, 1976, respectively, Northwest Airlines, Inc. (Northwest) and Pan American World Airways, Inc. (Pan Am) propose to cancel the expiration date of June 30, 1976, which would have the effect of permitting Category Y services[2] to continue until final decision is reached in the "Category Y Fare Investigation," Docket 28096.[3]

In justification for the tariff revisions, both carriers assert that extension of the tariffs is desirable to maintain the *status quo* during the period of the Board's investigation, thereby permitting the Board to gather further evidence as to actual impact of this service concept; that Northwest and Pan Am should be permitted continued realization of the operating expense savings and the fuel conservation benefits of this program; and that no other carrier is adversely affected. Further, Northwest and Pan Am point out that timely action is necessary to afford the Department of Defense (DOD) the advance booking time it requires so as to continue the Category Y services without interruption.[4] Northwest also contends that continuation of the Category Y services will hold down transpacific fares by virtue of the improved utilization of scheduled capacity.

Member carriers of the National Air Carrier Association (NACA),[5] filed complaints against both tariff revisions and request the Board to institute an investigation of the proposed tariff revisions and to suspend the tariffs pending such investigation.

NACA argues, *inter alia*, that elimination of the expiration date would be tantamount to a long-term extension of the tariffs[6] and constitute a marked departure from the Board's previous practice of carefully limiting Category Y service authorizations, by exemption and by tariff, to definite time periods premised on short-term considerations. The complainant contends that the principal factor of fuel conservation can no longer serve to justify this service concept. NACA charges that continuation of Category Y services acts as a disincentive to the elimination of excess scheduled capacity and the resumption of transporting military traffic on planeload charter flights—the most fuel-efficient mode. The complainant expresses concern that extension of the tariffs prior to fixing fiscal 1977 MAC contracts could influence MAC's procurement policies. Furthermore, NACA states that by June 30, 1976, Category Y services will have been permitted for approximately two and one-half years, and failure to suspend the instant tariffs would result in a grossly uneconomic fare becoming more embedded than ever in the fare structure.

Northwest, Pan Am, and DOD filed answers in rebuttal to the NACA complaints. The thrust of the answers goes to assertions that there is ample evidence to demonstrate significant fuel and cost savings are resulting from Category Y services;[7] fuel savings are of greater importance now than at the time of the fuel supply crisis; scheduled services are at minimum levels and offer no alternative to the Category Y program for fuel savings; MAC's award system for fixed charter contracts is established and would not be affected by extension of the tariffs; the Category Y service provides additional flexibility for the movement of DOD personnel; the tariff revisions do not represent indefinite extension of the Category Y fares which are the subject of a Board investigation; and no valid reason or evidence of harm has been given to terminate the highly beneficial Category Y services at this time.

The points raised in justification for the tariff revisions, the arguments in complaint, and the answers are, for the most part, reiterations of the contentions put forward every time the Category Y proposition has been before us. As the

[1] Local Military Passenger Fares Tariff No. MAC-1, C.A.B. No. 520, 4th Revised Title Page, filed by Northwest; and, Local Military Passenger Fares Tariff No. MAC-1, C.A.B. No. 438, 2nd Revised Title Page, filed in behalf of Pan Am.

[2] The carriage of military charter passengers on scheduled flights at the Category B planeload, round-trip charter rates established in Part 288 of the Board's Economic Regulations.

[3] Instituted by Order 75-7-104, July 22, 1975. Prehearing conference was held on January 29, 1976, and the hearing is scheduled to commence June 15, 1976.

[4] The Military Airlift Command has advised Northwest that it plans to book Category Y traffic movements 105 days prior to the start of the month involved.

[5] By power of attorney duly executed by Overseas National Airways, Inc., Saturn Airways, Inc., Trans International Airlines, Inc., and World Airways, Inc.

[6] NACA anticipates that conclusion of the "Category Y Fare Investigation" is more than a year away.

[7] Northwest submits supporting conclusions in the Comptroller General's Report to Congress, January 28, 1976, to buttress its answer.

Board indicated in setting this matter down for investigation, we do not consider the merits of the representations made for both sides on the questions raised by this service concept sufficiently clear-cut to reach a decision absent an evidentiary hearing.

The issue now before the Board is whether to suspend the Category Y services or permit continuation pending our decision in the investigation. Based on the case's progress to date, it does not appear that the tariffs' extension, conditioned on decision in that proceeding, will be of significant long-term duration. Moreover, the complainant has not submitted evidence of past or prospective adverse impact for these fares on any other carrier or shown other substantive change in circumstances to convince the Board that suspension of the Category Y tariffs, during the term of the investigation, is warranted. Therefore, we will dismiss the complaints.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended and particularly sections 204(a), 403, 404 and 1002 thereof:

It is ordered, That:

1. The complaints in Docket 28878 and Docket 28895 be and hereby are dismissed; and

2. Copies of the order be served upon Northwest Airlines, Inc., Pan American World Airways, Inc., the National Air Carrier Association, and the Department of Defense.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,[5]
Acting Secretary.

[FR Doc.76-7167 Filed 3-11-76;8:45 am]

[Docket Nos. 28961, etc.; Order 76-3-39]

FRONTIER AIRLINES, INC. ET AL.

Order Regarding Sacramento-Denver Nonstop Proceeding

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of March 1976.

Sacramento-Denver Nonstop Proceeding, Docket 28961; application of Frontier Airlines, Inc., Docket 28176, for amendment of its certificate; application of Hughes Air Corp. d/b/a Hughes Airwest, Docket 28214, for amendment of its certificate; application of Western Air Lines, Inc., Docket 28254, for amendment of its certificate; application of Texas International Airlines, Inc., Docket 28300, for amendment of its certificate.

On August 14, 1975, Frontier Airlines filed an application and motion for hearing on its application for nonstop authority between Sacramento, California and Denver, Colorado. Frontier proposes to operate, on a subsidy-ineligible basis, two daily nonstop round trips between Sacramento and Denver, one extending beyond Denver to Dallas/Ft. Worth and one to Kansas City and St. Louis. Frontier states that its new flights will make available (1) first single-plane service to over 36,000 Sacramento-Dallas/Ft. Worth/Kansas City/St. Louis passengers, (2) first competitive service to almost 44,000 Sacramento-Denver passengers, and (3) on-line connecting service to almost 24,000 passengers between Sacramento and Frontier cities throughout the Rocky Mountain and Great Plains region. Frontier estimates that its service proposal will accommodate 71,000 passengers and reduce subsidy need by $914,000 under Subpart K costing and by $1,181,000 under the company method of costing.

Answers in support of Frontier's motion were filed by the County of Sacramento, the St. Louis Airport Authority, and the City of Kansas City, Missouri and Chamber of Commerce of Greater Kansas City. Sacramento states that its service needs have been neglected in comparison with such cities as San Diego and Portland, that the Board has never considered the needs of the Sacramento area for improved service to Denver and points east, and that Frontier's proposal would substantially improve the quality of such a service for Sacramento passengers.[1] St. Louis argues that the St. Louis-Sacramento market has received deficient service which has historically suppressed traffic, and the Kansas City parties state that Kansas City-Sacramento service is deficient.

Hughes Airwest and Western Air Lines also filed answers to Frontier's motion, stating that any investigation considering new Sacramento-Denver authority should also include their applications in Dockets 28214 and 28254 (discussed *infra*).

An answer in opposition to Frontier's motion was filed by United Air Lines, the incumbent carrier in the Sacramento-Denver market, on the grounds that (1) the Sacramento-Denver market has received adequate service, (2) the Sacramento-Dallas/Ft. Worth, Sacramento-Kansas City and Sacramento-St. Louis markets, for which Frontier proposes single-plane service, are insignificant in terms of passenger numbers and receive adequate connecting service, and (3) Frontier's service would divert from United a substantially higher amount in local revenue diversion than estimated by Frontier ($1,212,000 instead instead of $757,000).[2]

Finally, the City and County of Denver and the Public Utilities Commission of the State of Colorado petitioned for leave to intervene in Docket 28176. Since the Denver parties have a sufficient interest in the proceeding instituted herein, the petition will be granted.

On August 25, and September 17, respectively, Airwest filed an application and an amendment to its application requesting Fresno/Sacramento-Dallas/Ft. Worth authority, Sacramento-Denver authority, and Sacramento-Salt Lake City-Dallas/Ft. Worth authority. The carrier filed a motion to consolidate its original application (for Fresno/Sacramento-Dallas and Sacramento-Denver authority) with Frontier's application in Docket 28176, arguing that the applications of Airwest and Frontier are essentially identical in that they both request authority to operate service between Denver/Dallas and Sacramento and therefore are mutually exclusive and must be consolidated under Ashbacker.[3] Frontier answered in opposition to that part of Airwest's motion which seeks consolidation of the Sacramento/Fresno-Dallas issue, arguing that the Ashbacker doctrine does not require such an expansion of the issues. Western filed an answer opposing consolidation of the same portion of Airwest's application, stating that the needs of Sacramento-Dallas passengers can more efficiently be met by a one-stop routing via Salt Lake City and that the needs of the larger Sacramento-Salt Lake City market should be considered first.[4]

Finally, Airwest seeks consolidation on Ashbacker grounds of its amended application (adding the Sacramento-Salt Lake City-Dallas/Ft. Worth request) with any proceeding involving direct

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[5] Minetti and West, Members, filed dissenting statement as part of the original document.

[1] United filed a motion for leave to file an otherwise unauthorized document which we will grant, and a reply to the answer of the County of Sacramento in which the carrier asserts that (1) a comparison between Sacramento's service to the east and the service offered to San Diego and Portland is irrelevant, (2) United's service to Sacramento has been excellent, (3) United has actively promoted its service and fully developed the traffic potential, and (4) Sacramento has belittled the financial effect of a second carrier on United.

[2] Frontier filed a reply and a motion for leave to file an unauthorized document which will be granted so that we may have complete information on which to base our decision herein. Frontier's reply states that (1) the Sacramento-Denver market with 61,700 local and connecting passengers in 1974 is larger than seven of eight Omaha/Des Moines coastal markets where the Board has just found that competition is required by the public convenience and necessity, (2) United's summer 1973 load factors were extremely high, (3) the proposed Sacramento-Denver proceeding resembles the Denver-Las Vegas Investigation which considered first competitive service in the Danver-Las Vegas market generating 58,210 local and connecting passengers (1966), (4) United has not challenged the profitability of Frontier's proposal, (5) United downgrades public benefits in beyond markets, and (6) United's diversion claim is inflated.

[3] Ashbacker v. Federal Communications Commission, 326 U.S. 327 (1945).

[4] Airwest filed a reply to Frontier's and Western's answers and a motion for leave to file an otherwise unauthorized document which will be granted. In its reply, Airwest disputes Western's contention that the Sacramento/Fresno-Dallas markets are small and again argues that Frontier's and Airwest's applications are mutually exclusive.

service between Denver and Sacramento, Dallas/Ft. Worth and Sacramento, Dallas/Ft. Worth and Salt Lake City, and Salt Lake City and Sacramento. The Utah Agencies and Utah Department of Transportation support Airwest's motion to consolidate its request for Sacramento-Salt Lake City-Dallas/Ft. Worth authority.

On September 2, 1975, Western filed an application for Sacramento-Denver authority and Sacramento-Salt Lake City-Dallas/Ft. Worth authority.[5] Western contends that the needs of the Sacramento-Dallas/Ft. Worth market can be met more efficiently and economically by Sacramento-Salt Lake City-Dallas service and that consideration of such a service would enable the Board to consider competing proposals for additional nonstop and first one-stop single-plane service in the Sacramento-Denver and Sacramento-Dallas/Ft. Worth markets, respectively, together with the need for first effective nonstop service in the Sacramento-Salt Lake City market and first nonstop operations in the Salt Lake City-Dallas/Ft. Worth market. Western also moved to consolidate its application with Frontier's in Docket 28176, arguing that the two applications are essentially identical in that they both propose nonstop Sacramento-Denver service and one-stop Sacramento Dallas/Ft. Worth service. United answered in opposition to the consolidation of Western's request for Sacramento-Salt Lake City authority, and Frontier opposes the consideration of Sacramento-Salt Lake City and Salt Lake City-Dallas issues with the Sacramento-Denver issue.

Finally, on September 11, 1975, Texas International Airlines (TXI) filed an application requesting removal of the restriction prohibiting it from providing single-plane Salt Lake City-Dallas service. TXI also moved to consolidate its application with Western's in Docket 28254 and Frontier's in Docket 28176.

Answers in support of various motions to consolidate were filed by the interested civic parties. The Utah parties filed in support of the Western motion. New Orleans filed in support of TXI's request. Sacramento's answer supports those portions of the Airwest and Western applications which encompass the issues in Frontier's request. Sacramento also advocates an early consideration by the Board of nonstop Sacramento-Dallas service and improved Sacramento-Salt Lake City service, but takes no position as to whether these issues should be considered in conjunction with a consolidated proceeding involving Sacramento-Denver service or as separate matters.

Upon consideration of the pleadings and all the relevant facts, we have decided to institute the "Sacramento-Denver Nonstop Proceeding," Docket 28961. The proceeding will be limited solely to consideration of the need for competitive nonstop service in the Sacramento-Denver market, and we will consolidate for hearing the applications of Frontier, Airwest, and Western in Dockets 28176, 28214, and 28254, respectively, insofar as these applications conform to the scope of the proceeding instituted herein. We will, however, deny the various requests for consolidation of Fresno/Sacramento-Dallas, Sacramento-Salt Lake City, and Salt Lake City-Dallas issues.

The Board's traffic surveys show the Sacramento-Denver market as generating 61,700 O&D plus connecting passengers in 1974, an average of 169 a day; however, these figures may be understated in view of Sacramento's proximity to San Francisco, which could be producing a significant bleedoff of Sacramento traffic to San Francisco via surface means or intrastate air carrier. Furthermore, United's Sacramento-Denver flights in 1974 carried a total traffic flow of 112,582 passengers, or 308 per day. (Only a small number of recorded Sacramento-Denver passengers used carriers other than United, or two-carrier connecting service.) The size of the market, the high coach load factors on United's flights during many months of the past several years, and Frontier's *prima facie* showing of a potential for profitable competitive operations, together lead us to conclude that priority consideration of competitive nonstop service in this market is warranted under the Board's priority-of-hearing standards, section 399.60 of the Board's Policy Statements.

On the other hand, the Fresno/Sacramento-Dallas/Ft. Worth, Sacramento-Salt Lake City, and Salt Lake City-Dallas/Ft. Worth markets are not large and do not warrant an expansion of the proceeding instituted herein beyond consideration of the Sacramento-Denver market. This is particularly true with respect to the Sacramento-Salt Lake City and Salt Lake City-Dallas/Ft. Worth markets which already receive single-plane service.[6]

In addition, we find no merit in Airwest's and Western's contentions that consolidation of their requests for Sacramento-Dallas/Ft. Worth authority is required as a matter of law merely because Frontier proposes to extend a Sacramento-Denver operation beyond to Dallas/Ft. Worth. Historically, the Board has refused to tailor the issues in route proceedings to compensate for the differences in route systems of the various applicants. As the Board has stated: "nothing in the Ashbacker doctrine requires that the scope of the issues in a case be expanded through consolidation of applications so as to place all applicant-carriers on an equal footing with respect to beyond-segment service possibilities." "Remanded Additional Service to San Diego Case," Order 71-7-34. The Board's practice in this respect has been upheld by the Court of Appeals which said, "It bears reiteration that the Board is not obliged to structure its proceedings so as to equalize the beyond-market capabilities of all applicants to a route case."[7]

Neither do we conclude that the issue of Sacramento-Dallas/Ft. Worth authority should be consolidated as a matter of discretion. Consideration of the needs of this market would unduly expand the scope of the issues and enlarge and complicate the proceeding instituted herein, as demonstrated by the fact that both Airwest and Western seek Salt Lake City-Dallas/Ft. Worth authority as a concomitant to their Sacramento-Dallas/Ft. Worth proposals. This, in turn, has induced TXI to seek entry into the case because of its interest in the Salt Lake City-Dallas/Ft. Worth market. Therefore, except with respect to those portions of Airwest's and Western's applications which seek Sacramento-Denver authority, the motions to consolidate in Dockets 28214, 28254, and 28300 will be denied.[8]

Finally, the carriers have not submitted sufficient information for us to determine the environmental consequences at this time of their certificate amendment applications for Sacramento-Denver authority. Therefore, we

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[5] The actual form of Western's request is to add Sacramento-Denver and Salt Lake City-Dallas/Ft. Worth segments to route 35 and to amend segment 2(b) of route 63 to read: "beyond Oakland, the intermediate points Sacramento, California, Reno, Nev., and the terminal point Salt Lake City, Utah."

[6] The Board's surveys show the following traffic volumes for the several markets in 1974, in terms of O&D plus connecting passengers Fresno-Dallas, 5,250 (14 a day); Sacramento-Dallas, 10,840 (30 a day); Sacramento-Salt Lake City, 28,550 (78 a day); Salt Lake City-Dallas, 35,560 (97 a day). Possible understatement of the two Sacramento markets due to bleed-off would not be significant enough to affect our conclusions. United's traffic flow in 1974 on its Sacramento-Salt Lake City nonstop flights amounted to only 38,169 passengers, and its load factors have been moderate. Frontier, a subsidized local service carrier, provides four daily round trips in the Salt Lake City-Dallas market.

[7] Delta Air Lines, Inc. v. C.A.B., 497 F. 2d 608, 613 (D.C. Cir. 1973), cert. denied, 417 U.S. 930 (1974); National Airlines v. C.A.B., 392 F. 2d 504, 508 (D.C. Cir. 1968); Eastern Air Lines, Inc. v. Civil Aeronautics Board, 243 F. 2d 607, 609 (D.C. Cir. 1956).

[8] In accordance with standard Board practice, Airwest and Western will be permitted to introduce evidence with respect to the mutual exclusivity issue.

will require Frontier, Airwest, and Western to file the information set forth in Part 312 of the Board's Procedural Regulations. We will allow these carriers and all other carriers filing applications in this proceeding 40 days from the date of service of this order to file their environmental evaluations.

Accordingly, it is ordered, That:

1. A proceeding to be known as the "Sacramento-Denver Nonstop Proceeding, "Docket 28961, be and it hereby is instituted and shall be set down for hearing before an Administrative Law Judge of the Board at a time and place hereinafter designated as the orderly administration of the Board's docket permits;

2. The proceeding instituted by paragraph 1, above, shall include consideration of the following issues:

a. Do the public convenience and necessity require the certification of an air carrier or air carriers to engage in competitive nonstop air transportation between Sacamento, California and Denver, Colorado?

b. If the answer to (a) is in the affirmative, which air carrier(s) should be authorized to enageg in such service?

c. What terms, conditions and/or limitations, if any, should be placed on the operation of such carrier(s)?

3. Any authority granted in said proceeding shall be ineligible for subsidy;

4. The following applications, to the extent that they conform to the scope of the issues as hereinabove stated, be and they hereby are consolidated with said proceeding:

Frontier Airlines, Inc., Docket 28176, Hughes Airwest, Docket 28214, Western Air Lines, Inc., Docket 28254;

5. To the extent they request consolidation of issues not conforming to the issues of said proceeding, the motions to consolidate filed by Hughes Airwest in Docket 28214 and Western Air Lines, Inc. in Docket 28254, be and they hereby are denied;

6. The motion to consolidate filed by Texas International Airlines, Inc. in Docket 28300, be and it hereby is denied;

7. The petition for leave to intervene filed by the Denver Parties be and it hereby is granted;

8. The motions for leave to file otherwise unauthorized documents filed by United Air Lines, Inc., Frontier Airlines, Inc., and Hughes Airwest, be and they hereby are granted;

9. Applications, motions to consolidate, and petitions for reconsideration of this order shall be filed 20 days from the date of service of this order and answers thereto shall be filed 10 days thereafter; and

10. Frontier Airlines, Inc., Hughes Airwest, Western Air Lines, Inc., and all other carriers filing applications in this proceeding shall file environmental evaluations pursuant to 312.12 of the Board's Procedural Regulations within 40 days of the date of service of this order.*

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.76-7168 Filed 3-11-76;8:45 am]

COMMISSION ON CIVIL RIGHTS

ILLINOIS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee (SAC) to this Commission will convene at 10:00 a.m. and end at 3:00 p.m. on April 7, 1976, at the MWRO Conference Room 3251, 230 South Dearborn Street, Chicago, Illinois 60604.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, Room 1428, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to discuss plans for continuing Housing Community Development Project—Bilingual/Bicultural Handbook Release and Follow-up activities on State Desegregation Guidelines and OCR/HEW Chicago School System Review.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 9, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-7084 Filed 3-11-76;8:45 am]

*To the extent that the above-established procedure does not comply with Part 312 of the Board's Procedural Regulations, we hereby waive the requirement of Part 312 that applications contain an environmental evaluation for those carriers requesting consolidation with this proceeding.

NEW HAMPSHIRE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Hampshire Advisory Committee (SAC) to this Commission will convene at 7:30 pm. and end at 11:00 pm. on April 5, 1976, at the Sheraton Wayfarer, Manchester, New Hampshire.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, NY 10007.

The purpose of this meeting is to discuss new projects and prospective committee members.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 5, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-7035 Filed 3-11-76;8:45 am]

WYOMING ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Wyoming Advisory Committee (SAC) to this Commission will convene at 1:00 p.m. and end at 3:00 pm. on April 3, 1976, at the Holiday Inn, 300 West F Street, Casper, Wyoming.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mountain States Regional Office of the Commission, Suite 1700, Executive Towers, 1405 Curtis, Denver, Colorado 80282.

The purpose of this meeting is to identify civil rights issues for the next SAC project, review Commission's rules and regulations and planning steps for the next SAC project.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 8, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-7086 Filed 3-11-76;8:45 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary (Student Assistance), Office of the Secretary.

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

[FR Doc.76-6736 Filed 3-11-76;8:45 am]

DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY GOVERNMENT OF THE DISTRICT OF COLUMBIA

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the District of Columbia Redevelopment Land Agency (now part of the Government of the District of Columbia, P.L. 93-198, December 24, 1973) to fill by noncareer executive assignment in the excepted service the position of Executive Director, Office of the Executive Director.

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

[FR Doc.76-6737 Filed 3-11-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Legislation (Welfare), Office of the Assistant Secretary for Legislation.

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

[FR Doc.76-7210 Filed 3-11-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Planning and Evaluation/Education, Office of the Secretary.

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

[FR Doc.76-7211 Filed 3-11-76;8:45 am]

DEPARTMENT OF JUSTICE

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Administrator, Office of the Administration, Law Enforcement Assistance Administration.

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

[FR Doc.76-7208 Filed 3-11-76;8:45 am]

DEPARTMENT OF LABOR

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Labor to fill by noncareer executive assignment in the excepted service the position of Deputy Director, Office of Federal Contract Compliance Programs, Employment Standards Administration.

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

[FR Doc.76-7209 Filed 3-11-76;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1976

Additions to Procurement List

Notice of Proposed Additions to Procurement List 1976, November 25, 1975 (40 F.R. 54742) was published in the FEDERAL REGISTER on November 14, 1975 (40 F.R. 53068).

Pursuant to the above notice the following services are added to the Procurement List:

INDUSTRIAL CLASS 7331

Mailing services at following locations:

Dept. of Housing & Urban Development, Washington, D.C.
The Library of Congress, Washington, D.C.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.76-7127 Filed 3-11-76;8:45 am]

PROCUREMENT LIST 1976

Additions to Procurement List

Notice of Proposed Additions to Procurement List 1976, November 25, 1975 (40 F.R. 54742) were published in the FEDERAL REGISTER on September 8, 1975 (40 F.R. 41551), December 30, 1975 (40 F.R. 59774).

Pursuant to the above notices the following commodities and military resale items are added to the Procurement List:

ITEM NO. 902

Pushbroom, Indoor/Outdoor w/54" Handle

ITEM NO. 914

Brush, Barbecue, with scraper

CLASS 8460

Suitcase, coated cloth, sage green 8460-00-391-0502 G.F.M.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.76-7128 Filed 3-11-76;8:45 am]

PROCUREMENT LIST 1976

Additions to Procurement List

Notice of Proposed Additions to Procurement List 1976, November 25, 1975 (40 F.R. 54742) was published in the FEDERAL REGISTER on October 10, 1975 (40 F.R. 47827) and December 30, 1975 (40 F.R. 59774).

Pursuant to the above notice the following commodities are added to the Procurement List:

CLASS 7930

DETERGENT, GENERAL PURPOSE

7930-00-926-5280
7930-00-357-7386
7930-00-068-1669
7930-00-177-5243

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.76-7129 Filed 3-11-76;8:45 am]

PROCUREMENT LIST 1976

Notice of Proposed Additions

Notice is hereby given pursuant to Section 2(a)(2) of Public Law 92-28; 85 Stat. 79, of the proposed additions of the following service and commodity to Procurement List 1976, November 25, 1975 (40 F.R. 54742).

CLASS 7520

Marker, Tube, Type, (Highlighter) 7520-000-904-4476

STANDARD INDUSTRIAL CLASS 7349

Janitorial/Custodial Service
Social Security Administration,
District Office Bldg.,
Watertown, New York

Comments and views regarding these proposed additions may be filed with the Committee not later than 30 days after the date of this Federal Register. Communications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

This notice is automatically cancelled six months from the date of this FEDERAL REGISTER.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.76-7130 Filed 3-11-76;8:45 am]

COMMODITY FUTURES TRADING COMMISSION

ADVISORY COMMITTEE ON DEFINITION AND REGULATION OF MARKET INSTRUMENTS

Meeting

Notice is hereby given, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, § 10(a), that the Commodity Futures Trading Commission Advisory Committee on Definition and Regulation of Market Instruments ("Advisory Committee on Market Instruments") will conduct an advisory committee meeting on March 30 and 31, 1976 at the Sheraton Carlton Hotel, 16th and K Streets, NW., Washington, D.C., in the Mount Vernon Room, beginning at 9:30 a.m. each day. In addition, the Committee will meet on the evening of March 30, 1976 at the Sheraton Carlton Hotel in the Council Room, beginning at 7:30 p.m. The Advisory Committee on Market Instruments was chartered to consider and submit reports and recommendations to the Commission on the following subjects:

(1) Appropriate standards to be utilized by the Commission in regulating forms of transactions that are subject to the Commodity Exchange Act, as amended, including consideration of such matters as:

(i) Appropriate standards to be utilized by the Commodity Futures Trading Commission regarding the definition of commodity futures contracts; and

(ii) Appropriate restrictions or prohibitions for options relating to commodity transactions and margin or leverage transactions subject to Section 217 of the CFTC Act.

(2) Responsibilities of the Commission over cash commodity markets. This will include consideration of such matters as:

(i) Contracts for forward delivery;

(ii) Cash market manipulations; and

(iii) Data and reporting needs for cash markets.

The summarized agenda for the meeting is as follows:

MARCH 30, 9:30 A.M.

The Committee will seek to approve its recommendations to the Commission with respect to commodity options trading.

MARCH 30, 7:30 P.M.

The Committee will seek to approve its recommendations to the Commission on the implementation of the cash market anti-fraud and antimanipulation authority under the Commodity Exchange Act, as amended. It will also seek to approve its recommendation to the Commission regarding the cash price and supply data and reporting needs of the Commission.

MARCH 31, 9:30 A.M.

The Committee will seek to approve its recommendations to the Commission with respect to what regulations are necessary to regulate adequately leverage transactions. Finally, the Committee will seek to approve a subcommittee study of the essential elements of futures, forward and leverage contracts.

All meetings are open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public that wishes to file a written statement with the Committee should mail a copy of the statement to Mrs. Harrison, The Advisory Committee on Market Instruments, Commodity Futures Trading Commission, 1120 Connecticut Avenue, NW., Washington, D.C. 20036, by March 23, 1976.

The Commission is maintaining a list of persons interested in the operations of this advisory committee and will mail notice of the meetings to those persons. Interested persons may have their names placed on this list by writing DeVan L. Shumway, Director, Office of Public Information, Commodity Futures Trading Commission, 1120 Connecticut Avenue, NW., Washington, D.C. 20036.

Dated March 8, 1976.

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

[FR Doc.76-7159 Filed 3-11-76;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Availability

Environmental impact statements received by the Council on Environmental Quality from March 1 through March 5, 1976. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements in forty-five (45) days from this FEDERAL REGISTER notice of availability. (April 26, 1976) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies will also be available at cost from Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Coordinator of Environmental Quality Affairs, Office of the Secretary, USDA, Room 359-A, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

John Day Unit Plan, Malheur National Forest, Grant County Oreg., March 1: Proposed is a land use plan for some 594,000 acres of National Forest land in John Day River and Middle Fork of the John Day River drainages, Malheur National Forest. Land use areas include wilderness, recreation, wilderness study, botantical and scenic areas, and resource management. Project implementation will cause loss of some productivity of wood, water, and forage. (ELR Order No. 60289.)

Mt. Hood Unit Interagency Land Use Plan, Hood River, and Clackamus Counties, Oreg., March 4: The statement contains the recommended Mt. Hood Interagency Plan and Alternatives. The plan is oriented toward improving efficiency of land use in the area by concentrating development in areas already committed, providing adequate support services, increasing agricultural and timber productivity and maintaining the overall mountain area character. Sewage collection systems will need to be improved and expanded within compact, defined service areas. Implementation of the plan will result in adverse effects on the soil resources and wildlife habitat due to increased population in the area. Highway modifications will result in adverse effects, and energy consumption will increase. (ELR Order No. 60316.)

Final

West Chicagof—Yakobi Island Land Use Plan, Alaska, March 2: The statement proposed five alternative plans for the management of Tongass National Forest land in the West Chicagof—Yakobi area: Wilderness Candidate Study Area, A; Partial Wilderness Candidate Study Area, B; Recreation Use Emphasized, C; Resource Use of Moderate Intensity, D; and Intensive Use of Resources, E. Adverse impacts include loss of commodity uses, primarily of timber, with all alternatives; loss of wilderness qualities with all but alternative A; and loss of scenic quality in areas of development, particularly with alternatives D and E. Comments made by: DOI, HUD, DOC, EPA, and interested individuals. (ELR Order No. 60298.)

SOIL CONSERVATION SERVICE

Draft

Pine River Watershed, Richland, and Vernon Counties, Wis., March 3: Proposed is a project of watershed protection, flood prevention recreational development, and fish and wildlife improvement in Richland and Vernon Counties, Wisconsin. The planned works of improvement include conservation land treatment, supplemented by seven floodwater retarding structures, two multiple-purpose structures for flood prevention and recreation, 4.5 miles of trout stream improvement, and dikes and an outlet system along the Pine River in the city of Richland Center. About 5.8 miles of stream will be inundated by the conservation pools and wet sediment pools. (ELR Order No. 60305.)

Final

South Fourche Watershed, several counties Ark., March 4: Proposed is a project for watershed protection and flood prevention for the City of Perryville and surrounding areas. Six floodwater retarding structures will be constructed and will supply for the area. About 10 miles of upland intermittent streams and 8 miles of upland ephemeral streams will be permanently inundated by the 7 reservoirs. Comments made by: USA, DOC, DOI, DOT, EPA, USDA, and state agencies. (ELR Order No. 60313.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-967-4335.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Draft

Oregon Coastal Management Program, several counties Oreg., March 1: Proposed is the approval of the Coastal Management Program of the state of Oregon. The program will provide an improved decision-making process for determining coastal land and water uses and siting of facilities of national interest. Approval and implementation of the program will restrict or prohibit land and water uses in certain parts of the Oregon coast, while promoting and encouraging development and use activities in other parts. (ELR Order No. 60290.)

DEPARTMENT OF DEFENSE

ARMY

Contact: Mr. George A. Cunney, Jr., Acting Chief, Environmental Office, Directorate of Installations, Office of the Deputy Chief of Staff for Logistics, Washington, D.C. 20310, 202-OX 4-4269.

Draft

Carbonyl Chloride Disposition, Rocky Mt. Arsenal, Adams county Colo., March 3: Proposed is the transfer of carbonyl chloride at Rocky Mountain Arsenal, Colorado. The proposed action involves transporting full ton containers from the storage yard to an existing facility where the material will be transferred into Department of Transportation specification shipping containers, sale of the material by the Defense Supply Agency, and subsequent commercial transportation. Potential emissions of carbonyl chloride from transfer operations will be processed through a scrubber system to insure protection of the working, and general population environments. (ELR Order No. 60307.)

Final

White Sands Missile Range, N. Mex., March 5: The statement concerns the renewal of a Special-Use Permit to allow the White Sands Missile Range test and recovery operations to continue on 74,849 acres of the White Sands National Monument. The use of the western half of the Monument for missile impacts and the utilization of air space above the Monument sometimes necessitates evacuation during scheduled mission, and although recovery efforts are made, the operations result in some adverse impacts. Comments made by: EPA, USDA, DOI, and State and local agencies. (ELR Order No. 60323.)

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Development, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, SW., Washington, D.C. 20314, 202-693-6795.

Draft

Savannah Harbor Modification (2), Chatham County Ga., March 2: Proposed is a harbor modification program for Savannah Harbor, Georgia. The recommended plan of improvement consists of enlargement of the Kings Island turning basin, the construction of a turning basin adjacent to Elba Island, and the incorporation of the Georgia Ports Authority's LASH turning basin adjacent to Cockspur Island as an element of the existing Federal navigation project for Savannah Harbor. Adverse effects include loss of approximately 700 acres of marsh-upland ecotone and 28 acres of Argyle Island. (Savannah District). (ELR Order No. 60303.)

Calcasieu River Channels, O&M, several counties La., March 4: The proposed navigation projects provide for maintenance of shipping channels in the Calcasieu River, including channels at Coon Island and Devel's Elbow. The action consists principally of maintenance dredging, and clearing and snagging operations of the aforementioned waterways. In addition, the projects include the operation of a salt water barrier to prevent salt water intrusion into the Calcasieu River above Lake Charles, Louisiana. Adverse effects include destruction of benthic communities in the estimated 4,200 acres of channel bottom. (New Orleans District). (ELR Order No. 60310.)

Final

Mobile Harbor, Maintenance Dredging, Mobile county Ala., March 5: The statement refers to the continued operation and maintenance to authorized dimensions of Federal navigation channels within the Mobile Harbor project. Adverse impacts are the loss of bottom dwelling organisms, disruption of benthic communities, and long term separation of land disposal sites from the natural environment. Comments made by: EPA, DOI, DOT, USCG, USDA, HUD, and State agencies. (ELR Order No. 60321.)

Longboat Pass, Florida, Manatee County Fla., March 3: Proposed is the dredging of a navigation channel 12 feet deep by 150 feet wide from the Gulf of Mexico to the Longboat Pass bridge then 10 feet deep by 100 feet wide across Sarasota Bay to the Cortez bridge via the Intracoastal Waterway. Construction will be by hydraulic dredge methods, removing about 298,000 cubic yards of material and depositing it on the gulf beaches. Construction will cause a temporary increase in turbidity. (Jacksonville District). Comments made by: USDA, HUD, DOI, USCG, EPA, and State agencies. (ELR Order No. 60304.)

East Pass Channel, Choctawhatchee Bay, Okaloosa County, Fla., March 5: The proposed project involves the maintenance dredging of a 12 feet deep by 180 feet wide navigation channel for 8000-9000 feet from the Gulf of Mexico to Choctawhatchee Bay through East Pass at Destin. A second channel, 6 feet by 100 feet, will also be dredged, from East Pass into Old Pass Lagoon. Marine biota will suffer some adverse impact from the project. (Mobile District). Comments made by: DOI, USCG, DOT, USDA, EPA, and State agencies, one individual and the National Wildlife Federation. (ELR Order No. 60317.)

Kaskaskia Navigation Project, Illinois, March 1: Proposed is the operation and maintenance of the Kaskaskia Navigation Project, from the mouth of the Kaskaskia River to Fayetteville, Illinois. There will be dredging of the river channel and deposit of spoils on riparian project lands; stabilization and maintenance of banks; regulation of the pool level; and operation and maintenance of the lock and dam. There will be impact on water quality and the riparian environment. (St. Louis District). Comments made by: USDA, DOI, EPA, OEO, HEW, FPC, USCG, and State and local agencies. (ELR Order No. 60294.)

Pools 24, 25, & 26, Mississippi & Illinois Rivers, Mo., and Ill., March 5: The statement concerns the operation and maintenance of the 9-foot navigation channel of the Mississippi and Illinois River from the mouth of the Missouri River upstream to Minneapolis. Dredging and placement of dredge will cause the resuspension of contaminants that may be contained in the sediment and destruction of benthic organisms. The dikes and revetments affect the geomorphology of the river and prevent natural changes from occurring. Comments made by: EPA, AHP, USDA, HUD, DOI, DOT, FPC, HEW, and State and local agencies and private groups. (ELR Order No. 60324.)

Green and Barren Rivers, O & M, Ky., March 5: Proposed is the continued operation and maintenance of the existing Green and Barren Rivers navigation project, including the operation and maintenance of three locks and dams on the Freen River, the occasional removal of obstructions from the present navigation channel, periodic small scale dredging at dam site, and stream mouths, and the deposit of dredge spoil. Adverse impacts are high turbidity levels due to heavy barge traffic; reduced water quality for public water supply, recreation, aesthetics and aquatic life; and a secondary effect—encouragement of strip mining activity which destroys much wildlife habitat. (Louisville District). Comments made by: DOI, EPA, HEW, FPC, USDA, TVA, and State and local agencies. (ELR Order No. 60322.)

Pascagoula Harbor, Jackson County, Miss., March 5: The statement refers to the continuation of routine maintenance dredging of the harbor and nearby channels. Adverse impact will include the loss of marine biota, an increase in the amount of mercury in the food chain, and alteration of Petit Bois Island. (Mobile District). Comments made by: EPA, DOI, DOC, USDA, HUD, DOT, USCG. (ELR Order No. 60318.)

Tillamook Harbor Dredging, Tillamook County, Oreg. March 5: The statement refers to proposed maintenance operations at Tillamook Bay. Included would be maintenance of existing jetties and channels, and the issuance of Section 10 permits for dredging, filling, and construction. The operations will result in possible resuspension of lead and oily substances, possible loss of wetlands and wildlife habitat, and elimination of some tidelands and marshland habitat. Comments made by: USCG, DOI, USDA, EPA, DOC, HUD, and State agencies and local groups. (ELR Order No. 60319.)

Willapa River and Harbor Navigation Project (2), Pacific County, Wash., March 5: Proposed is the maintenance dredging of the navigation channels in Willapa River and Harbor through 1977. This includes the outer bar channel, inner bay channel and Willapa River channel. Dredge material will be deposited in two deepwater areas within Willapa Bay. Due to the low cost benefit ratio, the project will be dredged to minimum depths during the interim period and terminated after 1977. Dredging will result in reduced water quality and destruction of benthic habitat, and termination of the project will result in the loss of jobs. (Seattle District). Comments made by: HUD, AHP, USDA, DOI, DOC, USCG, and State and local agencies. (ELR Order No. 60320.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Ms. Rebecca W. Hanmer, Acting Director, Office of Federal Activities, Room WSMW 537, 401 M Street, S.W., Washington D.C. 20460, 202-755-0777, (stop 460).

Draft

Blue River Basin Water Quality Management, Summit County Colo., March 1: The statement concerns EPA's approval of Colorado's Water Quality Management Plan for the Blue River Basin. The plan recommends a structural arrangement of both secondary and advanced wastewater treatment facilities to provide sewage treatment service. Implementation of the major features of the proposed plan would provide short-term benefits to water quality, especially in Dillon Reservior. Long-term effects on water quality are more uncertain, since the plan does not recommend the complete elimination of waste discharges into the reservoir. (Region VIII). (ELR Order No. 60293.)

TARP Mainstream Tunnel System, 59th to Addison St., Cook county Ill., March 8: The statement concerns construction of the Phase I conveyance tunnel systems and their associated subsystems for the Tunnel and Reservoir Plan (TARP) of Chicago. The construction will result in significantly reduced pollutant load currently discharged to Chicago's waterways, but the tunnels alone will not result in attaining applicable Illinois water quality standards. Disposal of rock spoil from construction may cause adverse impacts. Also, if the grouting program is not effective, groundwater infiltration during construction and wastewater exfiltration during tunnnel operation can be a significant problem. (ELR Order No. 60331.)

Ocean Dumping of Sludge in NY Bight, N.J., and N.Y., March 5: The statement concerns a proposal to choose an additional site for the ocean dumping of the increasing amount of sewage sludge from the New York-New Jersey industrial area. Recent studies, however, have led EPA to recommend continued use of the existing dump site with a comprehensive monitoring program and designation of an alternate dump site should the monitoring indicate a need for one. (ELR Order No. 60327.)

Final

Salmon Creek Interceptor, Juneau, Alaska, March 3: The statement concerns the awarding of grant funds to the City and Borough of Juneau, Alaska for the construction of an interceptor sewer line to service the area from Vanderbuilt Hill to Norway Point. The estimated cost for the 4.5 miles of pipeline is $2,173,000. Completion of the project would remove present constraints on growth and development in the project area. The project will result in cost to property owners and secondary impacts of erosion of soils and increased sedimentation in the Twin Lake area due to development. Comments made by: DOC, AHP, USDA, DOT, COE, and State and local agencies and concerned individuals. (ELR Order No. 60306.)

DEPARTMENT OF HEW

Contact: Mr. Charles Custard, Acting Director, Office of Environmental Affairs, Office of the Assistant Secretary for Administration and Management, Room 3718 HEW-North, Washington, D.C. 20202, 202-963-4456.

Final

St. Francis Medical Center, Cape Girardeau, Cape Girardeau County, Mo. March 4: Proposed is the construction of a new St. Francis Medical Center in the city of Cape Girardeau, Missouri, to be a complete Health Care Complex. The Center is ultimately planned to include 119 Acute beds, 20 Rehabilitation beds, and 21 Mental Health beds. If the need is there, the structure is so planned that it can be expanded to 240 beds and then 320 beds. The outpatient service of mental health area or rehabilitation area may also be expanded. Ten acres belonging to the St. Francis Hospital will be devoted to the construction of the new hospital. Comments made by: CEQ, EPA, DOC, DOT, HUD, DOI. (ELR Order No. 60312.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7258, 451 7th Street, S.W., Washington, D.C. 20410, 202-755-6308.

Final

Eastwick Urban Renewal, Philadelphia, Philadelphia County, Pa., March 1: The statement concerns a project for urban renewal of 2,506 acres in Southwest Philadelphia. Principle impacts on the environment have been the elimination of the marshy, low lying area; adverse impacts have already occurred on Darby Creek and the Tinicum Marsh. The area will be susceptible to flooding and to noise and air pollution from various transportation modes. Comments made by: DOC, DOT, COE, DOI, EPA, and state and local agencies. (ELR Order No. 60295.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF LAND MANAGEMENT

Final

Kaiparowits Power Project Utah, March 4: Three participating companies propose to construct and operate a 3,000 MW, coal-fired, electricity generating station and related facilities on Kaiparowits Plateau in southern Utah. Twelve million tons of raw coal would be taken annually from four underground mines. A 500 kv transmission system and supporting communication system would span almost 1,460 miles in four states. The generating plant, mine, and all support facilities (including new town, new highway, limestone quarry, and access roads) would occupy 6,040 acres. The plant would emit 34 tons of sulfur dioxide, 12 tons of particulates, and 250 tons of nitrogen oxide per day. Comments made by: DOT, USDA, DOI, HEW, FEA, DOC, TVA, AHP, COE, HUD, and state and local agencies, interested organizations. (ELR Order No. 60311.)

Coal Mining Regulations, March 5: Proposed are new BLM coal leasing, permitting and licensing regulations and revised GS coal exploration, mining operating, and reclamation regulations as they apply to all aspects of coal operations on public and acquired lands. Regulations and revisions are included to: expand Federal scope of authority to private surface over federally owned minerals: require submission of detailed exploration and/or mining plans prior to operations; and require reclamation as an integral part of mining operations. The more stringent environmental standards may result in slightly increased expenses to operators and consumers and the closing of some small mines. Comments made by: EPA, USDI, FPC, USDA, DOT, TREA, and State agencies and other organizations and individuals. (ELR Order No. 60328.)

BUREAU OF RECLAMATION

Final

Columbia Basin Project, Wash. March 1: This statement provides an overall review of the Columbia Basin Project begun in 1933; the building of Grand Coulee Dam, powerhouses, and pumping plant; an irrigation delivery system with reservoirs, canals, and associated distribution features; irrigation block development; and numerous related and incidental aspects. Completion of a Third Powerplant will provide, primarily, additional generating capacity and some additional electrical energy. Comments made by: DOI, USDA, COE, AHP, EPA, FPC, HUD, ERDA, STAT, and (ELR Order No. 60288.)

NATIONAL PARK SERVICE

Final

Development Concept, Grand Canyon Village, Ariz., March 2: Proposed is a Development Concept Plan for the Grand Canyon National Park; a land use plan; and plans for access and circulation, and development. The plan will result in increased carrying capacity for day use due to centralization of facilities and implementation of a mass-transit system. There will be some degradation of the historic environment due to possible relocation of historic structures to a proposed historic village. (138 pages). Comments made by: AHP, DOI, EPA, FPC, and State agencies. (ELR Order No. 60302.)

Bandelier National Monument, Los Alamos, Sandoval, and Santa Fe counties N. Mex., March 4: The statement refers to a conceptual master plan for Bandelier National Monument in the counties of Los Alamos, Sandoval, and Santa Fe. The plan will set the development patterns and goals for administration of the area for at least 5 years. Also, proposed is a boundary adjustment involving the acquisition of private and state lands totaling approximately 7,310 acres both north and south of the existing boundaries. Master plan proposals will increase the propensity for minor human impact on vegetation in localized areas of the monument. Comments made by: DOI, AHP, USDA, DOC, EPA, and State agencies. (ELR Order No. 60315).

Independence National Historical Park, Pa., March 4: The statement refers to the proposed acquisition of 1.348 acres of land in Philadelphia, with the Secretary of the Interior then entering into an agreement with the City of Philadelphia for the development of a public parking facility on the acquired property. Five hundred and fifty parking spaces will be made available. Six 19th Century structures will be demolished. Comments made by: AHP, DOI, EPA, and State and local agencies. (ELR Order No. 60314.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Benard Rersche, Director of Division of Reactor Licensing, P-722, NRC, Washington, D.C. 20555, 301-492-7373.

Final

Palo Verde Nuclear Sta., Units 1, 2, & 3 (Suppl.), Maricopa County, Ariz., March 4: Proposed is the issuance of construction permits to the Arizona Public Service Corporation for the construction of the Palo Verde Nuclear Generating Station, Units 1, 2, and 3. The station will produce up to 3817 MWt and 1270 MWe (net) of electric power capacity for each unit. The exhaust steam will be cooled by mechanical-draft cooling towers with makeup water obtained from piped sewage effluent from Phoenix. The construction will require the clearing of up to 2500 acres of land and adverse aesthetic and social impacts. The supplement covers modifications resulting from participation of Southern California Edison in the project. Comments made by: DOI, and one state agency. (ELR Order No. 60309.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

Connector Highway, Pensacola UNS Station to I-10, Escambia County, Fla., March 3:

Proposed is the completion of a four-lane highway approximately 15 miles in length, extending from the West Gate of the Pensacola Naval Air Station northward to Interstate 10. The alternatives identified will range in impact from requiring no displacement or relocation of people or businesses to requiring the relocation of 121 households. The most significant impacts will be caused by the additional private development that will be attracted to the area by the new facility. (Region Four). (ELR Order No. 60308.)

SR 828 (Normandy Drive), Miami Beach, Dade County, Fla., March 5: The proposed project involves the improvement of a 0.6 mile segment of State Road 828 along an east-west corridor from Rue Versailles to State Road A1A in Miami Beach. The preferred alternative would utilize existing streets east of Indian Creek to develop a one-way pair, thus utilizing the existing bridge over Indian Creek without constructing a new bridge. The project would result in the displacement of 14 businesses and 14 families and increased noise in residential areas. (ELR Order No. 60325.)

Iowa 57, Black Hawk County, Iowa, March 1: The proposed project involves the upgrading of a segment of Iowa 57 (Hudson Road) in the City of Cedar Falls. Project limits extend from Iowa 58 (University Avenue) northerly approximately 2 miles to the west junction of U.S. 20 (West 1st Street). The proposed construction would consist of a four-lane facility with 12-foot wide left-turn storage lanes at major city street intersections. Adverse effects include the continued bisection of the University of Northern Iowa campus, and the displacement of one home. (ELR Order No. 60291.)

Mr. Route 51, Cumberland to North Branch, Allegany County Md., March 2: The proposed action consists of relocating Maryland Route 51 from the access road to the Pittsburgh Plate Glass Plant at North Branch to 0.32 miles south of Cumberland, a distance of approximately 2.66 miles. Project plans consist of two 24-foot roadways separated by a 16-foot median strip with partial control of access. Adverse effects include the acquisition of 60 to 96 acres of varying land use types, and the displacement of 10 to 13 families. (ELR Order No. 60299.)

Independence Blvd. Corridor, Charlotte, Mecklenburg County N. C., March 2: Proposed is the completion of the Charlotte Central Business District (CBD) loop between the existing Northwest Freeway and Interstate 77. The project would consist of a six-lane freeway with grade separations or elevated bridges over Fifth Street, Elizabeth Street, Fourth Street, and Third Street. Two elevated structures would pass over existing Indepencence Boulevard at Kenilworth Avenue. Adverse effects include displacement of approximately 42 dwelling units and 46 business. (ELR Order No. 60301.)

I-470, Belmont County, Ohio, March 1: The action would consist of the construction of a 6.65 mile section of I-470 from the Ohio-West Virginia border to its interchange with existing I-70 near the existing interchange with Township Road 314. Also included in the project are modifications to the existing Banfield Road—I-70 Interchange, and a safety upgrading of existing I-70 in the vicinty of the Banfield Road Interchange. The project includes three Interchanges. Construction of the project will result in the loss of approximately 325 acres of wildlife habitat and the displacement of 58 families. Three streams would be relocated and routed underground for part of their lengths. (ELR Order No. 60292.)

Final

US 36, Hendricks County, Ind., March 1: The statement refers to the construction of 6.5 miles of 2 lane roadway, from Danville to Avon. Approximately 200 acres of land, much of it agricultural, will be required for right-of-way; 35 families will be displaced by the improvement. Comments made by: DOI, USDA, EPA, HEW, COE, DOT, and State agencies. (ELR Order No. 60296.)

Clinton Parkway, Kansas, Douglas County, Kans., March 5: The statement refers to the improvement of 4.1 miles of Clinton Parkway from Lake Clinton to Highway K-10 in the City of Lawrence. The proposed improvements will include grading, culverts, surfacing, storm sewers, seeding, and bridges to provide a four lane divided facility. Adverse impacts are acquisition of additional right-of-way; loss of agricultural land; alteration of existing terrain; and increased noise levels and exhaust emissions due to increased traffic volumes. Comments made by: DOT, USDA, DOC, HEW, COE, HUD, ICC, EPA, OEO, DOI, and State agencies. (ELR Order No. 60326.)

N.H. Route 101, Milford, Hillsborough County, N.H., March 1: Proposed is the construction of a two-lane roadway to form the final section of the Amherst-Milford bypass from N.H. Route 13 to existing N.H. 101 in the vicinity of Jones Crossing, a length of 3.8 miles. The project will require the acquisition of approximately 140 acres of land and the relocation of one business. Other adverse impacts include the increased noise levels adjacent to the proposed route and the intrusion upon conservation areas, wetland zones, and wildlife habitat. Comments made by: EPA, USDA, HEW, HUD, DOI, DOC, FPC, and State and local agencies and one organization. (ELR Order No. 60297.)

North 14th Street Extension, Sheboygan County, Wis. March 2: Proposed are various road improvements to North 14th Street, Sheboygan, Wisconsin. These improvements include widening of North 14th Street from Erie Avenue to Superior Avenue, widening of the intersection of Erie Avenue and 14th Street, and extension of North 14th Street northerly from Superior Avenue approximately 1,800 feet to connect with Calumet Drive. Three residences will be displaced by project implementation. Comments made by: DOI, EPA, HEW, and State and local agencies. (ELR Order No. 60300.)

GARY L. WIDMAN,
General Counsel.

[FR Doc.76-7140 Filed 3-11-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 503-4]

BACKGROUND REPORT OF GUIDANCE FOR DIAGNOSTIC X-RAY STUDIES IN FEDERAL HEALTH CARE FACILITIES

Notice of Issuance and Availability

Notice is hereby given that the Agency's Interagency Working Group on Medical Radiation has issued a Subcommittee report which develops basic background material and recommendations for the prescription of diagnostic x rays in Federal health care installations. This report is available for review and comment from the address listed below. The report was developed under a program initiated by the Environmental Protection Agency pursuant to 42 U.S.C. 2021h wherein "the Administrator shall advise the President with respect to radiation matters, directly or indirectly affecting health, including guidance to all Federal agencies in the formulation of radiation standards and in the establishment and execution of programs of cooperation with States."

It is recognized by medical practitioners, medical physicists, and other scientists concerned with radiation protection that exposure due to medical uses of ionizing radiation represents a significant and growing source of exposure for the U.S. population, a source that without question also provides large benefits to society through improved health care. In developing guidance for use of medical diagnostic radiation it is important to assure that the benefits to patients from the use of medical and dental x rays are derived at minimal risk. The Interagency Working Group, which was formed in July 1974, has reached a consensus that it is desirable and possible in Federal facilities to reduce exposure from the diasgnostic use of x rays by: (1) eliminating clinically unproductive examinations, (2) assuring the use of optimal techniques when examinations are performed, and (3) requiring appropriate equipment to be used. As a result of this consensus a Subcommittee on Prescription of Exposure to x rays was established to examine factors to eliminate clinically unproductive examinations. Another Subcommittee on Techniques of Exposure Prevention was formed to examine the second and to some extent the third subject areas. The third area is being regulated by the U.S. Food and Drug Administration which issued x-ray equipment performance standards effective August 1, 1974.

The report from the Subcommittee on Prescription of Exposure to X-rays makes recommendations for prescription of x-rays in Federal health care facilities in the following broad categories:

1. Restriction of privileges to order general medical and dental x-ray examinations and general fluoroscopic examinations to those possessing medical and dental degrees who are eligible for licensure in the U.S. or properly trained personnel under their direct supervision; special fluoroscopy procedures and invasive studies could only be prescribed by those with sufficient training in specialties to interpret the results of such studies.

2. Elimination of routine examinations, unless clinical indications exist, for such circumstances as hospital admission chest x-rays, chest x-rays screening for tuberculosis, routine full mouth and bitewing dental radiographs, and mamography screening in asymptomatic women under age 35.

3. Involvement of diagnosticians, especially radiologists, in medical decisions requiring the prescription of diagnostic x-ray examinations by establishment of written policies on who can perform examinations, the number of views for standard examinations, and the need to keep the number of standard examinations to a minimum because such generalization tends to increase exposure for a given examination.

4. Requiring all fluoroscopic equipment for fixed Federal facilities to have image intensification; fluoroscopy in non-radiology specialties should be done

with units with electronic image-holding features when practicable.

Comments on these various recommendations and/or the provision of additional information for consideration in developing recommendations for prescription of x-rays would be welcomed.

Another report is under development by the Subcommittee on Techniques of Exposure Prevention to assure that x-ray examinations are performed with good technique. Good technique for routine medical and dental x-ray examinations involves: (1) assurance that all equipment used to produce the radiograph is calibrated and properly functioning, (2) appropriate preparation of the patient, (3) selection by the technologist of proper technique factors, and (4) minimization of patient exposure consistent with producing diagnostic quality radiographs. Within this framework, the Subcommittee on Techniques of Exposure Prevention has under consideration broad guides in the following areas:

1. Training qualifications for x-ray equipment operators.

2. The need for a quality assurance program in all Federal facilities using x-ray equipment to assure that consistent diagnostic quality radiographs are produced at minimal patient exposure; elements of such programs involve appropriate film/screen combinations, film processing procedures, optimum technique factors, and properly calibrated and maintained x-ray generating and ancillary equipment.

3. Responsibilities of technologists in working with patients to minimize radiation exposure by selecting appropriate technique factors, doing proper collimation and patient positioning, and using gonad shielding when indicated.

4. Recommended exposure guidelines for evaluation of radiation exposure for a reference patient for selected routine x-ray examinations.

Information that would assist in the development of these guides would also be welcomed.

The Federal guidance under development is expected to demonstrate, at the Federal level, achievable and reasonable reduction in x-ray exposure that can become a basis for a national goal of radiation protection compatible with the benefits of this important source of radiation. Requests for single copies of the report entitled, "Recommendations on Guidance for Diagnostic X-ray Studies in Federal Health Care Facilities" should be addressed to the Criteria and Standards Division (AW-460), Office of Radiation Programs, U.S. Environmental Protection Agency, Room 635 East Tower, 401 M Street, S.W., Washington, D.C. 20460. Information that reviewers wish to provide for consideration or other comments should also be sent to this address. Such information would be of most value if received by April 15, 1976.

Dated: March 8, 1976.

ROGER STRELOW,
Assistant Administrator for Air and Waste Management.

[FR Doc.76-7186 Filed 3-11-76;8:45 am]

[502-7; OPP-33000/371 & 372]

NOTICE OF RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ["Interim Policy Statement"]. On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 [Pub. L. 94-140], and the new regulations governing the registration and reregistration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street, S.W., Washington DC 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street, S.W., Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

The Interim Policy Statement requires that claims for compensation be filed on or before May 11, 1976. With the exception of 2(c) applications not subject to the new section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under section 10 of FIFRA, as amended, should be made on or before April 12, 1976.

Dated: March 5, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

APPLICATIONS RECEIVED (OPP-33000/371)

EPA Reg. No. 241-243. American Cyanamid Co., Agricultral Div., PO Box 400, Princeton NJ 08540. PROWL HERBICIDE. Active Ingredients: [N - (1-ethylpropyl) - 3,4-dimethyl - 2,6 - dinitrobenzenamine] 43.8%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use & Revised offer to pay statement submitted. PM25

EPA File Symbol 10088-UE. Athea Labs., Inc., 4180 N. 1st St., Milwaukee, WI 53212. 10% LIQUID SANITIZER DISINFECTANT. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 30948-E. Bionomical Chemicals and Services, Inc., 1003 Pineville Rd., Chattanooga, TN 37405. SCM-400 WEED KILLER AND GROUND SEMI STERILANT. Active Ingredients: Sodium Chlorate 18.0%; Sodium Metaborate (Anhydrous) 6.0%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM25

EPA File Symbol 1130-RN. Burnishine Products, Inc., 8140 Ridgeway, Skokie, IL 60076. BURNISHINE NO. 22. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkly (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%; Tetrasodium ethylenediamine tetracetate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 5736-UT. DuBois Chemicals, Div. of Chemed Corp., 3630 E. Kemper Rd., Sharonville, OH 45241. HFC-11 DIS-INFECTANT- CLEANER-SANITIZER-FUNGICIDE-DEODORANT. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides. 2.5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.5% Sodium metasilicate 3.4%; Tetrasodium salt of ethylene, diamine tetraacetic acid 1.8%. Method of Support: Application

proceeds under 2(c) of interim policy. Republised: Revised offer to pay statement submitted. PM33

EPA File Symbol 3772-GT. Earl May Seed & Nursery Co., N. Elm St., Shenandoah IA 51603. EARL MAY GARDEN WEEDER CONTAINS DACTHAL. Active Ingredients: Dimethylester of Tetrachloroterephthalate 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM23

EPA File Symbol 38054-L. Filopur USA Inc., 4222 Santa Monica Blvd., Los Angeles CA 90029. "FILOPUR WATER PURIFIER, A-SERIES". Active Ingredients: Silver Nitrate 1.0%. Method of support: Application proceeds under 2(a) of interim policy. PM33

EPA File Symbol 38540-E. Midwest Chemical & Processing Co., Inc., PO Box 428, White Deer TX 79097. BIO-QUAD 850. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA Reg. No. 432-507. S. B. Penick & Co., 215 Watchung Ave., Orange NJ 07050. SBP-1382 BIOALLETHRIN [0.20% + 0.125%] AQUEOUS PRESSURIZED SPRAY FOR HOUSE AND GARDEN. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) - cyclopropanecarboxylate 0.200%; Related compounds 0.027%; d-trans Allethrin (allyl homolog of Cinerin I) 0.125%; Related compounds 0.009%; Aromatic petroleum hydrocarbons 0.265%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Added uses & Revised offer to pay statement submitted. PM17

EPA File Symbol 1007-IR. Pfizer, Inc., 235 E. 42nd St., New York, NY 10017. MYCO-SHIELD. Active Ingredients: Sodium isoascorbate 98%. Method of Support: Application proceeds under 2(a) of interim policy. PM21

EPA File Symbol 1989-RU. Sanco Products Co., Div, of Sanitary Supply & Chemical Co., Inc., 1810 7th St., Macon, GA 31206. SAM-O-SOL DISINFECTANT CLEANER-DEODORIZER. Active Ingredients: n-Alkyl (50% C14, 40% C12, 10% C16) dimethyl benzyl ammonium chloride 5%; Sodium metasilicate 3.0%; Tetrasodium salt of ethylene diamine tetraacetic acid 1.8%; Essential Oils 0.5%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM33

EPA Reg. No. 11273-2. Sandoz Wander, Inc., Crop Protection Dept., PO Box 1489, Homestead, FL 33030. THURICIDE-HPC-HIGH POTENCY AQUEOUS CONCENTRATE. Active Ingredients: Bacillus thuringiensis Berliner, potency of 4,000 International Units (at least 6 million viable spores) per milligram 0.8%; Petroleum hydrocarbon solvent 3.0%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM17

EPA Reg. No. 11273-3. Sandoz Wander, Inc., Crop Protection Dept., PO Box 1489, Homestead FL 33030. THRUICIDE-HP SPRAY CONCENTRATE (WETTABLE POWDER). Active Ingredients: Bacillus thuringiensis Berliner, potency of 16,000 International Units (at least 30 million viable spores) per miligram 3.2%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Additional use & Revised offer to pay statement submitted. PM17

EPA Reg. No. 476-1817. Stauffer Chemical Co., 1200 S. 47th St., Richmond CA 94804. BETASAN 4-E. Active Ingredients: *S*-(*O*,*O*-Diisoproply Phosphorodithioate) of *N*-(2-Mercaptoethyl) Benzenesulfonamide 46.0%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM25

APPLICATIONS RECEIVED (OPP-33000/372)

EPA Reg. No. 5535-102. J. & L. Adikes, Inc., 182—12 93rd Ave., Jamaica NY 11423. GROWELL PRE-VENT WEED CONTROL. Active Ingredients: Dimethyl Tetrachloroterephthalate 6.00%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM23

EPA File Symbol 37177-R. AFC Co., PO Box 207, Edison CA 93220. A F C COMPANY TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-Dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM21

EPA Reg. No. 264-181. Amchem Products, Inc., Brookside Ave., Ambler PA 19002. THISTROL THISTLE HERBICIDE. Active Ingredients: Sodium salt of 4-(2-methyl-4-chlorophenoxy) butyric acid 23.5%; Method of Support: Application proceeds under 2(b) of interim policy. PM23

EPA Reg. No. 241-238. American Cyanamid Co., Agri. Div., PO Box 400, Princeton NJ 08540. COUNTER 15 G SOIL INSECTICIDE. Active Ingredients: Terbufos (S-[(tert-butylthio) methyl] O,O-diethyl phosphorodithioate) 15%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Additional use and Revised offer to pay statement submitted. PM16

EPA File Symbol 8773-RT. American Fertilizer & Chemical Co., PO Box 98, Henderson CO 80640. AMERICAN TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-Dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM21

EPA File Symbol 8517-O. American Machinery Corp., PO Box 3228, Orlando FL 32802. THIABENDAZOLE CITRUS FUNGICIDE CONCENTRATE. Active Ingredients: (2-(4-thiazolyl)-benzimidazole) 3.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 37370-A. American Water Purification, 1025 Contra Costa Blvd., Pleasant Hill CA 94523. MINISILVERATOR RECHARGE WATER TREATMENT MEDIA. Active Ingredients: Silver 0.624%. Method of Support: Application proceeds under 2(a) of interim policy. PM33

EPA File Symbol 37370-G. American Water Purification, Inc., 1025 Contra Costa Blvd., Pleasant Hill CA 94523. BOOSTER FORMULA II. Active Ingredients: Simazine 2-chloro-4,6-bis(ethylamino)-s-triazine 80%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 11649-RL. Avitrol Corp., 7644 E. 46th St., PO Box 45141, Tulska OK 74145. AVITROL FC CORN CHOPS—99S. Active Ingredients: 4-Aminopyridine 0.03%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM11

EPA File Symbol 11373-R. Brown & Byrant, Inc., PO Bin T, Shafter CA 93263. BROWN & BYRANT, INC., TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-Dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM21

EPA File Symbol 912-TO. Cenex Farmers Union Central Exchange, Inc., Box G, St. Paul MN 55165. CENEX TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-Dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM21

EPA Reg. No 100-473. Ciba-Geigy, Agri. Div., PO Box 11422, Greensboro NC 27409. EVIK 80W. Active Ingredients: Ametryn 2-ethylamino-4-isopropylamino-6-methylthio-s-triazine 76%; Related Compounds 4%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Revised offer to pay statement submitted. PM25

EPA File Symbol 9018-U. Collier Carbon and Chemical Corp., PO Box 60455, Los Angeles CA 90060. COLLIER CARBON AND CHEMICAL CORPORATION TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-Dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM21

EPA File Symbol 5174-ER. De Vere Chemical Co., Inc., PO Box 604, Janesville WI 53545. DE VERE NOX. Active Ingredients: Pyrethrins 0.20%; Piperonyl butoxide, technical 1.00%; Petroleum distillate 18.80%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM17

EPA Reg. No. 8789-6. Dixie Chemical Co., Box 5188, Jacksonville FL 32207. KONTROL-A-BUG. Active Ingredients: Pyrethrins 0.052%; Piperonyl Butoxide, Technical 0.260%; Chlorpyrifos (O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate) 0.500%; Petroleum Distillate 98.736%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM17

EPA File Symbol 10914-U. Feed Service, PO Box 482, Caldwell ID 83605. FEED SERVICE TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-Dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM21

EPA File Symbol 279-EOII. FMC Corp., Agri. Chem. Div., 100 Niagara St., Middleport NY 14105. PYRENONE STABILENE HORSE INSECTICIDE CONCENTRATE. Active Ingredients: Pyrethrins 0.5%; Technical Piperonyl Butoxide 5.0%; Butoxypolypropylene Glycol 25.0%; Petroleum Distillate 60.5%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM17

EPA Reg. No. 10182-7. ICI United States Inc., Agri. Chem. Div., Concord Pike & New Murphy Rd., Wilmington DE 19897. PIRIMOR 50 W. Active Ingredients: 2-(dimethylamino) -5,6-dimethyl-4-pyrimidinyl dimethylcarbamate 50%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added claim & Revised offer to pay statement submitted. PM16

EPA File Symbol 10182-RL. ICI United States Inc., Agri. Chem. Div., Concord Pike & New Murphy Rd., Wilmington DE 19897. PIRIMICARB TECHNICAL INSECTICIDE. Active Ingredients: 2-(Dimethylamino)-5,6-dimethyl-4-pyrimidinyldimethylcarbamate 95%. Method of Support: Application proceeds under 2(b) of interim policy. PM16

EPA File Symbol 11684-G. Jirdon Agri. Chem., Inc., PO Box 516, Morrill NE 69358. JIRDON AGRI CHEMICALS, INC., TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-Dichloropropene 92%. Method of Support: Application proceeds under 2(c) of

interim policy. Republished: Revised offer to pay statement submitted. PM21

EPA File Symbol 961-GGE. Lebanon Chemical Corp., PO Box 180, Lebanon PA 17042. LEBANON TURF FUNGICIDE-T WITH FERTILIZER. Active Ingredients: Thiophanate-methyl (dimethyl[(1,2-phenylene) bis (iminocarbonothioyl)]bis [carbamate]) 1.20%. Method of Support: Application proceeds under 2(b) of interim policy. PM21

EPA File Symbol 961-GGR. Lebanon Chemical Corp., PO Box 180, Lebanon PA 17042. LEBANON TURF FUNGICIDE—T. Active Ingredients: Thiophanate-methyl (dimethyl[(1,2 - phenylene) - bis(iminocarbonothioyl)]bis[carbamate]) 1.20%. Method of Support: Application proceeds under 2(b) of interim policy. PM21

EPA Reg. No. 1471-79. Elanco Products Co., Div. Eli Lilly Co., PO Box 1750, Indianapolis IN 46206. HERBICIDE PAARLAN. Active Ingredients: Isopropalin (2,6-dinitro-N,N-dipropylcumidine) 68.6%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Revised offer to pay statement submitted. PM25

EPA File Symbol 1266-RAA. Malter International Corp., PO Box 6099, New Orleans LA 70174. INSECTICIDE, AEROSOL, RESMETHRIN-2%. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 2.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 3125-143. Chemical Agri. Div., Mobay Chemical Corp., PO Box 4913, Kansas City MO 64120. DYLOX LIQUID SOLUTION INSECTICIDE. Active Ingredients: Dimethyl (2,2,2-trichloro-1-hydroxyethyl)-phosphonate 40.5%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added claims & Revised offer to pay statement submitted. PM16

EPA Reg. No. 3125-210. Chemagro Agri. Div., Mobay Chemical Corp., PO Box 4913, Kansas City MO 64120. DYLOX 4 INSECTICIDE. Active Ingredients: Dimethyl (2,2,2-trichloro - 1 - hydroxyethyl) phosphonate 39%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added claims & Revised offer to pay statement submitted. PM16

EPA Reg. No. 2224-43. Mobil Chemical, Box 26683, Richmond VA 23261. MOCAP 15% GRANULAR NEMATICIDE-INSECTICIDE. Active Ingredients: Ethoprop O-Ethyl S, S-Dipropyl Phosphorodithioate 15%. Method of Support: Application proceeds under 2(b) of interim policy. PM16

EPA Reg. No. 8591-26. The Mogul Corp., PO Box 200, Chagrin Falls OH 44022. MOGUL AG-412. Active Ingredients: Didecyl dimethyl ammonium chloride 50%; Isopropanol 20%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA Reg. No. 8591-27. The Mogul Corp., PO Box 200, Chagrin Falls OH 44022. MOGUL AG-411. Active Ingredients: Didecyl dimethyl ammonium chloride 20%; Isopropanol 8%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 675-UG. National Laboratories, Lehn & Fink Industrial Products Div. of Sterling Drug Inc., 225 Summit Ave., Montvale NJ 07646. NEW AMPHYL DISINFECTANT DEODORANT-DETERGENT. Active Ingredients: o-Phenylphenol 10.5%; Polyalkyl polynuclear sodium sulfonate 8.7%; Sodium xylene sulfonate 7.9%; o-Benzyl-p-chlorophenol 5.0%; Soap 4.7%; Tetrasodium ethylenediamine tetraacetate 2.9%; Sodium Dodecylbenzene sulfonate 1.9%; Isopropyl alcohol 1.6%; Essential oil 0.3%. Method of Support: Application proceeds under 2(a) of interim policy. PM32

EPA File Symbol 35552-R. Nexus Ag. Chemicals, Inc., PO Box 67, Quincy WA 98848. NEXUS AG CHEMICALS, INC., TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-Dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy, Republished: Revised offer to pay statement submitted. PM21

EPA File Symbol 11116-R. Orchard Supply Co. of Sacramento, PO Box 956, Sacramento CA 95804. ORCHARD SUPPLY CO. OF SACRAMENTO TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-Dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM21

EPA File Symbol 13680-EE. Ozark Chemical Co., 1500 Murphy Dr., N. Little Rock AK 72118. PINE ARK 6 PINE ODOR DISINFECTANT. Active Ingredients: Isopropanol 4.75%; Pine Oil 3.95%; Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 1.97%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 892-EO. Pioneer Manufacturing Co., 3053 E. 87th St., Cleveland, OH 44104. PIONEER INSTANT WIPE & CLEAN GERMICIDAL CLEANER AND DISINFECTANT. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.09%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.09%; Tetrasodium ethylenediamine tetraacetate 1.44%; Sodium Metasilicate 0.13%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revise offer to pay statement submitted. PM33

EPA File Symbol 9587-RN. ReODA Chem Engineering Co., 32 W. Orange St., Chagrin Falls, OH 44022. N-MIL-SAN. Active Ingredients: Didecyl dimethyl ammonium chloride 50%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 10226-LU. Rockwood Chemical Co., PO Box 34 (47 W. Rutherford Rd.), Brawley, CA 92227. ROCKWOOD CHEMICAL COMPANY TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-Dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM21

EPA File Symbol 36020-R. Schmiedt's Soil Service, 20696 S. Manteca Rd., Manteca, CA 95336. SSS TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-Dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM21

EPA File Symbol 11511-RG. Shalco Chemical Corp., PO Box 2508, 2421 Lexington Ave., Toledo, OH 43606. SHALCO WEED AND VEGETATION KILLER. Active Ingredients: Bromacil (5-bromo-3-sec-butyl-6-methyluracil) 1.0%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM25

EPA Reg. No. 201-371. Shell Chemical Co., 1025 Connecticut Ave. NW, Suite 200, Washington, DC 20036. SHELL OUTDOOR FOGGER. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl - 3 - (2-methylpropenyl) cyclopropanecarboxylate 0.25%; Related compounds 0.034%; 2-Hydroxyethyl n-octyl sulfide 0.95%; Related compounds 0.05%; Aromatic petroleum solvent 0.332%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Formula change & Revised offer to pay statement submitted. PM17

EPA File Symbol 201-GOU. Shell Chemical Co., 1025 Connecticut Ave. NW, Suite 200, Washington, DC 20036. 5 AZODRIN WATER MISCIBLE INSECTICIDE (FOR FORMULATING USE ONLY). Active Ingredients: Dimethyl phosphate of 3-hydroxy - N - methyl - cis - crotonamide 55%. Method of Support: Application proceeds under 2(b) of interim policy. PM16

EPA File Symbol 11682-EL. J. R. Simplot Co., Minerals & Chemicals Div., PO Box 912, Pocatello ID 83201. SIMPLOT SOILBUILDERS TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-Dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM21

EPA Reg. No. 476-2003. Stauffer Chemical Co., 1200 S. 47th St., Richmond, CA 94804. BETASAN 3.6G. Active Ingredients: *S*-(*O*,*O*-Diisopropyl Phosphorodithioate) of *N*-(2-Mercaptoethyl) Benzenesulfonamide 3.6%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM25

EPA File Symbol 6023-GL. Stoker Co., PO Box 2010, El Centro, CA 92243. STOKER CO. TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-Dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM21

EPA File Symbol 7729-A. John Taylor Fertilizers Co., PO Box 15289, Sacramento, CA 95813. JOHN TAYLOR CHEMICALS TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-Dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM21

EPA File Symbol 6735-EGT. Tide Products, Inc., Edinburg, TX 78539. TIDE TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-Dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM21

EPA Reg. No. 1440-8. Tomic Insecticide Co., 241 S. Mednik Ave., Los Angeles, CA 90022. TOMIC DU—PY RESIDUAL ROACH SPRAY. Active Ingredients: Pyrethrins 0.052%; Piperonyl Butoxide, Technical 0.260%; Chlorpyrifos [O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate] 0.500%; Petroleum Distillate 98.736%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM12

EPA File Symbol 35296-R. Toxo Spray-Dust, Inc., PO Box 321, Tustin CA 92680. TOXO SPRAY-DUST, INC. TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-Dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM21

EPA File Symbol 11220-R. Trical, Inc., PO Box 2, Morgan Hill CA 95037. TRICAL, INC. TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-Dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM21

EPA Reg. No. 1016-70. Union Carbide Corp., Agricultural Products, PO Box 1906, Salinas CA 93901. SEVIN 4 OIL CARBARYL INSECTICIDE. Active Ingredients: Carbaryl 1-Naphthyl Methylcarbamate 49%; Petroleum oils 46.3%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Label amend-

ments & Revised offer to pay statement submitted. PM12

EPA Reg. No. 6035-35. Vineland Laboratories, Inc., A Damon Lab., 2285 E. Landis Ave., Vineland NJ 08360. CRESL-400. Active ingredients: Cresylic Acid 50.63%; Coal Tar Neutral Oil 17.79%; Soap 19.34%. Method of Support: Application proceeds under 2(a) of interim policy. PM32

[FR Doc.76-7191 Filed 3-11-76;8:45 am]

[FRL 502-5; FP31]

PESTICIDE AND FOOD ADDITIVE PETITIONS

Notice of Filing

Pursuant to the provisions of sections 408(d)(1) and 409(b)(5) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency gives notice that the following petitions have been submitted to the Agency for consideration.

PP 6F1741. American Cyanamid Co., Inc., Ag. Div., PO Box 400, Princeton NJ 08540. Proposes amending 40 CFR 180.361 by establishing a tolerance for combined residues of the herbicide N-(1-ethyl propyl) - 3,4-dimethyl-2,6-dinitrobenzena mine and its metabolite 4-(1-ethylpropyl)-2-methyl-3,5-dinitro benzyl alcohol in or on the raw agricultural commodities peanuts, peanut forage, peanut hay, and peanut hulls at 0.1 part per million (ppm). Proposed analytical method for determining residues is by gas chromatography using an electron-capture detector. PM25

PP 6F1676. Chevron Chemical Co., 940 Hensley St., Richmond CA 94804. Proposes amending 40 CFR 180.267 by establishing a tolerance for residues of the fungicide captafol (cis-N-[(1,1,2,2-tetrachloroethyl) thio]-4-cyclohexene-1,2-dicarboximide) in or on the raw agricultural commodities peanuts (hutmeat, after removal of hulls) at 0.05 ppm and peanut hulls at 2 ppm and peanut hulls at 2 ppm. Proposed analytical method for determining residues is a gas chromatographic procedure which utilizes both an electron capture and a flame photometric detector. PM21

FAP 6H5120. Chevron Chemical Co. Proposes amending 21 CFR 561.289 to establish a regulation permitting the use of the plant regulator paraquat (1,1'-dimethyl-4,4'-bipyridinium ion) in or on grain sorghum mill feed (bran, germ and starch) with a tolerance limitation for residus derived from the application of either the bis (methyl sulfate) or dichloride salt (calculated as the cation) of 30 ppm. PM 25

PP 6F1745. Dow Chemical Co., PO Box 1706, Midland MI 48460. Proposes amending 40 CFR 180.342 by establishing a tolerance for the insecticide chlorpyrifos [O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodities sugar beet roots at 0.2 ppm and sugar beet tops at 0.05 ppm. Proposed analytical method for determining residues is a gas chromotographic procedure with a flame ionization detection. PM12

FAP 6H5121. Dow Chemical Co. Proposes amending 21 CFR 561 by establishing a regulation permitting the use of the insecticide chloropyrifos on beets with a tolerance limitation of 1.0 ppm in or on dried sugar beet pulp intended for livestock feed and 3.0 ppm in or on sugar beet byproducts (molasses) intended for animal feed. PM12

FAP 6H5116. Mobay Chemical Corp., PO Box 4913, Kansas City MO 64120. Proposes amending 21 CFR 561 by establishing a regulation permitting the use of the insecticide S-[2-(Ethylsulfinyl)ethyl] O,O-dimethyl phosphorothioate on growing sorghum with a tolerance limitation in the processed feed sorghum bran of 2.25 ppm. PM16

PP 6F1738. Mobil Chemical Co., PO Box 26683, Richmond VA 23261. Proposes amending 40 CFR 180.351 by establishing a tolerance for residues of the herbicide bifenox (methyl 5-(2,4-dichlorophenoxy)-2-nitrobenzoate) in or on the raw agricultural commodities sorghum grain and forage, rice grain and straw, barley grain and straw, oat grain and straw, and wheat grain and straw at 0.05 ppm. Proposed analytical method for determining residues of the herbicide is a gas chromatographic procedure utilizing a halogen-specific microcoulometric detector. PM25

PP 6F1733. Monsanto Chem. Co., Inc., N. Lindbergh Ave., St. Louis MO 63166. Proposes amending 40 CFR 180.364 by establishing a tolerance for residues of the plant growth regulator glyphosate (N-phosphonomethylglycine) and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodities citrus fruits (citrus citrons, grapefruit, kumquats, lemons, limes, oranges, tangelos, tangerines, and hybrids of these) at 0.2 ppm. Proposed analytical method for determining residues of the plant regulator is a gas liquid chromatography procedure using a phosphorous specific flame photometric detector. PM25

FAP 6H5115. Monsanto Chem. Co. Proposes amending 21 CFR 561 to establish a regulation permitting the use of the plant regulator glyphosate on citrus fruits with a tolerance limitation for residues of glyphosate and its metabolite in or on dried citrus pulp of 0.4 ppm. PM25

FAP 5H5122. U.S. Department of the Interior, Fish & Wildlife Service, Washington DC 20240. Proposes that 21 CFR 123 & 561 be amended to permit the use of the sodium salt of 4-nitro-3-trifluoro-methylphenol in water with an exemption from the requirement of a tolerance for residues of this pesticide in fish and water when the pesticide is used in the control of sea lamprey larvae. PM11

Interested persons are invited to submit written comments on any petitions referred to in this notice to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, East Tower, Room 401, Washington DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments should bear a notation indicating the number of the petition to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: March 8, 1976.

JOHN B. RITCH, Jr.
Director, Registration Division.

[FR Doc.76-7188 Filed 3-11-76;8:45 am]

[FRL 507-8; PF30]

PESTICIDE AND FOOD ADDITIVE PETITIONS

Notice of Filing

Pursuant to the provisions of sections 408(d)(1) and 409(b)(5) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency gives notice that the following petitions have been submitted to the Agency for consideration.

PP 6F1673. Dow Chemical Corp., PO Box 1706, Midland MI 48640. Proposes that 40 CFR 180.342 be amended to establish a tolerance for residues of the insecticide chlorpyrifos (O,O-diethl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate) and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodities cottonseed at 0.5 part per million (ppm) and in the meat, fat, and meat byproducts of poultry (except turkeys) and the eggs of poultry at 0.01 ppm. Proposed analytical method is a gas-liquid chromatography procedure using a flame photometric system. PM12

PP 6F1695. E. I. DuPont deNemours & Co., Wilmington DE 19898. Proposes that 40 CFR 180.303 be amended to establish a tolerance for residues of the insecticide oxamyl (methyl *N',N'*-dimethyl-*N*-[(methylcarbamoyl) oxy]-1-thiooxamimidate) in or on the raw agricultural commodity potatoes at 0.1 ppm. Proposed analytical method is a flame photometric gas chromatography procedure. PM12

PP 6F1696. E. I. DuPont deNemours & Co., Wilmington DE 19898. Proposes that 40 CFR 180.303 be amended to establish a tolerance for residues of the insecticide oxamyl in or on the raw agricultural commodity tomatoes at 2.0 ppm. Proposed analytical method is same as above. PM12

PP 6F1735. Fisons Corp., Agricultural Chemicals Div., Two Preston Court, Bedford MA 01730. Proposes that 40 CFR 180 be amended to establish tolerances for the combined residues of the herbicide 2-ethoxy-2,3-dihydro - 3,3 - dimethyl - 5 - benzofuranyl methanesulfonate and its metabolites 2-hydroxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate and 2,3-dihydro-3,3-dimethyl-2-oxo-5-benzofuranyl methanesulfonate in or on the raw agricultural commodities sugar beet roots at 0.1 ppm; sugar beet tops at 1.0 ppm; and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.03 ppm. Proposed analytical method for determining residues is a gas-liquid chromatographic determination process using a flame photometric detector in the sulphur mode. PM24

FAP 6H5117. Fisons Corp., Agricultural Chemicals Div., Two Preston Court, Bedford MA 01730. Proposes amending 21 CFR 561.235 by establishing a regulation permitting the use of the herbicide 2-ethoxy-2,3-dihydro - 3,3 - dimethyl-5-benzofuranyl methanesulfonate in beet fields to control weeds with a tolerance limitation resulting from such use for residues of the herbicide and its metabolites in sugar beet molasses of 0.5 ppm. PM24

PP 6F1671. FMC Corp., 100 Niagara St., Middleport NY 14105. Proposes that 40 CFR 180.254 be amended to establish a tolerance for combined residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl-7-benzofuranyl-*N*-methylcarbamate), its carbamate metabolite 2,3-dihydro-2,2-dimethyl - 3 - hydroxy - 7 - benzofuranyl-*N*-methylcarbamate and its phenolic metabolites 2,3-dihydro-2,2-dimethyl-7-benzofuranol, 2,3-dihydro-2,2-dimethyl-3-oxo-7-benzofuranol and 2,3-dihydro-2,2-di-

methyl-3,7-benzofurandiol in or on the raw agricultural commodity onions (dry bulbs only) at 1 ppm, of which no more than 0.4 ppm is carbamates. Proposed analytical method is a gas chromatographic procedure. PM12

PP 6F1672. FMC Corp., 100 Niagara St., Middleport NY 14105. Proposes that 40 CFR 180.254 be amended to establish a tolerance for residues of the insecticide carbofuran and its carbamate metabolite and phenolic metabolites in or on the raw agricultural commodity corn, including sweet corn (kernels plus cob with husk removed) at 1 ppm, of which no more than 0.2 ppm is carbamates. Proposed analytical method is a gas chromatographic procedure. PM12

FAP 6H5119. Union Carbide Corp., Linde Div., PO Box 372, 51 Cragwood Rd., Plainfield NJ 07080. Proposes amending 21 CFR 123.380 to provide for the safe use of the fumigant propylene oxide and carbon dioxide in the ratio of 8 parts propylene oxide to 92 parts carbon dioxide by weight for the fumigation of cocoa, gums, processed nutmeats (except peanuts), spices and starch for periods up to 48 hours at 125° F. PM11

Interested persons are invited to submit written comments on any petitions referred to in this notice to the Federal Register Section, Technical Services Division (WH–569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M St. SW, Washington DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments should be submitted as soon as possible and should bear a notation indicating the number of the petition to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: March 5, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76–7189 Filed 3–11–76;8:45 am]

[FRL 503–5; OPP–30110]

PESTICIDE PROGRAMS

Notice of Receipt of Application To Register a Pesticide Product Entailing a Changed Use Pattern

Sandoz, Inc., PO Box 1489, Homestead FL 33030, has submitted to the Environmental Protection Agency (EPA) an application to register the pesticide product ZORIAL 80WP COTTON HERBICIDE (EPA File Symbol 11273–RG), containing the active ingredient Norflurazon [4-chloro-5-(methylamino) - 2 - (alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone]. Norflurazon has been previously registered for use as an aquatic herbicide in cranberry bogs. The application received from Sandoz, Inc., proposes a change in the use pattern to include terrestrial use on cotton. The application also proposes that the product be classified for general use for controlling weeds in cotton.

Application was made by Sandoz, Inc., pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 5 U.S.C. 136 et seq.) and the regulations thereunder (40 CFR Part 162). Notice of receipt of this application is given in accordance with the provisions of sections 3(c)(4) of FIFRA [40 CFR 162.2(b)(6)] and does not indicate a decision by the Agency on the application.

Any Federal agency or other interested persons are invited to submit written comments on this appliction to the Federal Register Section, Technical Services Division (WH–569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments must be received on or before April 12, 1976 and should bear a notation indicating the EPA File Symbol 11273–RG. Comments received within the specified time period will be considered before a finel decision is made with respect to the pending application. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Notice of approval or denial of this application to register ZORIAL 80WP COTTON HERBICIDE will be announced in the FEDERAL REGISTER. The label furnished by Sandoz, Inc., as well as all written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: March 9, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76–7187 Filed 3–11–76;8:45 am]

[FRL 502–6; OPP–30109]

PESTICIDE PROGRAMS

Notice of Receipt of Applications To Register Pesticide Products Containing New Active Ingredients

Applications have been submitted to the Environmental Protection Agency (EPA) to register pesticide products containing active ingredients which have not been included in any previously registered pesticide products. Applications were made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 136 et seq.), and the regulations thereunder (40 CFR 162). Notice of receipt of these applications is made in accordance with the provisions of sections 3(c)(4) of FIFRA [40 CFR 162.6 (b)(6)] and does not indicate a decision by the Agency on the applications.

Any Federal agency or other interested persons are invited to submit written comments on any applications referred to in this notice to the Federal Register Section, Technical Services Division (WH–569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M St. SW, Washington DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments must be received on or before April 12, 1976 and should bear a notation indicating the EPA File Symbol number of the application to which the comments pertain. Comments received within the specified time period will be considered before a final decision is made with respect to the pending applications. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Notice of approval or denial of the applications to register pesticide products listed will be announced in the FEDERAL REGISTER. The labels furnished by each applicant as well as all written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: March 5, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

APPLICATIONS RECEIVED

EPA File Symbol 33068–R. Aquashade Inc., 117 Bellair Dr., Box 117, Dobbs Ferry NY 10522. AQUASHADE. Active Ingredients: *Acid Blue 9* 23.63%; *Acid Yellow 23* 2.39%. Application proposes that this product be classified for general use as an aquatic weed herbicide. PM24

EPA File Symbol 7173–RTU. Chempar Chemical Co., Inc., 260 Madison Ave., New York NY 10016. MAKI TECHNICAL RODENTICIDE. Active Ingredients: (*Hydroxy-4', coumarinyl-3'*)-*3-phenyl-3*, (*bromo-4, biphenylyl-4'*)-*1-propanol-1* 100%. Application proposes that this product be classified for general use as a rodenticide. PM11

EPA File Symbol 35902–R. Henley & Co., Inc., 750 Third Ave., New York NY 10017. PLANT PIN. Active Ingredients: *3-Methylsulfonyl-2-butanone O - [(methylamino)carbonyl] oxime* 9.75%. Application proposes that this product be classified for general use as insecticides for ornamentals—indoor use. PM13

EPA File Symbol 359–ATO. Rhodia Inc., Agricultural Div., 23 Belmont Dr., Somerset NJ 08873. RHODIA OXADIAZON TECHNICAL. Active Ingredients: *Oxadiazon* 97.4%. Application proposes that this product be classified for general use for formulating herbicides. PM24

[FR Doc.76–7190 Filed 3–11–76;8:45 am]

[FRL 504–3; OPP–50069]

AMCHEM PRODUCTS, INC.

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Amchem Products,

Inc., Ambler, Pennsylvania 19002. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 264–EUP–50) allows the use of 500 pounds of the plant regulator 1-Naphthaleneacetic acid, ethyl ester, on non-bearing apple, fig, lemon, and olive trees. A total of 700 acres is involved; the program is authorized only in the States of California, Florida, Michigan, New York, North Carolina, Pennsylvania, Washington, and West Virginia. The experimental use permit is effective from March 5, 1976, to March 5, 1977.

Interested parties wishing to review the experimental use permit are referred to Room E–315, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755–4851 before visting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: March 9, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76–7197 Filed 3–11–76;8:45 am]

[FRL 504–7; OPP–50083]

CHEMAGRO

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Chemagro, Agricultural Division of Mobay Chemical Corporation, Kansas City, Missouri 64120. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 3125–EUP–129) allows the use of 60 pounds A.I. of the insecticide fenthion in food handling establishments. Three (3) establishment categories (food service, manufacturing, and food processing) are involved. The program is authorized only in the States of Illinois, Nebraska, Missouri, and Minnesota. The experimental use permit is effective from March 2, 1976, to March 2, 1977. Food additive tolerances for residues of the active ingredient in or on food commodities have been established.

Interested parties wishing to review the experimental use permit are referred to Room E–315, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755–4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: March 9, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76–7201 Filed 3–11–76;8:45 am]

[FRL 504–1; OPP–50075]

AMERICAN CYANAMID CO.

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to the American Cyanamid Company, Princeton, New Jersey 08540. Such permit is in accordance with, and subject to, the provisions of 40 CFR 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 241–EUP–77) allows the use of 6 pounds of the insecticide *0,0'*-(thiodi-4,1-phenylene) bis(*0,0*-dimethyl phosphorothioate) on cattle (beef only) for control of lice. Approximately 2500 head of cattle are involved; the program is authorized only in the States of California, New York, Oklahoma, Virginia, and Wyoming. A temporary tolerance for residues of the active ingredient in the fat of cattle has been established. The experimental use permit is effective from February 19, 1976, to February 19, 1977.

Interested parties wishing to review the experimental use permit are referred to Room E–315, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755–4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:30 p.m. Monday through Friday.

Dated: March 9, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76–7195 Filed 3–11–76;8:45 am]

[FRL 503–8; OPP–50076]

BAYVET CORP.

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to the Bayvet Corporation, Shawnee Mission, Kansas 66201. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 11556–EUP–2) allows the use of 50 pounds of the insecticide 0,0-Diethyl 0-(3-chloro-4-methyl-2 - oxo - (2H) - 1 - benzopyran-7-yl) phosphorothioate on cattle to evaluate control of scabies (*Psoroptes bovis*). A total of 20 head of cattle is involved in the program, which is authorized only in the State of Texas. The experimental use permit is effective from February 11, 1976, to February 11, 1977. A permanent tolerance for residues of the active ingredient in or on the meat, fat and meat byproducts of cattle has been established.

Interested parties wishing to review the experimental use permit are referred to Room E–315, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755–4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: March 9, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76–7194 Filed 3–11–76;8:45 am]

[FRL 504–5; OPP–50081]

DIAMOND SHAMROCK CORP.

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Diamond Shamrock Corporation, Cleveland, Ohio 44114. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 677–EUP–9) allows the use of 375 pounds A.I. of the fungicide chlorothalonil on citrus. A total of 20 acres is involved; the program is authorized only in the States of Florida and Texas. The experimental use permit is effective from February 27, 1976, to February 27, 1977. It is understood that any crops treated under this permit will be destroyed or used for research purposes only.

Interested parties wishing to review the experimental use permit are referred to Room E–315, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such inter-

ested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: March 9, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76-7199 Filed 3-11-76;8:45 am]

[FRL 504-6; OPP-50082]

FMC CORP.

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to the FMC Corporation, Middleport, New York 14105. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 279-EUP-59) allows the use of 620 pounds A.I. of the herbicide 2-Ethyl-5-methyl-5-(2-methylphenyl)-1,3-dioxane on soybeans and peanuts. A total of 310 acres is involved; the program is authorized only in the States of Alabama, Arkansas, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Minnesota, Mississippi, Missouri, Nebraska, New York, North Carolina, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Virginia, and Wisconsin. The experimental use permit is effective from March 2, 1976, to March 2, 1977. It is understood that any crops treated under this permit will be destroyed or used for research purposes only.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: March 9, 1975.

JOHN B. RITCH, Jr.
Director,
Registration Division.

[FR Doc.76-7200 Filed 3-11-76;8:45 am]

[FRL 503-6; OPP-50078]

FMC CORP.

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to FMC Corporation, Middleport, New York 14105. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 239-EUP-58) allows the use of 1,800 pounds of the insecticide carbofuran on oranges to evaluate control of citrus thrips, fruittree leafroller, citrus cutworm, and orange tortrix. A total of 600 acres is involved; the program is authorized only in the States of Arizona and California. The experimental use permit is effective from February 23, 1976, to February 23, 1977. A temporary tolerance for residues of the active ingredient in or on oranges has been established.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: March 9, 1976.

JOHN B. RITCH,
Director,
Registration Division.

[FR Doc.76-7192 Filed 3-11-76;8:45 am]

[FRL 504-2; OPP-50074]

TEXAS A & M UNIVERSITY

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Texas A & M University, College Station, Texas 77843. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 35899-EUP-1) allows the use of 1,200 sodium cyanide capsules in 150 Sodium Cyanide Spring-Loaded Ejector Mechanisms (SCSLEM's) to evaluate control of coyotes preying on sheep. The program is authorized only in Pecos and Brewster Counties, Texas. The experimental use permit is effective from February 12, 1976, to October 31, 1976.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: March 9, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76-7196 Filed 3-11-76;8:45 am]

[FRL 504-4; OPP-50080]

UNION CARBIDE CORP.

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to the Union Carbide Corporation, Washington, D.C. 20006. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 1016-EUP-34) allows the use of 165 pounds A. I. of aldicarb used as an insecticide/nematocide on oranges. A total of 20.4 acres is involved; the program is authorized only in the States of Arizona, California, Florida, and Texas. The experimental use permit is effective from February 24, 1976, to February 24, 1977. A temporary tolerance for residues of the active ingredient in or on oranges has been established; a food additive tolerance for residues in dried citrus pulp has also been established.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: March 9, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76-7198 Filed 3-11-76;8:45 am]

[FRL 503-7; OPP-50077]

VELSICOL CHEMICAL CORP.

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to the Velsicol Chemical Corporation, Chicago, Illinois 60611. Such permit is in accordance with, and subject to, the provisions of 40 CFR

Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 876-EUP-28) allows the use of 1,292 pounds of the herbicide Methazole on nonbearing citrus, fruit, and nut trees to evaluate control against various weeds. Approximately 400 acres are involved; the program is authorized only in the States of Arizona, California, Florida, Georgia, Michigan, New York, North Carolina, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and Washington. The experimental use permit is effective from March 11, 1976, to March 11, 1977.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: March 9, 1976.

JOHN B. RITCH, Jr.
Director,
Registration Division.

[FR Doc.76-7193 Filed 3-11-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES (RTCM)

Re-scheduling of Meeting

The March 1, 1976 FEDERAL REGISTER contained notice of a meeting of the Executive Committee of the Radio Technical Commission for Marine Services (RTCM) to be held on March 19, 1976 at 1:45 p.m. at the Federal Communications Commission. The FCC must reschedule this meeting to permit attendance by those Executive Committee members who are presently in Europe participating at the International Telecommunications Union (ITU) meetings as members of the United States' delegation to the ITU. Accordingly, the meeting has been re-scheduled for Thursday, March 25, 1976 at 1:45 p.m.

The agenda for this meeting, as published in the March 1 FEDERAL REGISTER, remains the same:

1. Call to Order; Chairman's Report.
2. Introduction of attendees; Adoption of agenda.
3. Acceptance of the minutes of Executive Committee meetings.
4. Progress Reports on Currently Active Committees.
5. Status Reports on Other Committees.
6. Approval of new applications for Executive Committee membership.
7. Approval of SC-66 Report.
8. Report of Nominating Committee for Vice Chairman of the RTCM, 1976-1977.
9. Report on 1976 San Diego Assembly meeting.
10. Summary Reports and Announcements.
11. New Business.
12. Establishment of next meeting date.

The location of the meeting remains the same: Federal Communications Commission, 1919 M St., NW., Washington, D.C., Conference Room 847.

All RTCM meetings are open to the public. Individuals desiring more specific information may contact the RTCM Secretariat (Phone 202 632-6490). Members of the public may present written statements at the meeting; individuals desiring to make oral presentations at the meeting should consult with the RTCM Secretariat prior to the meeting.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.76-7265 Filed 3-11-76;8:45 am]

FEDERAL DEPOSIT INSURANCE CORPORATION

FARMERS BANK OF THE STATE OF DELAWARE, DOVER, DELAWARE

Suspension of Trading

It appearing to the Federal Deposit Insurance Corporation that the summary suspension of trading in the common stock of Farmers Bank of the State of Delaware being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 12(i) and 12(k) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended for the period beginning at 9:00 a.m. (e.s.t.) on March 9, 1976 and ending upon termination of the suspension by the Federal Deposit Insurance Corporation or March 18, 1976, whichever occurs first.

By order of the Board of Directors, March 8, 1976.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] ALAN R. MILLER,
Executive Secretary.

[FR Doc.76-7161 Filed 3-11-76;8:45 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to part 542 of Title 46 CFR and section 311 (p) (1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	*OWNER/OPERATOR and VESSELS*
01074---	Sigval Bergesen: *Tindfonn.*
01106---	N. V. Stoomvaart-Maatschappij "Oostzee": *Ittersum.*
01145---	Det Bergenske Dampskibsselskab: *Leda.*
01330---	Shell Tankers (U.K.) Ltd.: *Varicella.*
01428---	Ocean Transport & Trading Ltd.: *Maron.*
01454---	Hunting (Eden) Tankers Ltd.: *Teesfield.*
01455---	Kiondyke Shipping Co., Ltd.: *Framptondyke.*
01466---	Common Brothers (Management) Ltd.: *Cheshire Endeavour, Cheshire Venture, Harp, Vento di Maestrale, Vento di Scirocco.*
01746---	Ikanmei Compania Naviera S.A., Panama: *Erato.*
01817---	The Clan Line Steamers Ltd.: *Clan Maclay.*
01861---	BP Tanker Co., Ltd.: *British Ensign, British Hussar.*
01864---	Sverre Amundsen, Haugesund, Norway: *Amronto.*
01905---	Ben Line Steamers Ltd.: *Benvorlich.*
01984---	Aktiebolaget Svenska American Linien: *Forestland.*
02169---	Arabella Shipping Co. Ltd.: *Nike.*
02260---	Garibaldi Soc. Cooperativa Di Navigazione a responsabilita Limitata: *Atria.*
02529---	Pacific Bulk Carriers Ltd.: *Amber Pacific, August Pacific.*
02644---	Alma Shipping Corp.: *Athina Carras.*
03397---	Hilmar Reksten: *Araluck, Gordian, Trajan.*
03510---	Takeda Kigyo Kabushiki Kaisha: *Seisho Maru No. 10.*
03679---	Miami Terminal Transport Co.: *Fred H. Billups, Mar Caribe, Marion P. Billups.*
03894---	The Whitehall Shipping Co., Ltd.: *Stainless Warrior.*
03979---	Moran Towing Corp.: *Rhode Island, Sea Horse I.*
03980---	Moran Towing & Transportation Co., Inc.: *Sea Ford.*
04047---	A/S Mosvoid Bulktransport: *Mosqueen.*
04151---	Ulterwyk Shipping Ltd: *Anniesa U, Drucilla U, Laurie U, Maria U.*
04184---	M/G Transport Services, Inc.: *SB-30, W-1, W-2.*
04212---	Nilo Barge Line, Inc.: *ATC 6000.*
04303---	Compania Maritima Istemenia Ltda. Panama: *Maria Venizelos.*
04344---	Industrial Freighters Corp.: *Keravnos.*
04356---	Pacific Far East Line, Inc.: *Australia Bear, Hawaii Bear.*
04423---	Marcona Carriers Ltd.: *Marcona Vanguard, Marcona Voyager.*
04503---	Okutsu Suisan K.K.: *Zenko Maru No. 8.*
04777---	Conty Compania S.A.: *Xeny.*
04892---	Dae Jin Shipping Co., Ltd.: *Ohdae.*
05103---	Imperial Oil Ltd.: *Imperial St. Lawrence.*
05355---	Global Shipping Corp.: *Asia Rindo.*
05516---	Natalia Shipping Co., S.A. Panama: *Evangelos M.*
05740---	Fina France: *Fina France.*
05951---	Surena Delmar Navegacion S.A. Panama: *Evanthia.*
06130---	Northern Shipping Co.: *Polotsk.*

Certificate No.	OWNER/OPERATOR and VESSELS
06295---	Australasian Tankships (Panama) S.A.: *Maori.*
06480---	Euro Shipping Corp.: *John V.*
06910---	Tai An Steamship Co., Ltd.: *Kun An.*
06947---	D. M. Picton & Co. Inc.: *Esther Moran.*
07019---	Allied Shipping International Corp.: *Aries.*
07019---	Pacific Navigation Co. Ltd.: *Niuvakai.*
07323---	Pamphilos Shipping Co. Ltd.: *Marathon.*
07366---	Compagnie Maritime des Chargeurs Reunis: *Tocansa.*
07728---	Dodone Navigation Co. Ltd.: *Charlotte.*
08143---	Luna I Compania Naviera S.A. Panama: *Navarochos Miaoulis.*
08346---	Utah Towing, Inc.: *Utah.*
08387---	Sure Hope Towing Co., Inc.: *MMS-104.*
08652---	Scorpion Shipping Inc.: *Sea Fan.*
08760---	Gulf Shipping Lines Ltd.: *Reliance Express.*
08900---	Caribbean Shipping Ltd.: *Carib Express.*
09006---	Stena Line AB: *Stena Sailer.*
09084---	Horizon Shipping Co., Ltd.: *Jell.*
09150---	J.S.K. Shipping Corp. Inc.: *Scheba.*
09438---	Demetrius Maritime Co. Ltd.: *St. Panteleimaon.*
09523---	Brownarrow Shipping Inc.: *Asia Beauty.*
09542---	Purly Shipping Co., Ltd.: *Stella.*
09669---	I/S 983: *Belfri.*
09767---	Halcyon Star Lines, Ltd.: *Halcyon Star.*
09794---	Capital Dredge & Dock Corp.: *Chlorine, Ironwood.*
09852---	Bulk Navigation Ltd.: *Ivy.*
09972---	Panhandle Towing Co., Inc: *Mary 120*
10023---	United Shipping Co., Ltd.: *Del Mar, Del Sur.*
10163---	Narada Shipping Ltd.: *North Atlantic Unity.*
10260---	Hollywood Marine, Inc.: *SS2021.*
10307---	N.V. Motorscheep Vaartmaatschappij "Coria": *Coria.*
10386---	Frendo Alesund A/S: *Fellowship.*
10542---	Achill Shipping Co., Ltd.: *Eleni B.*
10549---	Briscoe/Arace/Conduit, a joint venture: *Denny-Buckley 200.*
10553---	Spetsai Navigation S.A.: *Captain B.*
10555---	Algol Shipping Co., Ltd.: *Altanin.*
10648---	Freeport Cruise Lines, Panama, Inc.: *Freeport.*
10696---	K.G.G. Co., Ltd.: *Sea Bird No. 86.*
10703---	Liberian Sea Transport Ltd.: *White Dolphin.*
10760---	FMC Corp.: *Hull No. GTT-1.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-7166 Filed 3-11-76;8:45 am]

[No. 75-17]

CLETO HERNANDEZ R. D/B/A PAN INTER

Adoption of Initial Decision and Order Revoking Independent Ocean Freight Forwarder License

No exceptions having been taken to the initial decision of the Administrative Law Judge in this proceeding and the Commission having determined not to review same, notice is hereby given that the initial decision became the decision of the Commission on March 4, 1976.

It is ordered, That Independent Ocean Freight Forwarder License No. 1108, issued to and now held by Cleto Hernandez R. d/b/a Pan Inter is hereby revoked pursuant to section 44(d) of the Shipping Act, 1916, and § 510.9(a), (d), and (e) of Commission General Order 4.

It is further ordered, That this Notice and Order be published in the FEDERAL REGISTER.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-7165 Filed 3-11-76;8:45 am]

[Independent Ocean Freight Forwarder License No. 1085]

FLORIDA-PANAMA FORWARDERS, INC.

Order of Revocation

By letter dated January 26, 1976, Florida-Panama Forwarders, Inc., 240 NE Second Ave., Miami, Florida was advised by the Federal Maritime Commission that Independent Ocean Freight License No. 1085 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before February 25, 1976.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Florida-Panama Forwarders, Inc., has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) section 5.01(c) dated June 30, 1975;

It is ordered, That Independent Ocean Freight Forwarder License No. 1085 issued to Florida-Panama Forwarders, Inc., be returned to the Commission for cancellation.

It is further ordered, That Independent Ocean Freight Forwarder License No. 1085 be and is hereby revoked effective February 25, 1976.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Florida-Panama Forwarders, Inc.

LEROY F. FULLER,
Director, Bureau of Certification & Licensing.

[FR Doc.76-7164 Filed 3-11-76;8:45 am]

PAN ISLAMIC STEAMSHIP CO., LTD. ET AL.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, Puerto Rico and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 22, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Thomas J. Kane, Esquire, Cichanowicz & Callan, 80 Broad Street, New York, New York 10004.

Agreement No. 10172 would establish a joint service agreement among Pan Islamic Steamship Co., Ltd., Trans Oceanic Steamship Co., Ltd., Chittagong Steamship Corp., Ltd., Pakistan Shipping Line Limited, Crescent Shipping Lines Limited, Gulf Shipping Corporation Limited, United Oriental Steamship Co., East & West Steamship Co. (1961), and Muhammadi Steamship Co., Ltd., operating in the trade from U.S. Atlantic and Gulf ports to the Persian Gulf, Red Sea, Pakistan and Turkey. The joint service will act as a single member or party within any conference, pooling agreement or any other agreement subject to the Shipping Act, 1916, to which it belongs and will be represented by the Pakistan Shipping Corporation. The parties will establish, maintain and file with the Commission, as a joint service, rates, charges and practices in those trades where they are not members of a conference. The parties will cooperate as to the tonnage to be contributed by each. They shall contribute to and share the costs, expenses, profits and losses incurred by and derived from the joint service.

Notice of the filing of Agreement No. 10172, among the above named carriers, was previously published in the FEDERAL REGISTER of August 15, 1975 (Vol. 40, No. 159, page 34470).

Dated: March 9, 1976.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-7162 Filed 3-11-76;8:45 am]

[Independent Ocean Freight Forwarder License No. 1226]

SAVANNAH OVERSEAS FORWARDERS, INC.

Order of Revocation

By letter dated February 9, 1976, Savannah Overseas Forwarders, Inc., 102½ East Bay Street, P.O. Box 2764, Savannah, Georgia 31402, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1226 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01 (b), dated June 30, 1975;

It is ordered, That Independent Ocean Freight Forwarder License No. 1226 issued to Savannah Overseas Forwarders, Inc., be and is hereby revoked effective February 27, 1976 without prejudice to reapply for a license in the future.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Savannah Overseas Forwarders, Inc.

LEROY F. FULLER,
Director, Bureau of Certification & Licensing.

[FR Doc.76-7163 Filed 3-11-76;8:45 am]

FEDERAL POWER COMMISSION

[Rate Schedule Nos. 75, etc.]

TEXAS OIL AND GAS CORP., ET AL.

Rate Change Filings

MARCH 5, 1976.

Take notice that the producers listed in the Appendix attached below have filed proposed increased rates to the applicable new gas national ceiling based on the interpretation of vintaging concepts set forth by the Commission in its Opinion No. 699-H, issued December 4, 1974. Pursuant to Opinion No. 699-H the rates, if accepted, will become effective as of the date of filing.

The information relevant to each of these sales is listed in the Appendix below.

Any person desiring to be heard or to make any protest with reference to said filings should on or before March 15, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). A protest will not serve to make the protestant a party to the proceeding. Any party wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Filing date	Producer	Rate schedule No.	Buyer	Area
Feb. 25, 1976	Cities Service Oil Co	51	El Paso Natural Gas Co	Permian Basin.
Do	do	57	do	Do.
Do	do	58	do	Do.
Do	do	59	do	Do.
Do	do	60	do	Do.
Do	do	62	do	Do.
Do	do	64	do	Do.
Do	do	65	do	Do.
Do	do	66	do	Do.
Do	do	135	do	Do.
Do	do	199	do	Do.
Do	do	203	do	Do.
Do	do	210	do	Do.
Feb. 18, 1976	Texas Oil & Gas Corp., Fidelity Union Tower Bldg., Dallas, Tex. 75201.	75	Michigan Wisconsin Pipe Line Co.	Hugoton-Anadarko.
Do	do	64	do	Do.
Feb. 20, 1976	Cities Service Oil Co., Box 300, Tulsa, Okla. 74102.	363	United Gas Pipe Line Co	South Louisiana.
Feb. 24, 1976	Phillips Petroleum Co., Bartlesville, Okla. 74004.	[1] 594	Michigan Wisconsin Pipe Line Co.	Hugoton-Anadarko.
Feb. 25, 1976	Cities Service Oil Co	18	El Paso Natural Gas Co	Permian Basin.
Do	do	19	do	Do.
Do	do	20	do	Do.
Do	do	21	do	Do.
Do	do	22	do	Do.
Do	do	23	do	Do.
Do	do	24	do	Do.
Do	do	26	do	Do.
Do	do	27	do	Do.
Do	do	28	do	Do.
Do	do	38	do	Do.
Do	do	39	do	Do.
Do	do	40	do	Do.
Do	do	41	do	Do.
Do	do	43	do	Do.

[1] Tentative designation—replaces suppl. No. 7 to Phillips' FPC gas rate schedule No. 4.

[FR Doc.76-6876 Filed 3-11-76;8:45 am]

[Docket Nos. CI75-45, etc.]

TENNECO OIL CO., ET AL.

Order Deferring Consideration of Staff Motion

MARCH 8, 1976.

On January 9, 1976, Staff filed a motion attached to its brief on exceptions petitioning the Commission to remand and reopen the record in this proceeding, in Docket No. CI75-45, *et al.*, and to require submission of additional data from Applicants. Specifically, Staff requested that the Commission direct the Applicants to submit the following: (1) evidence on the current fertilizer and ammonia supply situation; (2) all necessary records and personnel from the parties regarding unauthorized transactions in the construction and operation of facilities, and sales and transportation of gas in interstate commerce; and (3) all records which Shell has on gas reserves attached to Tennessee Gas Pipe Line Company relating to Rate Schedule No. 130 and all past and present gas fields by Shell Oil Company to Creole Gas Pipe Line and others from said fields.

The Secretary of the Commission extended the time for responding to the Staff motion to January 29, 1976 so that the parties were able to do so in their briefs opposing exceptions. Seven parties responded asserting that the Staff motion should be denied.[1] All maintained that Staff had not presented any arguments in its motion which demonstrated "material changes of Act or of law . . . since the conclusion of the hearings" as required by Sections (a)(1) and (c) of the Rules of Practice and Procedure which would warrant a reopening of the proceeding.

We have concluded that it is not appropriate for us to rule on Staff's motion at this time. This consolidated proceeding involves nine transactions by which interstate pipeline companies have requested authorization from the Commission to transport natural gas from producing wells to various gas consuming plants or facilities to petroleum and chemical companies for their own use and for sale to direct industrial customers. The hearing record includes 54 witnesses, 79 exhibits, and 8 items by reference. Due to the complexity of the issues in these proceedings, we have determined that we shall consider this motion at the time of the issuance of our Opinion and Order. Should our review disclose that it is necessary or desirable to remand and reopen the record for the reasons set forth by Staff in its motion, we shall do so.

The Commission orders:

(A) Our action on the motion to remand and reopen the proceedings, in

[1] Shell Oil Company, filed January 19, 1976; CF Industries, Inc., filed January 29, 1976; Ashland Group, filed January 29, 1976; Tennessee Gas Pipeline Company, filed January 26, 1976; Tenneco Oil, filed January 26, 1976, First Mississippi Corporation, filed January 23, 1976; and Swift Agricultural Chemicals Corporation, filed January 23, 1976.

Docket Nos. CI75–45, et al., filed by the Staff, on January 9, 1976, is hereby deferred pending our further consideration of the issues presented therein.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.76–7132 Filed 3–11–76;8:45 am]

[Docket No. CP63–12, etc.]

MISSISSIPPI RIVER TRANSMISSION CORP., ET AL.

Order Directing Disbursement and Flow-Through of Refunds

MARCH 8, 1976.

In the matter of Mississippi River Transmission Corp. (Docket No. CP63–12, et al.); United Gas Pipe Line Co. (Docket Nos. G–16380, G–16382, RP61–18, RP63–1, and RP65–1); Natural Gas Pipe Line Company of America (Docket Nos. RP68–17 and RP67–21).

On September 4, 1974, Mississippi River Transmission Corporation (MRT) filed a letter requesting the Commission to order disbursement to MRT of certain refunds being retained by two of its pipeline suppliers, United Gas Pipe Line Company (United) and Natural Gas Pipe Line Company of America (Natural), pursuant to orders previously issued in the above-captioned rate proceedings. MRT further requested approval of its plan to flow-through a portion of such refunds to its jurisdictional customers. Such refund plan is set forth in greater detail in the September 4, 1974, letter.

Public notice of MRT's filing was issued on October 3, 1974, with comments, protests and petitions to intervene due on or before October 25, 1974. A petition to intervene was timely filed by Laclede Gas Company, MRT's largest jurisdictional customer. Good cause appearing, said petition shall be granted as hereinafter ordered and conditioned.

Our review of MRT's proposed refund plan indicates that it complies with the provisions of the settlement agreement approved by the Commission in Docket Nos. CP63–12, *et al.*,[1] and is otherwise in accordance with applicable Commission precedent. Accordingly, as hereinafter ordered, such plan shall be approved. It should be noted that the disposition of MRT's refund plan is based upon the particular circumstances of the instant case, and that all future refund plans will be evaluated on the particular facts and legal principles governing such plans. In order to permit MRT to implement such plan, United and Natural shall be ordered to disburse all refunds due MRT as a result of orders issued in the captioned proceedings, together with applicable interest amounts.

[1] *Mississippi River Fuel Corporation, et al.*, 32 FPC 547 (1964).

Our review of various Commission orders in the captioned dockets indicates that United and Natural are retaining, in addition to the refunds due MRT discussed herein, certain other refunds arising from disposition of those dockets. Accordingly, within 30 days of issuance of this order, United and Natural shall disburse to their jurisdictional customers all applicable refunds, with interest, arising from final disposition of such dockets. Concurrently with such disbursement, United and Natural shall each file a report of same with this Commission, indicating the customers receiving such refunds and the amount received by each customer. Within 30 days of receipt of such refunds, such jurisdictional customers shall file with this Commission a report of the following:

(1) A statement of the total refunds received from United and/or Natural pursuant to this order;

(2) A reference to the docket numbers and time periods to which each portion of the total refund amount relates;

(3) A separation of such total refunds between those amounts applicable to jurisdictional sales and those amounts applicable to nonjurisdictional sales;

(4) An explanation of the plan by which the customer proposes to disburse the jurisdictional portion of such refunds, including a list of customers who will receive such refunds and the total amount to be disbursed to each jurisdictional customer;

If the total amount of refunds to be disbursed to jurisdictional customers (as shown in item (4) above) is *less* than the total amount of refunds applicable to jurisdictional sales (as shown in item (3) above), provide an explanation of the basis upon which such difference is proposed to be retained, with appropriate citations to relevant Commission or judicial precedents.

The Commission finds:

(1) Good cause exists to approve MRT's plan for disposition of refunds due MRT from United and Natural in the captioned dockets.

(2) Good cause exists to require United and Natural to remit all refunds due MRT and all other jurisdictional customers as a result of orders issued in the captioned dockets.

(3) Good cause exists to grant Laclede Gas Company's petition to intervene in this proceeding, as hereinafter ordered and conditioned.

The Comission orders:

(A) Within 30 days of the date of issuance of this order, United and Natural shall disburse to their jurisdictional customers all refunds, with applicable interest, owed to such customers and heretofore retained by United and Natural pursuant to Commission orders issued in Docket Nos. G–16380, G–16382, RP61–18, RP63–1, and RP65–1 and in Docket Nos. RP68–17 and RP67–21, respectively. A report of such refunds, as discussed hereinabove shall be filed with the Commission by United and Natural.

(B) Within 30 days of receipt of such refunds from United and Natural, MRT shall flow-through such refunds to its jurisdictional customers in accordance with the plan set forth in the aforementioned letter of September 4, 1974. A report of such refunds shall be filed with the Commission by MRT.

(C) Within 30 days of receipt of refunds from United and Natural as a result of this order, all jurisdictional customers, other than MRT, who receive such refunds shall file a report setting forth the information required by the last paragraph of the body of this order.

(D) Laclede Gas Company is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission; *Provided, however*, that participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further*, that the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.76–7133 Filed 3–11–76;8:45 am]

[Docket No. CP76–273]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

MARCH 8, 1976.

Take notice that on February 20, 1976, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP76–273 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of 15,000 Mcf of natural gas per day with Northern Natural Gas Company (Northern), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that pursuant to an agreement between itself and Northern dated March 11, 1974, Applicant and Northern have agreed to exchange natural gas for 20 years. Applicant would cause such volumes proposed to be exchanged to be delivered by Enserch Corporation, Inc., for the account of Applicant to Northern in Sutton County, Texas, and Northern would redeliver thermally equivalent volumes of natural gas to Applicant through existing facilities located at the outlet of the Exxon Company separator in Winkler County, Texas.

Applicant would pay Northern 1.6 cents per Mcf of gas delivered to Northern in Sutton County, which is said to be the net difference between Northern's cost of transporting the gas delivered

by Applicant and Applicant's cost of treating the gas delivered by Northern in Winkler County, Texas.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 1, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7134 Filed 3-11-76;8:45 am]

[Docket No. CI76-404]

McCORMICK 1974 OIL AND GAS PROGRAM AND THE DOW CHEMICAL CO.

Notice of Application

MARCH 8, 1976.

Take notice that on March 3, 1976, McCormick 1974 Oil and Gas Program and The Dow Chemical Company, jointly Applicants, 1204 Tenneco Building, Houston, Texas 77002, filed in Docket No. CI76-404 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to United Gas Pipe Line Company (United) from the Johnson's Bayou Field, Cameron Parish, Louisiana, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicants state that they commenced the sale of natural gas to United on February 23, 1976, within the contemplation of Section 157.29 of the Regulations under the Natural Gas Act (18 CFR 157.29) and propose to continue said sale within the contemplation of Section 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70) until the earlier of July 1, 1976, or the date Applicants commence deliveries of natural gas to Williams Exploration Company in intrastate commerce pursuant to an existing contract. Applicants propose to sell approximately 3,500 Mcf of gas per day to United at $1.27 cents per Mcf, plus tax reimbursement and subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot. Applicants note that the sale to Williams would be made at the base rate of $1.40 per million Btu.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 29, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7135 Filed 3-11-76;8:45 am]

[Docket No. ER76-150]

WISCONSIN PUBLIC SERVICE CORP.

Order Granting Intervention

MARCH 8, 1976.

On September 25, 1975, Wisconsin Public Service Corporation (Wisconsin) tendered for filing proposed changes in its rate schedule for electric service to eight municipal customers. Notice of the Company's filing was issued by the Commission on October 2, 1975, with protests and petitions to intervene due on or before October 20, 1975.

On February 9, 1976, an untimely notice of intervention was filed by the Public Service Commission of Wisconsin. Having reviewed the above notice of intervention, we believe that Commission has sufficient interest in the proceedings to warrant intervention.

The Commission finds:

It is desirable and in the public interest to allow the bove-named party to intervene.

The Commission orders:

(A) The above-named party is hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission; *Provided, however,* that participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the notice of intervention; and *Provided, further,* that the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of this Commission entered in this proceeding.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commisison.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7136 Filed 3-11-76;8:45 am]

[Docket No. RP76-39]

SEA ROBIN PIPELINE CO.

Order Granting Late Petition for Leave To Intervene Out of Time

MARCH 8, 1976.

On November 14, 1975, Sea Robin Pipeline Company (Sea Robin) tendered for filing proposed changes in its FPC Gas Tariff designed to effect a jurisdictional rate increase of $43,036,531 annually. By order issued December 11, 1975, the Commission accepted the proposed changes for filing, subject to certain conditions, and suspended their use until May 15, 1976.

Public notice of Sea Robin's filing was issued on December 5, 1975, with comments, protests, and petitions to intervene due on or before December 22, 1975.

On January 30, 1976, Alabama Gas Corporation (Alabama Gas) filed a petition for leave to intervene out of time in this proceeding. Having reviewed said petition, we believe Alabama Gas has a sufficient interest in this proceeding to warrant its intervention herein, provided such intervention is conditioned as hereinafter ordered.

The Commission finds:

Participation in this proceeding of Alabama Gas may be in the public interest.

The Commission orders:

(A) Alabama Gas is hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission and the procedures set forth in the Commission order of December 11,

1975, *Provided, however,* that participation of said intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in its petition to intervene, and *Provided, further,* the admission of said intervenor shall not be constructed as recognition by the Commission that it might be aggrieved by any order or orders entered in this proceeding.

(B) The intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of this proceeding.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7137 Filed 3-11-76;8:45 am]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

PAY SYSTEMS

Notice of Committee Meetings

Pursuant to the provisions of section 10 of Public Law 92-463, effective January 5, 1973, notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, April 1, 1976
Thursday, April 8, 1976
Thursday, April 22, 1976
Thursday, April 29, 1976

The meetings will convene at 10 a.m. and will be held in Room 5A06A, Civil Service Commission Building, 1900 E Street, NW., Washington, D.C.

The committee's primary responsibility is to study the prevailing rate system and from time to time advise the Civil Service Commission thereon.

At these scheduled meetings, the committee will consider proposed plans for implementation of Public Law 92-392, which law establishes pay systems for Federal prevailing rate employees.

The meetings will be closed to the public on the basis of a determination under section 10(d) of the Federal Advisory Committee Act (Public Law 92-463) and 5 U.S.C., section 552(b)(2), that the closing is necessary in order to provide the members with the opportunity to advance proposals and counter-proposals in meaningful debate on issues related solely to the Federal Wage System with the view toward ultimately formulating advisory policy recommendations for the consideration of the Civil Service Commission.

However, members of the public who wish to do so, are invited to submit material in writing to the Chairman concerning matters felt to be deserving of the committee's attention. Additional information concerning these meetings may be obtained by contacting the Chairman, Federal Prevailing Rate Advisory Committee, Room 5451, 1900 E Street, NW., Washington, D.C. 20415.

DAVID T. ROADLEY,
Chairman, Federal Prevailing Rate Advisory Committee.

MARCH 9, 1976.

[FR Doc.76-7212 Filed 3-11-76;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on March 5, 1976. See 44 U.S.C. 3512(c) & (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FTC form are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments (in triplicate) must be received on or before March 30, 1976, and should be addressed to Mr. Carl F. Bogar, Assistant Director, Office of Special Programs, United States General Accounting Office, Room 5216, 425 I Street, N.W., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-376-5425.

FTC requests clearance of a one-time letter questionnaire to be sent to a representative group of State Pesticides Coordinators requesting information about acts and practices concerning the advertising and marketing of pesticides. FTC estimates respondent burden to be 3 hours per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.76-7131 Filed 3-11-76;8:45 am]

NATIONAL SCIENCE FOUNDATION

SUBPANEL ON RESEARCH INITIATION AND SUPPORT (RIAS)

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Research Initiation and Support (RIAS), Advisory Panel for Science Education Projects.

Dates & Times: April 1 and 2, 1976—8:30 a.m. to 5:00 p.m.; April 3—8:30 a.m. to 2:00 p.m.

Place: Marriott Hotel, Dulles International Airport, Va.

Type of Meeting: Closed.

Contact Person: Dr. Alfred F. Borg, Program Manager, RIAS, Rm. W-420, National Science Foundation, Washington, D.C. 20550, tel: (202) 282-7777.

Purpose of Subpanel: To provide advice and recommendations concerning support in the RIAS Program.

Agenda: To review and evaluate specific education proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matter are within exemptions (4), (5), and (6) of 5 U.S.C. 552(b), Freedom of Information Act.

Authority to close Meeting: The determination made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MARCH 9, 1976.

[FR Doc.76-6873 Filed 3-11-76;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on March 8, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

OFFICE OF MANAGEMENT AND BUDGET

Evaluation of advance appropriations, single-time, Exec. and Leg. State and Local Orgs. and Assocs., Lowry, R. L., 395-3772.

DEPARTMENT OF COMMERCE

National Bureau of Standards:
LESL Impact on Police Departments, NBS-1028, single-time, State and local police departments, George Hall, 395-6140.

Bureau of Census:
Survey of Job Seeking Activities—May 1976, CPS-650, single-time, unemployed persons in May 1976 CPS, Strasser, A., 395-5867.
Questionnaire for Structure Respondents, 1976 Census of Travis County, Texas, DD130, single-time, multi-unit structures in Travis Co., Texas, Sunderhauf, M. B., 395-6140.
Survey of Local Government Tax Revenues and Intergovernmental Revenues, RS-5B, annually, South Dakota county auditors, Ellett, C. A., 395-5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration:
1976 National Inventory of Pharmacists, HRANCHS 1212, single-time, all licensed pharmacists in the U.S., George Hall, 395-6140.
Office of Human Development:
Area Planning and Social Services Program Evaluation-Service Provider Information Form, annually, area agency on aging directors, Human Resources Division, Reese B. F., 395-3532.
Health Resources Administration:
Senior Pharmacy Student Survey, HRABHM 0616, single-time, senior pharmacy students, Richard Eisinger, Kathy Wallman, 395-6140.
Health Services Administration:
Analysis of Potential Impact of NHI on Current Users of BCHS Projects and Their Families, HSABCHS 0304, single-time, BCHS project users and their families, Human Resources Division, Reese B. F., 395-3532.
National Center for Education Statistics:
National Assessment of Educational Progress: Supplementary frame listing forms, and verification, postal cards, NCES 2388-1, 2, 3, 4, 5, annually, 17-year-olds not in school, Kathy Wallman, 395-6140.
Survey of Students in Public and Private Noncollegiate Postsecondary Schools, NCES 2389, single-time, students enrolled in vocational programs, Kathy Wallman, 395-6140.
Survey of Correspondence Education, NCES 2390, single-time, postsecondary schools, Kathy Wallman, 395-6140.
Food and Drug Administration:
Evaluation of Presentation to Consumers, FD 2919, semi-annually, consumers in audience attending FDA, CAO program, Human Resources Division, Reese B. F., 395-3532.

REVISIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service:
Monthly purchases of grain from farmers, annually, grain dealers and brokers, Hulett, D. T., 395-4730.

DEPARTMENT OF COMMERCE

Maritime Administration, Sociological Impact Assessment: Great Lakes Shipping Season, MA-802, single-time, vessel ship crews, Strasser, A., 395-5867.

EXTENSIONS

DEPARTMENT OF COMMERCE

Bureau of Census:
Census Current Business Report, CBR-3MNC, monthly, retail business firms, Marsha Traynham, 395-4529.
Bureau of Census:
Screening and Advance Inquiry Letters-monthly Retail Trade Survey, CBR-4SL, monthly, retail sampling firms, Marsha Traynham, 395-4529

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:
A-102 Program Performance Report for the Career Education Program, OE 335-1, semi-annually, institutions of higher education, local education agencies, Marsha Traynham, 395-4529.
Office of Education:
Fiscal/performance Reports—State Student Incentive Grant Program, OE 1288-1 semi-annually, State agencies, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76-7279 Filed 3-11-76;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

GENERALIZED SYSTEM OF PREFERENCES

Acceptance for Review of Requests Pertaining to Eligibility of Articles

Notice is hereby given by the Chairman of the Trade Policy Staff Committee (TPSC) of acceptance of requests for modification of the list of articles eligible for the Generalized System of Preferences (GSP). Some of these requests have been accepted notwithstanding the fact that additional information has been requested of the petitioner.

Notice also is given of the following actions affecting articles that have been the subjects of requests pursuant to the regulations of the TPSC:

1. The GSP eligibility for face-finished plywood, Tariff Item No. 240.25, was withdrawn, effective February 29, 1976, by Executive Order No. 11906 of February 27, 1976. Fourteen requests pertaining to this item were received, and are listed in Part II of this notice.

2. Duty-free treatment under the GSP for flashlights and parts, Tariff Item No. 683.70, and portable electric lamps and parts, Item No. 683.80, was withdrawn when such items are imported from Hong Kong, by E.O. No. 11906. These withdrawals were required by law because U.S. imports from Hong Kong in 1975 exceeded the limits set forth in section 504(c) of the Trade Act of 1974 (88 Stat. 2070, 19 U.S.C. 2464(c)). Requests that were received for withdrawal of GSP eligibility for these two articles from Hong Kong are listed in Part II. These requests were not reviewed since the relief requested was legally mandatory on the basis of 1975 data.

PART I.—*Requests accepted for review*

Case No.	TSUS [1] No. and description	Petitioner	Action requested
76-2 [2]	791.75, wearing apparel, not specially provided for, of leather (other than of reptile leather).	1. Tanners' Council of America, Inc., New York, N.Y.	Withdraw GSP benefits.
76-2 [2]	do	2. National Outerwear and Sportswear Association, Inc., New York, N.Y.	Do.
76-2 [2]	do	3. Amalgamated Clothing Workers of America, New York, N.Y.	Do.
76-3	121.50, pig and hog leather	Tanners' Council of America, Inc., New York, N.Y.	Do.
76-4	240.03, veneers, Philippine mahogany, lauan, etc. Not reinforced or backed.	Imported Hardwood Products Association, Inc., Arlington, Va.	Designate Philippines as eligible for GSP for the item.
76-5(a)	245.00, hardboard, not face-finished, not over $48.33⅓/STN.	Acoustical and Board Products Association, Park Ridge, Ill.	Withdraw eligibility for each of the 4 products when imported from: Argentina, Brazil, Chile, Korea (Republic of), Mexico, Philippines, and Taiwan.
76-5(b)	245.10, hardboard, not face-finished, over $48.33, not over $96.66/STN.	do	Do.
76-5(c)	245.20, hardboard, not face-finished, over $96.66⅔/STN.	do	Do.
76-5(d)	245.30, hardboard, face-finished, excluding oil treated but not further finished.	do	Do.
76-6	406.80, fast color bases, fast color sales, and naphthol AS and its derivatives.	1. Pfister Chemical, Inc., Ridgefield, N.J.	Withdraw GSP benefits.
76-6	do	2. Synalloy Blackman Uhler Chemical Division, Spartanburg, S.C.	Do.
76-7(a)	607.35, ferromanganese—under 1 pct carbon.	The Ferroalloys Association, Washington, D.C.	Withdraw, suspend, or limit GSP benefits.
76-7(b)	607.36, ferromanganese—over 1 pct, but less than 4 pct carbon.	do	Do.
76-7(c)	607.37, ferromanganese—over 4 pct carbon.	do	Do.
76-7(d)	607.51, Ferrosilicon—more than 60 pct, but less than 80 pct silicon.	do	Do.
76-7(e)	607.57, ferrosilicon manganese	do	Do.
76-7(f)	632.18, chromium unwrought, excluding alloys and waste and scrap.	do	Do.
76-7(g)	632.42, silicon containing not over 99.7 pct. of silicon.	do	Do.
76-8	692.60, wheelbarrows	Jackson Manufacturing Co., Harrisburg, Pa.	Withdraw GSP benefits.
76-9(a)	708.01, opthalmic lenses, not mounted.	Optical Manufacturers Association, Arlington, Va.	Do.
76-9(b)	708.47, frames, mounting, and parts of eyeglasses, goggles, etc.	do	Do.
76-10	734.56, baseball equipment and parts.	1. J. DeBeer & Son, Inc., Albany, N.Y.	Do.

See footnotes at end of table.

Case No.	TSUS [1] No. and description	Petitioner	Action requested
76-10	do	2. Lincoln Diversified Systems, Inc., Fort Lauderdale, Fla.	Withdraw GSP benefits.
76-11	737.15, construction kits or sets	1 petition on behalf of:	
		Lesney Products Corp., Moonachie, N.J.	Withdraw GSP benefits with particular interest in die cast toys.
		Reeves International, Inc., Pequannock, N.J.	Do.
		Tootsie Toy, Strombecker Corp., Chicago, Ill.	Do.
		Ertle Co., Dyersville, Idaho.	Do.
76-12	737.40, toy animals etc., NSPF, not having spring mechanism.	1. Louis A. Boettiger Co., Hewlett, N.Y.	Withdraw GSP benefits with particular interest in withdrawals of such benefits from Taiwan and Korea.
76-12	do	2. Baby World, Great Neck, N.Y.	Do.
76-12	do	3. Riverdale Plastics, Inc., Fairfield, N.J.	Do.
76-12	do	4. Tiffany Plastic Moulders, Inc., Bronx, N.Y.	Do.
76-12	do	5. Pulse Plastic Products, Inc., Bronx, N.Y.	Do.
76-13	206.30, wood doors	National Woodwork Manufacturers Association.	Withdraw GSP benefits.
76-14	745.63, Sew-on fasteners and parts of, not over $6.20/doz.	Dennison Manufacturing Co., Framingham, Mass.	Do.
76-15	755.25, candles and tapers	1. Crown Candles, Portland, Oreg.	Do.
76-15	do	2. Trebco Corp., Buffalo, N.Y.	Do.
76-15	do	3. W. & F. Manufacturing Co., Inc., Buffalo, N.Y.	Do.

[1] Tariff schedules of the United States (19 U.S.C. 1202).
[2] Acceptance for review announced previously in 41 F.R. 8131, Feb. 24, 1976.

PART II.—*Articles that have been subject to requests, and upon which action has been taken*

TSUS No. and description	Petitioner	Action requested	Action taken
	Case No. 76-1		
240.25, plywood face finished.	1. Imported Hardwood Products Association, Inc., Arlington, Va.	Withdraw GSP eligibility for the article.	GSP eligibility withdrawn for the article by E.O. 11906.
Do	2. Hardwood Plywood Manufacturers Association, Arlington, Va.	do	Do.
Do	3. Anchor Sales Corp., Garden City Park, Long Island, N.Y.	do	Do.
Do	4. Vanply, Charlotte, N.C	do	Do.
Do	5. Korea Plywood Industries Association, Korea.	do	Do.
Do	6. Del Valle, Kahman & Co., San Francisco, Calif.	do	Do.
Do	7. Taechangewood, Korea	do	Do.
Do	8. The Orchard Corp. of America, St. Louis, Mo.	do	Do.
Do	9. Georgia-Pacific Corp., Portland, Oreg.	do	Do.
Do	10. D. G. Shetler Products, Portland, Oreg.	do	Do.
Do	11. International Division, Reliance Universal, Inc., Louisville Ky.	do	Do.
Do	12. Ply-Gem Manufacturing Corp., New York N.Y.	do	Do.
Do	13. International Division, Dixie Plywood Co., Houston, Tex.	do	Do.
Do	14. Champion International Corp., Stamford, Conn.	do	Do.
	Case No. 76-16(a)		
688.70, flashlights and parts.	1. Bridgeport Metal Goods Manufacturing Co., Bridgeport Conn.	Withdraw GSP elibilitity for the article when imported from Hong Kong.	Hong Kong ineligible to receive GSP benefits for the article as of Feb. 29, 1976, pursuant to E.O. 11906 of Feb. 27, 1976, because imports of the article from Hong Kong in 1975 exceeded the limits in sec. 504(c) of Trade Act of 1974. This exclusion was automatic, was required by law, and was made without considering the merits of the petitions
Do	2. Bright Star Industries, Inc., Clifton, N.J.		
Do	3. Ray-O-Vac Division, ESB, Inc., Madison, Wash.		
Do	4. Wonder Corp., Washington, D.C.		

TSUS No. and description	Petitioner	Action requested	Action taken
Case No. 76-16(b)			
683.80, portable electric lamps and parts.	Bright Star Industries, Inc., Clifton, N.J.	Withdraw GSP eligibility for the article when imported from Hong Kong.	Hong Kong ineligible to receive GSP benefits for the article as of Feb. 29, 1976, for same reasons as given above for item 683.70.

Acceptance of the requests listed in Part I does not necessarily imply the non-acceptance of other requests which have been, or may be, submitted to the Chairman of the TPSC, nor does it indicate any opinion by the Chairman with respect to a disposition on the merits of the requests accepted for review. Acceptance indicates only that the Chairman of the TPSC has found the listed requests to be formally adequate as basis for reviews by the TPSC, and that such reviews will take place.

Interested parties are invited to submit views with respect to these requests to the Chairman, Trade Policy Staff Committee, Room 729, 1800 G Street, N.W., Washington, D.C. 20506.

ALLEN H. GARLAND,
Chairman,
Trade Policy Staff Committee.

[FR Doc.76-6898 Filed 3-11-76;8:45 am]

TRADE POLICY STAFF COMMITTEE

Solicitation of Public Views

Pursuant to section 201 of the Trade Act of 1974, the United States International Trade Commission (ITC) has reported to the President on the case of stainless steel flatware (Investtigation No. TA-201-8). The Commission submitted a report containing an affirmative determination that stainless steel flatware, provided for in TSUS items 650.08, 650.09, 650.10, 650.12, 650.38, 650.39, 650.40, 650.42, 650.54 and 650.55 and, if included in sets, 650.175 is being imported in such increased quantities as to be a substantial cause of serious injury to the domestic industry or certain industries producing articles like or directly competitive with the imported articles.

Three Commissioners find and recommend the imposition of a tariff rate quota allocated by country on the imported articles is necessary to remedy the injury. Two Commissioners find and recommend that Adjustment Assistance can effectively remedy the serious injury. One Commissioner finds and recommends a continuation of the present tariff quota without country allocations is necessary to remedy the serious injury.

Within 60 days of receiving a report from the Commission containing an affirmative determination, the President must determine what method and amount of import relief he will provide or determine that the provision of relief is not in the national economic interest, and whether he will direct expeditious consideration of adjustment assistance petitions.

In determining whether to provide import relief and what method and amount of import relief he will provide, the President must take into account, in addition to other considerations, the following factors:

(1) The probable effectiveness of the import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relevant to the position of the industry in the nation's economy;

(2) The effect of import relief on consumers and on competition in the domestic markets for such articles;

(3) The effect of import relief on the international economic interest of the United States;

(4) The impact on United States industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

(5) The geographic concentration of imported products marketed in the United States;

(6) The extent to which the United States market is a focal point for exports of such article by reason of restraints on exports of such article to, or on imports of such article into, third country markets; and

(7) The economic and social costs which would be incurred by taxpayers, communities and workers if import relief were or were not provided.

The Office of the Special Representative for Trade Negotiations chairs the interagency Trade Policy Committee structure that makes recommendations to the President as to what action, if any, he should take on reports submitted by the ITC under section 201(d). In order to assist the Trade Policy Staff Committee in developing recommendations as to what action to take under section 202 and 203 of the Trade Act of 1974, the Committee welcomes briefs from interested parties on the above listed subjects. (Further information on this case is available in the Report of the ITC on Stainless Steel Flatware)

Briefs should be submitted in twenty (20) copies to Chairman, Trade Policy Staff Committee, Room 729, Office of the Special Representative for Trade Negotiations, 1800 G Street, NW., Washington, D.C. 20506.

To be considered by the Trade Policy Staff Committee, submissions should be received in the Office of the Special Representative for Trade Negotiations no later than March 29, 1976.

ALLEN H. GARLAND,
Chairman, Trade Policy
Staff Committee.

[FR Doc.76-7141 Filed 3-11-76;8:45 am]

UNITED STATES INFORMATION AGENCY

U.S. ADVISORY COMMISSION ON INFORMATION

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting to be held on March 22, 1976. The session will commence at 9:15 a.m. in Room 600 at 1750 Pennsylvania Avenue, N.W., Washington, D.C. It will end at 12:15 p.m. The Commission's agenda consists of: (a) Voice of America news and current affairs programs; (b) USIA's worldwide Bicentennial activities; and (c) screening of four USIA films.

The session will be open to the general public. Persons wishing to attend the Commission's meeting should contact Mr. Louis T. Olom, Staff Director, U.S. Advisory Commission on Information, Room 1008, 1750 Pennsylvania Avenue, NW., Washington, D.C. 20547, telephone 632-5210, so that adequate space will be assured. Written statements concerning the topics set forth in the agenda should also be submitted to Mr. Olom.

WALTER W. JONES,
Chief, Management Division.

[FR Doc.76-7139 Filed 3-11-76;8:45 am]

VETERANS ADMINISTRATION

FEDERAL AND FEDERALLY ASSISTED PROGRAMS AND PROJECTS

Evaluation, Review, and Coordination

Notice is hereby given of the publication of interim procedures of the Veterans Administration to implement Office of Management and Budget Circular A-95, dated January 2, 1976; section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (Pub. L. 89-754); Title IV of the Intergovernmental Cooperation Act of 1968 (Pub. L. 90-577), and section 102(2) (C) of the National Environmental Policy Act of 1969 (Pub. L. 91-190).

Interested persons are invited to submit written comments, suggestions or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All relevant material received before April 12, 1976 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

These interim procedures are effective March 12, 1976.

Set forth below is VA Manual MP-1, General Administrative, Part I, Chapter

13, "Evaluation, Review, and Coordination of Federal and Federally Assisted Programs and Projects." The numbering system used is that of the VA manual.

Approved: March 8, 1976.

By direction of the Administrator.

[SEAL] ODELL W. VAUGHN,
Deputy Administrator.

CHAPTER 13.—EVALUATION, REVIEW, AND COORDINATION OF FEDERALLY ASSISTED PROGRAMS AND PROJECTS. (OMB CIRCULAR A-95)

1. PURPOSE

a. This chapter furnishes guidance to Departments of the Veterans Administration for added cooperation with State and local governments in the evaluation, review and coordination of Federal development and assistance programs. These procedures provide, in part, for:

(1) Encouraging the establishment of a project notification and review system to facilitate coordinated planning on an intergovernmental basis for certain VA assistance programs in furtherance of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (Pub. L. 89-754) and Title IV of the Intergovernmental Cooperation Act of 1963 (Pub. L. 90-577).

(2) Coordination of direct Federal development programs and projects with State, areawide and local planning and programs pursuant to Title IV of the Intergovernmental Cooperation Act of 1968.

(3) Securing the comments and views of State and local agencies which are authorized to develop and enforce environmental standards on certain Federal or federally assisted projects affecting the environment pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 (Pub. L. 91-190) and regulations of the Council on Environmental Quality.

(4) Publishing the requirement for use of Standard Form 424, Federal Asisstance, as part of grant applications for designated programs.

b. The above will be carried out at the earliest feasible time in project planning. Notification will include a summary description of the project and will contain the following information, as appropriate and available:

(1) Identity of the applicant agency, organization, or individual.

(2) The geographic location of the project to be assisted or constructed. A map should be provided, if appropriate.

(3) A brief description of the proposed project by type, purpose, general size or scale, estimated cost, beneficiaries, or other characteristics which will enable the clearinghouses to identify agencies of State or local government having plans, programs, or projects that might be affected by the proposed projects.

(4) A statement as to whether or not applicants have been advised by the Veterans Administration that they will be required to submit environmental impact information in connection with the proposed project.

(5) The Federal program title and number and agency under which assistance will be sought as indicated in Attachment D of OMB Circular A-95 (revised) or the latest "Catalog of Federal Domestic Assistance. (The Catalog" is issued annually in the spring and is updated during the year.) "In the case of programs not listed therein, the program will be identified by Pub. L. Number or U.S. Code citation."

(6) The estimated date the applicant expects to formally file an application.

2. SCOPE

These regulations are to serve as agency procedural guidelines in carrying out the provisions of OMB Circular A-95 (revised) and are applicable to the following programs identified in the Catalog of Federal Domestic Assistance.

64.005 Grants to States for Construction of State Nursing Home Care Facilities.
64.017 Grants to States for Remodeling of State Home Hospital/Domiciliary Facilities.
64.020 Assistance in the Establishment of New State Medical Schools.
64.021 Grants to Affiliated Medical Schools—Assistance to Health Manpower Training Institutions.
64.114 Veterans Housing—Guaranteed and Insured Loans.

All activities of the Veterans Administration, including those listed in the Catalog of Federal Domestic Assistance, which are applicable to the notification process under OMB Circular A-95, Part II (Direct Federal Development) are also within the purview of these regulations. This includes activities in the areas of health care delivery, construction, and cemeteries.

3. RESPONSIBILITIES

a. *Department of medicine and surgery.* The Department of Medicine and Surgery is responsible for agency compliance under this chapter for the following assistance programs: State Home Grant Programs 64.005 and 64.017 and Medical School Assistance Programs 64.020 and 64.021. It is the further responsibility of the Department of Medicine and Surgery to notify the State and areawide clearinghouses of planned VA construction projects related to medical facilities, changes in the delivery mode, the advent of new services and other aspects of the agency's health care program applicable to the modification process under OMB Circular A-95, Part II, as described herein. This shall be accomplished where appropriate through the DM&S designated representatives to the area Health System Agency and the State Health Coordinating Council.

b. *Office of construction.* The Assistant Administrator for Construction is responsible for agency compliance with OMB Circular A-95, Part II, for all VA Cemetery construction projects and acquisition of real property.

c. *Department of veterans benefits.* The Loan Guaranty Service is responsible for agency compliance with OMB Circular A-95 for the Veterans Housing—Guaranteed and Insured Loans Program 64.114.

d. *Controller.* The Controller will act as the VA liaison with the Office of Management and Budget in matters relating to compliance with OMB Circular A-95.

Department and Staff Office Heads. Department or Staff heads will supplement this chapter as necessary to make its provisions and policies effective in their areas of jurisdiction. In carrying out these responsibilities they will seek the advice and guidance of the Chief Medical Director and Controller, as appropriate. The instructions in this chapter are effective concurrent with publication in the FEDERAL REGISTER, March 12, 1976.

4. DEFINITIONS

a. *Office of Management and Budget Circular A-95.* The instructions from the Office of Management and Budget to the heads of executive departments and establishments which promulgate regulations which provide for the coordination of Federal Assistance and Direct Federal Development programs and projects, with States and localities.

b. *Clearinghouse.* State and areawide organizations established to aid in the coordination of Federal or federally assisted projects and programs with State, areawide, and local planning for orderly growth and development. These organizations are listed in the Directory of State and Areawide A-95 Clearinghouses.

c. *Application.* A request for assistance under a Federal Assistance program.

d. *Assistance Program.* A program whereby a grant of Federal assistance is made available to non-Federal entities.

e. *Direct Development Programs.* Planning and construction of public works, physical facilities and installations or land and real property development (including the acquisition, use and disposal of real property) undertaken by or for the use of the Veterans Administration or any of its Departments.

f. *Health Systems Agencies.* An area health planning organization established pursuant to the National Health Planning and Resources Development Act of 1974 (Pub. L. 93-641).

g. *State Health Planning Agencies.* An organization of State government selected to carry out the State administrative program in the area of health planning as prescribed by the National Health Planning and Resources Development Act of 1974 (Pub. L. 93-641).

5. PROJECT NOTIFICATION AND REVIEW SYSTEM (PNRS)

a. *Assistance Programs.* (1) All entities making application for assistance under programs of the Department of Medicine and Surgery listed below, shall include with their application a Standard Form 424, Federal Assistance, with Sections I and II completed.

(2) Standard Form 424 must contain evidence that the appropriate state and area wide planning and development clearinghouses have been given an opportunity to review and comment on said application.

(3) Those programs applicable under this requirement (identified by title and Federal Domestic Assistance Catalog number) are:

64.005 Grants to States for construction of State Nursing Home Care Facilities.
64.017 Grants to States for Remodeling of State Home Hospital/Domiciliary Facilities.
64.020 Assistance in the Establishment of New State Medical Schools.
64.021 Grants to Affiliated Medical Schools Assistance to Health Manpower Training Institutes.

(4) Applicant shall notify the clearinghouse of its intent to apply for assistance at such time as it determines it will develop an application.

(5) Clearinghouses will be provided 30 days after receipt of a project notification to inform those State, regional and local agencies affected. The review by the clearinghouse and affected agencies and the submission of their comments to the applicant may be completed during this 30-day period. If the review has not been completed, the clearinghouse may work with applicant in the resolution of any problems raised by the proposed project during the period in which the application is being completed. In cases where the clearinghouse is notified by receipt of a completed application, the clearinghouse may have a maximum of 60 days to review the application. If a completed application is submitted during the first 30 days, the clearinghouse may have 30 days plus the number of days remaining in the initial 30-day notification period to complete its review. In all other cases, the

clearinghouse may have 30 days to review a completed application.

(6) All comments provided to the applicant by the clearinghouse will be included with the application when presented to the agency. If no comments are received from the clearinghouse, this must be indicated on Standard Form 424 included with the application. Applications received without Section II of Standard Form 424 duly certified, or without comments from the clearinghouses when a response is indicated, will be returned to the applicant without consideration.

(7) The clearinghouse will be notified of the agency's decision on each application and an explanation of any decision contrary to the recommendation of the clearinghouse will be provided. The responsible department for programs covered by both OMB Circular A-95 and Treasury Circular 1082 will insure that for approved applications only one SF 424 award notice will be sent to those states where the address for the State Clearinghouse (A-95) and the SCIRA (TC 1082) is identical.

(8) In the event that clearinghouse comments identify project conflicts with other federal agencies, a review of the proposal in light of the conflict will be made in consultation with other federal agencies before a decision is made on the application for assistance.

b. *Home Loan Guaranty Program*—(1) *Applicability.* (a) The procedures herein for State and areawide clearinghouse review will be applicable to each request for subdivision approval which meets the following criteria:

1. In Urbanized Areas as defined in the U.S. Bureau of Census (see Appendix A, 1970 Census of Population, Characteristics of the Population or Characteristics of Housing), to

a. Subdivisions having 25 or more lots, including horizontal condominium subdivisions having 25 or more dwelling units;

b. Multifamily (low rise and high rise) condominium projects having 50 or more dwelling units;

cluding horizontal condominium subdivisions with 50 or more spaces.

2. In all other areas, to

a. Subdivision having 10 or more lots, including horizontal condominium subdivisions having 10 or more dwelling units;

b. Multifamily (low rise and high rise) condominium projects having 25 or more dwelling units;

c. Mobile home sales parks or subdivisions with 25 or more spaces

(b) As an alternative, the developer may submit his application directly to the appropriate clearinghouse prior to submitting it to the Veterans Administration. In such cases the application, when submitted to the Veterans Administration, will be accompanied by the comments of the clearinghouse.

(c) Exemptions: Applications for additional units in a subdivision substantially completed (i.e., with streets, water and sewer facilities, culverts, etc.) are exempted from this requirement when

1. The subdivision was approved and/or recorded by the appropriate unit of local government within three years of the application submittal; and

2. In all cases of subdivisions approved more than three years prior, the clearinghouses waive the requirement. This exemption does not apply to applications for housing in an undeveloped subdivision or in proposed extensions of existing subdivisions.

(d) For the purpose of determining the applicability of the instructions herein, the number of units planned, rather than the total units in the subdivision or project request, will govern.

(2) *Coordination of request for subdivision approvals.* (a) Field stations will establish and maintain liaison with clearinghouses for carrying out the reviews required by this issue. On receipt of a request for subdivision approval meeting the criteria specified above, field stations will use VA FL 26-616 to forward a copy of VA Form 26-8492, Application for Subdivision Feasibility Analysis (ASP-1), together with a location map, to the appropriate clearinghouses (in accordance with OMB Directory of State and Areawide A-95 Clearinghouses). Clearinghouses will be afforded 30 calendar days to review the application and to forward to VA any comments which they may have, including observations concerning the consistency of the proposed project with State and areawide development plans, the extent to which the proposed project will promote housing opportunities for all segments of the community and identification of major environmental concerns including impact on energy resource supply and demand.

(b) Pending receipt of comments from clearinghouses, VA will pursue its own independent assessment, and requests for subdivision approval will continue to be processed by field stations up to and including the preparation of VA Form 26-8492b, Subdivision Feasibility Valuation Report (ASP-3), stage.

(c) If comments have not been received from a clearinghouse by the end of the 30 calendar-day period, the station will then and thereafter consider that the clearinghouse has no objection to the subdivision. However, if clearinghouse comments are received after the 30-day period, but before the field station has notified the sponsor that the site or project is feasible (through release of VA Form 26-8492d, Interim Report on Application for Subdivision Feasibility Analysis (ASP-5), or VA FL 26-603 (ASP-6), the clearinghouse comments will be considered.

(3) *Procedure.* (a) When the comments of the State and areawide clearinghouse are received, or in the event such comments are not received at the end of the 30 days allotted for review, the field station will evaluate all the available data, including the views of the clearinghouse, where appropriate, in order to determine whether or not the subdivision will result in a significant environmental impact. The determination is an independent VA assessment and must be fully documented by the completion of VA Form 26-8492b. Thus it will be that each request for subdivision approval will come within one of four categories, viz—

1. A determination by the field station of no significant environmental impact, based on the determination during VA processing, coupled with no adverse comments from clearinghouses.

2. A determination by the field station of no significant environmental impact, based on the determination during VA processing, but the clearinghouses disagree.

3. A determination by the field station that the subdivision will result in a significant environmental impact, based on the determination during VA processing, but the comments from clearinghouses do not afford a basis for the same conclusion.

4. A determination by the field station that the subdivision will result in a significant environmental impact, based on the determination during VA processing, coupled with comments to the same effect from clearinghouses.

(b) Each case in category 1. will be processed to completion as rapidly as possible, with a notification of approval promptly issued using VA FL 26-615. In respect to each case in categories 2., 3. or 4., the field station will promptly notify the person or firm submitting the request for subdivision approval about the determination, using VA FL 26-615. Such person or firm will be invited to consult with the field station or the clearinghouses, as appropriate, with the view to the amendment or revision of the subdivision plan so as to render the planning of the subdivision to be acceptable.

(c) Where the person or firm submitting the request for subdivision approval provides amended or revised plans, a letter of approval may be issued only if the following conditions are met:

1. Category 2. Evidence is supplied or obtained that the State and areawide clearinghouses find the subdivision acceptable.

2. Category 3. The field station, on the basis of amended or revised subdivision plans, determines that the subdivision will not result in significant environmental impact.

3. Category 4. The field station, on the basis of amended or revised subdivision plans, determines that the subdivision will not result in an adverse environmental impact and evidence is supplied or obtained that the State and areawide clearinghouses find the subdivision acceptable.

(d) In all instances clearinghouses will be provided with a copy of the notification of approval or disapproval of the site or subdivision. Copies of VA Forms 26-8492c, Final Report on Application for Subdivision Feasibility Analysis (ASP-4), 26-8492d, or VA FL 26-603, will be used for the purpose of notifying the clearinghouses of the action taken by VA. Where a State clearinghouse has assigned an identification number to an application, such number will be used in notifying the clearinghouse.

(e) Where a clearinghouse recommends against approval on an application or approval with specific and major substantive changes, and the field station approves the subdivision as submitted without the recommended changes the clearinghouse will be provided with a written explanation.

6. DIRECT FEDERAL DEVELOPMENT

a. To the greatest extent possible consistent with the statutory mission of the VA to provide Federal health care benefits to eligible veterans, the agency will follow procedures outlined under Part I of Attachment A, OMB Circular A-95 (revised) in affording State and areawide clearinghouses opportunities to review and comment on plans and developments.

b. The appropriate clearinghouses will be provided, for review and comment, information on agency plans for facility construction projects and the acquisition or use of Federal land and real property which impacts on States and localities to assure maximum feasible consistency of agency plans with State, areawide, and local plans and programs. This coordination will also provide the agency with information on possible environmental impact of the proposed development. Agency plans for the provision of major new medical care services will be coordinated in like manner.

c. The coordination with clearinghouses will take place at the earliest stage practical in the planning and design process.

d. Criteria for Notification. A project will be reported to State and areawide clearinghouses provided that it is any of the following:

(1) A building addition or new structure. (Minor utility pads or equipment and projects for additions, alteration, or modernization of an existing facility which do not substantially alter the scale or the type or intensity of use of such facility need not be reported.)

(2) A cemetery burial area expansion of 20 acres or more.

(3) A major utility modernization that may require new primary power sources from the community.

(4) A project affecting any historic VA building or site which is a present or potential National Register property.

(5) An acquisition of real property.

(6) A major building demolition project exceeding $200,000 expenditure.

(7) A project for inpatient care purposes exceeding $200,000 expediture and either

(a) Alters the bed capacity by 25,

(b) Modifies the primary function of the facility, or

(c) Provides a major new medical care service e.g., Supervoltage Therapy, Hemodialysis, Cardiac Catheterization, etc.

e. The clearinghouse will be provided a maximum of 60 days to coordinate the review among appropriate Health System Agencies, State Health Planning Agencies and other affected agencies and make comment on the proposed project.

f. The responsible department will notify the clearinghouse in writing when taking action contrary to the clearinghouse recommendation submitted. Explanation will be provided for any necessary inconsistency or incompatibility.

g. Those projects for which clearinghouse notification has been performed and which have subsequent schedule changes in excess of one year, will be resubmitted to the clearinghouses.

h. Coordination with Environmental Impact Program.

(1) Environmental Impact 102 Statements are normally prepared for the following categories of VA action.

(a) Any major land acquisition and improvement thereon.

(b) A major new building or facility is constructed at an existing facility or site and the new building or facility will have significantly adverse environmental impact in relation to the existing facility or site.

(c) A major replacement building or facility is constructed at an existing facility and the adverse environmental impact of the replacement building or facility is greater than that of the building or facility being replaced.

(2) When the Assistant Chief Medical Director for Administration (13) has approved the need for a 102 Statement on a particular VA construction project, the responsible Office preparing the Statement (Assistant Administrator for Construction) will request copies of clearinghouse comments from the Department of Medicine and Surgery to include in the Draft 102 Statement.

[FR Doc.76-7039 Filed 3-11-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 998]

ASSIGNMENT OF HEARINGS

MARCH 9, 1976.

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.

AB 6 Sub 14, Burlington Northern, Inc., Abandonment between Sauk Centre And Long Prairie, In Todd And Stearns Counties, Minn., now being assigned June 8, 1976 (2 days), at Long Prairie, Minn., in a hearing room to be later designated.

MC 139659 Sub 1, Bright Trucking, Inc., now being assigned June 11, 1976 (1 day), at St. Paul, Minn., in a hearing room to be later designated.

MC 51146 Sub 449, Schneider Transport, Inc., now being assigned June 14, 1976 (2 days), at St. Paul, Minn., in a hearing room to be later designated.

MC 123407 Sub 274, Sawyer Transport, Inc., now being assigned June 16, 1976 (3 days), at St. Paul, Minn., in a hearing room to be later designated.

MC 124692 (Sub-No. 153), Sammons Trucking, Inc., now assigned March 24, 1976, at St. Paul, Minn., is postponed indefinitely.

MC 135078 (Sub 3), American Transport, Inc. now being assigned April 8, 1976 (2 days) in Chicago, Illinois in Room 1086-A, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 103674 (Sub 169), Schilli Motor Lines, Inc. now being assigned April 7, 1976 (1 day) in Chicago, Illinois in Room 1086-A, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 124211 (Sub 268), Hilt Truck Lines, Inc. now being assigned April 6, 1976 (1 day) in Chicago, Illinois in Room 1086-A, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 138144 (Sub 6), Fred Olson Co., Inc. now being assigned April 12, 1976 (1 week) in Chicago, Illinois in Room 1086-A, Everett Mckinley Dirksen Building, 219 South Dearborn Street.

MC-F-12530, Bush Motor Freight, Inc.—Purchase—Interocean Service Corp. and MC-F-12531, Crouch Freight Systems, Inc.—Purchase (Portion)—Interocean Service Corporation, now assigned March 29, 1976 at Washington, D.C., is postponed to May 25, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 64932 (Sub 6), Magnolia Truck Line, Inc. now being assigned April 26, 1976 (1 week) in Baton Rouge, Louisiana and will be held in the Mineral Board Hearing Room, Fourth & North Streets.

MC 111729 (Sub 519), Purolator Courier Corp. now being assigned April 20, 1976 (2 weeks) in Chicago, Illinois and will be held in Room 1086-A, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 103841 (Sub 5), William H. Ott, dba Texas Hot Shot Company and MC-C 8413, William H. Ott, dba Texas Hot Shot Company—Investigation and Revocation of Certificates now being assigned April 12, 1976 (1 week) at Houston, Texas and will be held in Room 5212, Federal Building, 515 Rusk Avenue.

AB 1 (Sub-No. 16), Chicago and North Western Transportation Company Abandonment Between St. Charles Sycamore, Inc. Kane and Dekalb Counties, Illinois, now assigned April 1, 1976, at Sycamore, Ill., will be held at the Council Chambers, 529 Dekalb Avenue.

MC 135797 (Sub-No. 42), J. B. Transport, Inc., now assigned April 5, 1976, at Chicago, Ill., will be held in Room 3855, 230 S. Dearborn Street.

MC 140621 (Sub-No. 1), K S I Farm Lines CO-OP, Inc., now assigned April 6, 1976, at Chicago, Ill., will be held in Room 3855, 230 S. Dearborn Street.

MC 5428 (Sub 6), Lyon Moving & Storage Co. application dismissed.

MC 130335, Barrington Travel Group Association, now assigned March 17, 1976, at Camden, N.J., will be held in the Grand Jury Assembly Room, 2nd Floor U.S. Post Office and Courthouse, 4th and Market St.

MC-C 8784, Frederic A. Bethke, DBA Betheke Truck Lines, Et Al v. Illinois-California Express, Inc., now assigned April 27, 1976, at Denver, Colorado, will be held in Room 154, U.S. Customs House, 721 19th Street.

MC 59150 Sub 72, Ploof Transfer Company, Inc., now assigned April 6, 1976, at Jacksonville, Fla., will be held in the Florida Public Service Commission, Voyager Light Bldg., Hearing Room No. 100, 2255 Phyllis Street.

No. 36277, Increased Absorption of Switching Charges at Mobile, Ala., now being assigned pre-hearing conference March 30, 1976 at the Offices of the Interstate Commerce Commission, Washington, D.C. with hearing remaining scheduled on April 20, 1976, at Mobile, Ala.

MC 105881 (Sub-No. 50), M.R. & R. Trucking Company, MC 109533 (Sub-No. 67), Overnite Transportation Company and MC 113528 (Sub-No. 26), Mercury Freight Lines, Inc., now being assigned for continued hearing on March 29, 1976 (6 days), at the Gold Key Inn, 7100 S. Orange Blossom Trail, Orlando, Fla., April 6, 1976 (4 days), at the Ramada-West, 510 Lane Avenue, Jacksonville, Fla., and May 10, 1976 (2 weeks), at the Hotel Marie Antoinette, 827 Rue Toulouse, New Orleans, Louisiana.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.76-7180 Filed 3-11-76;8:45 am]

[AB 6 (Sub-No. 18)]

BURLINGTON NORTHERN INC.

Abandonment Between Lamoni and Mount Ayr, in Ringgold and Decatur Counties, Iowa

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assesment survey which is available to the public upon request; and

It appearing, that no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Fderal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Ringgold and Decatur Counties, Iowa, on or before March 24, 1976 and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this finding shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy of the notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

Dated at Washington, D.C., this 27th day of February 1976.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[AB 6 (Sub-No. 18)]

BURLINGTON NORTHERN INC.

ABANDONMENT BETWEEN LAMONT AND MOUNT AYR, IN RINGGOLD AND DECATUR COUNTIES, IOWA

The Interstate Commerce Commission hereby gives notice that by order dated February 27, 1976, it has been determined that the proposed abandonment by Burlington Northern Inc. of approximately 19.7 miles of rail line between Lamoni and Mount Ayr, Iowa, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that environmental impacts are insignificant because traffic over the line has been at consistently low level and diversion of prior traffic to motor carriers would only minimally affect ambient levels of air pollution, intrusive noise, fuel consumption and safety hazards. Furthermore, planned industrial development in the area is not dependent on services provided by the line, and, local highways are adequate to handle incremental increases in truck traffic. If the right-of-way is returned to the adjacent land owners and converted to agricultural uses, some wildlife habitat may be lost. However, wildlife may find shelter in neighboring areas and migratory species may relocate their nesting areas.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-7966.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before April 8, 1976.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-7177 Filed 3-11-76;8:45 am]

[AB 46 (Sub-No. 5)]

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD CO.

Abandonment Between Little Rock and Rock Rapids, in Lyon County, Iowa, and Nobles County, Minnesota

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, that no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Lyon County, Iowa, and Noble County, Minn., on or before March 24, 1976 and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this finding shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy of the notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

Dated at Washington, D.C., this 17th day of February, 1976.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD,
Secretary.

[AB 46 (Sub-No. 5)]

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD CO.

ABANDONMENT BETWEEN LITTLE ROCK AND ROCK RAPIDS, IN LYON COUNTY, IOWA, AND NOBLES COUNTY, MINNESOTA

The Interstate Commerce Commission hereby gives notice that by order dated February 17, 1976, it has been determined that the proposed abandonment by the Chicago, Rock Island and Pacific Railroad Company between Little Rock and Rock Rapids, Iowa, a distance of 19.48 miles in Lyon County, Iowa, and Nobles County, Minn., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because local environmental quality will be degraded only slightly due to a minor amount of increased energy consumption and air pollution resulting from the diversion of existing rail traffic to motor carrier transport. No public authority has expressed interest in most of the right-of-way for any public purpose. Therefore should it revert to the same land use as the surrounding agricultural land, a comparatively small amount of wildlife habitat will be lost. Lack of direct rail service to Ellsworth may inhibit local economic development; however the local highway system is considered adequate to handle that motor carrier traffic which is required to replace existing rail service.

Two historic sites in Rock Rapids are associated with this line; the train depot and rail bridge over the Rock River. The depot has been purchased by the Lyon County Historical Society and the bridge will be donated to the city for preservation upon approval of abandonment. Therefore both sites will be preserved should authority to abandon be granted.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-7966.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C., 20423, on or before April 8, 1976.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-7178 Filed 3-11-76;8:45 am]

[Docket No. AB 117]

ELGIN, JOLIET AND EASTERN RAILWAY CO.

Abandonment Between Oswego Township and Aurora in Kane and Kendall Counties, Illinois

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available for public inspection upon request; and

It appearing, that no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Kane and Kendall Counties, Ill. on or before March 29, 1976 and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this finding shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy of the notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

Dated at Washington, D.C., this 2nd day of March 1976.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[Docket No. AB 117]

ELGIN, JOLIET AND EASTERN RAILWAY CO.

ABANDONMENT BETWEEN OSWEGO TOWNSHIP AND AURORA IN KANE AND KENDALL COUNTIES, ILLINOIS

The Interstate Commerce Commission hereby gives notice that by order dated March 2, 1976, it has been determined that the proposed abandonment of the Elgin, Joliet and Eastern Railway Company line between Aurora and Oswego Township, a distance of 3.62 miles, all in Kane and Kendall Counties, Ill., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environment impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the associated environmental impacts are considered insignificant because the involved shippers have direct access to Burlington Northern, Inc. Consequently, abandonment will not result in any diversion of traffic to motor carriers. No industrial development plans are dependent on the continuation of the subject line. No historic or major ecological effects are involved. Furthermore, a portion of this right-of-way may be inporporated into a flood control project.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7692.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before April 13, 1976.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.76–7179 Filed 3–11–76;8:45 am]

[AB 2 (Sub-No. 8)]

LOUISVILLE AND NASHVILLE RAILROAD CO.

Abandonment of Its Branch Line Known as the "Hog Camp Branch" Between Ilford and Westbourne, in Campbell County, Tennessee

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, That no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Campbell County, Tenn., on or before March 29, 1976 and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this finding shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy of the notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

Dated at Washington, D.C., this 2d day of March 1976.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[AB 2 (Sub-No. 8)]

LOUISVILLE AND NASHVILLE RAILROAD CO.

ABANDONMENT OF ITS BRANCH LINE KNOWN AS THE "HOG CAMP BRANCH" BETWEEN ILFORD AND WESTBOURNE, IN CAMPBELL COUNTY, TENNESSEE

The Interstate Commerce Commission hereby gives notice that by order dated March 2, 1976, it has been determined that the proposed abandonment by the Louisville and Nashville Railroad Company of its branch line extending 2.91 miles between Ilford and Westbourne in Campbell County, Tenn., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action would not be significant as the branch line has not been used in recent years and coal, which was the principle commodity transported over the line, has been trucked out of the subject area. Furthermore, industrial trackage has been removed, and there are no plans for development of the area which would indicate a possible future need for the line. Effects upon the ecology of the surrounding land, historic sites, and public safety would be negligible.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–343–7966.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before April 13, 1976.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[FR Doc.76–7176 Filed 3–11–76;8:45 am]

RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

Filing of Rail Tariffs of Changed Rates

FEBRUARY 17, 1976.

On February 5, 1976, Pub. L. 94–210, 90 Stat. 31, entitled, "Railroad Revitalization and Regulatory Reform Act of 1976" was enacted. Section 202(e) of the statute establishes a new paragraph (8) to section 15 of the Interstate Commerce Act applicable to rail carriers. As here pertinent, the newly enacted section 15 (8) limits the Commission's power to suspend proposed rate changes filed within 2 years of the date of enactment of this statute, if such rate changes meet specified statutory criteria. It is further provided therein that common carriers by railroad must notify the Commission when they wish to have a rate proposal considered pursuant to this sub-section.

To satisfy the requirements of the above-described statute and to facilitate the implementation thereof, any common carrier by railroad (or its tariff publishing agent) which desires to have any proposed rate change [1] considered by the Commission pursuant to the "7 per centum increase or decrease" provisions of the Railroad Revitalization and Regulatory Reform Act of 1976 (Section 15 (8)(b) and 15(8)(c) of the Interstate Commerce Act, as amended), shall notify the Commission upon the carrier's (or publisher's) filing of the proposed tariff or schedule containing said changes. The notification to the Commission shall include (1) the rate(s) in effect on Janu-

[1] The change must be one which is not of general applicability and the aggregate of the increase or decrease may not exceed 7 per centum of the rate in effect on January 1, 1976 to come within this subsection in connection with rates filed within 365 days of enactment. Thereafter, during the next year, the aggregate increase or decrease may not exceed 7 per centum of the rate in effect on January 1, 1977. See 15(8) (b) and (c), as amended.

ary 1, 1976;[2] and (2) verification that the information contained in said notice has been furnished to each subscriber of the tariff or schedule at the time said subscriber is furnished its copies of the publication as provided by the rules adopted in Docket No. 35613.

Issued in Washington, D.C., on February 13, 1976.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.76-7174 Filed 3-11-76;8:45 am]

[2] Any rates proposed to become effective more than 365 days after enactment of Pub. L. 94-210 shall include a statement of the rate(s) in effect on January 1, 1977.

[Notice 115]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
Younger Brothers, Inc., MC 531 (Sub-No. 313 TA)	MC 531 (Sub-No. 318)	Mar. 1, 1976
D.b.a. Wilhelm Trucking Co., MC 550 (Sub-No. 6 TA)	MC 550 (Sub-No. 7)	Mar. 2, 1976
Behnken Truck Service, Inc., MC 19945 (Sub-No. 44 TA)	MC 19945 (Sub-No. 47)	Feb. 23, 1976
Ben's Transfer & Storage Co., Inc., MC 42710 (Sub-No. 12 TA)	MC 42710 (Sub-No. 11)	Feb. 17, 1976
Schneider Transport, Inc., MC 51146 (Sub-No. 326 TA)	MC 51146 (Sub-No. 353)	Feb. 20, 1976
Schneider Transport, Inc., MC 51146 (Sub-No. 369 TA)	MC 51146 (Sub-No. 370)	Feb. 19, 1976
Schneider Transport, Inc., MC 51146 (Sub-No. 344 TA)	MC 51146 (Sub-No. 370)	Do.
Schneider Transport, Inc., MC 51146 (Sub-No. 378 TA)	MC 51146 (Sub-No. 402)	Feb. 23, 1976
Frank Williams Transfer & Storage Co., MC 85231 (Sub-No. 13 TA)	MC 85231 (Sub-No. 14)	Do.
D.b.a. Riechmann Truck Service, MC 90870 (Sub-No. 1 TA)	MC 90870 (Sub-No. 2)	Feb. 20, 1976
Morgan Drive-Away, Inc., MC 103993 (Sub-No. 801 TA)	MC 103993 (Sub-No. 799)	Feb. 17, 1976
Morgan Drive-Away, Inc., MC 103993 (Sub-No. 803 TA)	MC 103993 (Sub-No. 805)	Do.
Morgan Drive-Away, Inc., MC 103993 (Sub-No. 809 TA)	MC 103993 (Sub-No. 804)	Do.
Morgan Drive-Away, Inc., MC 103993 (Sub-No. 811 TA)	MC 103993 (Sub-No. 822)	
Morgan Drive-Away, Inc., MC 103993 (Sub-No. 842 TA)	MC 103993 (Sub-No. 829)	Do.
Morgan Drive-Away, Inc., MC 103993 (Sub-No. 830 TA)	MC 103993 (Sub-No. 836)	Do.
Morgan Drive-Away, Inc., MC 103993 (Sub-No. 841 TA)	MC 103993 (Sub-No. 846)	Feb. 18, 1976
Matlack, Inc., MC 107403 (Sub-No. 915 TA)	MC 107403 (Sub-No. 927)	Feb. 26, 1976
Matlack, Inc., MC 107403 (Sub-No. 910 TA)	MC 107403 (Sub-No. 927)	Do.
Matlack, Inc., MC 107403 (Sub-No. 928 TA)	MC 107403 (Sub-No. 941)	Feb. 20, 1976
Post Transportation Co., MC 107527 (Sub-No. 55 TA)	MC 107527 (Sub-No. 56)	Feb. 23, 1976
D.b.a. Kreutzer Motor Express, MC 111301 (Sub-No. 19 TA)	MC 111301 (Sub-No. 20)	Feb. 25, 1976
Puroiator Courier Corp., MC 112750 (Sub-No. 318 TA)	MC 112750 (Sub-No. 319)	Feb. 19, 1976
Arlington J. Williams, Inc., MC 113024 (Sub-No. 131 TA)	MC 113024 (Sub-No. 135)	Feb. 24, 1976
H. J. Jeffries Truck Line, Inc., MC 113459 (Sub-No. 90 TA)	MC 113459 (Sub-No. 86)	Feb. 18, 1976
Indiana Refrigerator Lines, Inc., MC 113651 (Sub-No. 175 TA)	MC 113651 (Sub-No. 174)	Do.
Freeport Transport, Inc., MC 113666 (Sub-No. 87 TA)	MC 113666 (Sub-No. 86)	Feb. 25, 1976
Erickson Transport Corp., MC 113908 (Sub-No. 312 TA)	MC 113908 (Sub-No. 318)	Feb. 18, 1976
Erickson Transport Corp., MC 113908 (Sub-No. 300 TA)	MC 113908 (Sub-No. 318)	Do.
Erickson Transport Corp., MC 113908 (Sub-No. 313 TA)	MC 113908 (Sub-No. 322)	Do.
Erickson Transport Corp., MC 113908 (Sub-No. 316 TA)	MC 113908 (Sub-No. 322)	Do.
Erickson Transport Corp., MC 113908 (Sub-No. 308 TA)	MC 113908 (Sub-No. 322)	Do.
Erickson Transport Corp., MC 113908 (Sub-No. 307 TA)	MC 113908 (Sub-No. 322)	Do.
Erickson Transport Corp., MC 113908 (Sub-No. 327 TA)	MC 113908 (Sub-No. 329)	Feb. 26, 1976
Exley Express, Inc., MC 114290 (Sub-No. 76 TA)	MC 114290 (Sub-No. 77)	Feb. 25, 1976
D & L Transport, Inc., MC 116273 (Sub-No. 184 TA)	MC 116273 (Sub-No. 173)	Feb. 24, 1976
D & L Transport, Inc., MC 116273 (Sub-No. 168 TA)	MC 116273 (Sub-No. 173)	Do.
Howard Baer, MC 124221 (Sub-No. 48 TA)	MC 124221 (Sub-No. 49)	Feb. 18, 1976
Downington Trailer Carriers, Inc., MC 128356 (Sub-No. 7 TA)	MC 128356 (Sub-No. 6)	Feb. 21, 1976
Mid-West Truck Lines, Ltd., MC 125358 (Sub-No. 15 TA)	MC 125358 (Sub-No. 16)	Feb. 20, 1976
D.b.a. Bob Dittrich Trucking, MC 128951 (Sub-No. 14 TA)	MC 128951 (Sub-No. 15)	Feb. 18, 1976
Loomis Courier Service, Inc., MC 129034 (Sub-No. 7 TA)	MC 129034 (Sub-No. 10)	Do.
Airport Drayage Co., Inc., MC 129263 (Sub-No. 1)	MC 129263 (Sub-No. 2)	Do.
Tri-Line Expressways, Ltd., MC 129480 (Sub-No. 18 TA)	MC 129480 (Sub-No. 21)	Mar. 2, 1976
Trans-National Truck, Inc., MC 133655 (Sub-No. 68 TA)	MC 133655 (Sub-No. 75)	Feb. 25, 1976
D.b.a. Zipco, MC 134022 (Sub-No. 7 TA)	MC 134022 (Sub-No. 8)	Do.
Rose Petroleum Transports, Inc., MC 134070 (Sub-No. 5 TA)	MC 134070 (Sub-No. 6)	Do.
Heater Trucking, Inc., MC 135072 (Sub-No. 6 TA)	MC 135072 (Sub-No. 5)	Feb. 18, 1976
Heater Trucking, Inc., MC 135072 (Sub-No. 4 TA)	MC 135072 (Sub-No. 5)	Do.
Nationwide Auto Transporters, Inc., MC 135633 (Sub-No. 7 TA)	MC 135633 (Sub-No. 4)	Mar. 3, 1976
Steve Caldwell, MC 135884 (Sub-No. 6 TA)	MC 135884 (Sub-No. 8)	Mar. 2, 1976
R. Allen Transport, MC 136640 (Sub- No. 2 TA)	MC 136640 (Sub-No. 4)	Feb. 19, 1976
R. Allen Transport, MC 136640 (Sub-No. 3 TA)	MC 136640 (Sub-No. 4)	Do.
D. M. Bowman, Inc., MC 138438 (Sub-No. 11 TA)	MC 138438 (Sub-No. 5)	Feb. 25, 1976
Donco Carriers, Inc., MC 138469 (TA)	MC 138469 (Sub-No. 1)	Mar. 2, 1976
Carolina Western Express, Inc., MC 138635 (Sub-No. 8 TA)	MC 138635 (Sub-No. 10)	Mar. 3, 1976
P. J. Quigley, MC 138759 (TA)	MC 138759 (Sub-No. 1)	Feb. 20, 1976
Dba L. E. Troutman, MC 138791 (Sub-No. 1 TA)	MC 138791 (Sub-No. 2)	Feb. 25, 1976
Market Transport, Ltd., MC 138946 (Sub-No. 1)	MC 138946 (Sub-No. 3)	Mar. 2, 1976
Market Transport, Ltd., MC 138946 (Sub-No. 5 TA)	MC 138946 (Sub-No. 6)	Do.
Dba Vincent Trucking, MC 139073 (Sub-No. 1 TA)	MC 139073 (Sub-No. 2)	Mar. 1, 1976
Dba Stanley Amsden Trucking, MC 139117 (Sub-No. 2 TA)	MC 139117 (Sub-No. 3)	Feb. 24, 1976
R & B Distributors, Ltd., MC 139519 (TA)	MC 139519 (Sub-No. 1)	Feb. 19, 1976
D.b.a. G. W. Specialty Transfer Co., MC 139814 (Sub-No. 1 TA)	MC 139814 (Sub-No. 2)	Feb. 20, 1976
Southeastern Air Freight, Inc., MC 139797 (Sub-No. 1 TA)	MC 139797 (Sub-No. 2)	Mar. 2, 1976
D.b.a. Produce Transport, MC 139945 (Sub-No. 2 TA)	MC 139945 (Sub-No. 3)	Feb. 24, 1976
D.b.a. Bill Ball Trucking, MC 140277 (Sub-No. 2 TA)	MC 140277 (Sub-No. 4)	Feb. 20, 1976
Am-Cam Transport Service, Inc., MC 140334 (TA)	MC 140334 (Sub-No. 1)	Feb. 26, 1976
D.b.a. Anniston Moving & Storage Co., MC 140492 (TA)	MC 140492 (Sub-No. 1)	Feb. 24, 1976
James J. Obrochta, MC 140793 (TA)	MC 140793 (Sub-No. 1)	Do.
New Deal Delivery Service, Inc., MC 59223 (Sub-No. 8 TA)	MC 59223 (Sub-No. 4)	Feb. 26, 1976

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.76-7175 Filed 3-11-76;8:45 am]

[Rules 19, Ex Parte No. 241, Exemption No. 15]

EXEMPTION UNDER PROVISION OF MANDATORY CAR SERVICE RULES

In FR Doc. 76-6133, appearing on page 9263, in the issue for Wednesday, March 3, 1976, make the following change; the Exemption No. in the heading should read Exemption No. 105.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

CLASSIFICATION AND DESIGNATION OF RAIL LINES

Guidelines for Submission of Traffic Density Analysis

1. *Background:* Section 503 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210) (the "Act") requires the Secretary of Transportation (the "Secretary") to issue preliminary standards for classification and preliminary designations of main and branch lines of the Class I railroads, as designated by the Interstate Commerce Commission, within 180 days after enactment of the Act (August 3, 1976), and final standards and designations within 360 days after enactment (January 30, 1977). These classifications and designations are to be based on the level of usage of the lines and their contribution to the economic viability of both the railroad that controls them and other railroads that participate in traffic originating on them.

Section 503(a) of the Act provides that a Class I railroad (other than a railroad subject to reorganization pursuant to the Regional Rail Reorganization Act of 1973, as amended, 45 U.S.C. 701 et seq. (the "Reorganization Act")) shall submit to the Secretary a full and complete analysis of the rail system operated by it within 90 days after enactment of the Act (May 5, 1976). Such analysis shall indicate the traffic density for the preceding five (5) calendar years on each of the main and branch lines of the railroad submitting such analysis. Section 504(a) of the Act provides that each railroad shall submit such additional information as may be required by the Secretary in connection with his duties under section 503. This information is to be used by the Secretary in developing the classification and designation of rail lines required by section 503.

The Secretary has delegated his authority with respect to section 503 of the Act to the Federal Railroad Administrator.

2. *Purpose:* These guidelines are issued to ensure that the Class I railroads will be following a standard format in preparing and submitting the traffic density data required by section 503(a) of the Act. Requests for data and other information under sections 401, 504, and 901

of the Act will be made over the next few months. For the convenience of the Class I railroads, some of the information needed under these sections and also need under section 503(a) is being combined in this initial request.

3. *Format for Submission of Traffic Denity Data:* As previously noted, section 503(a) requires each Class I railroad, other than a railroad reorganizing under the Reorganization Act, to submit an analysis of the rail system operated by it, which analysis shall indicate the traffic density for the preceding five (5) calendar years (1971–1975) on each main and branch line. Such analysis shall be in the following format:

A. Traffic density shall be indicated on a map that shows the names of all major junctions and terminals. These densities are to be provided for the entire system by line segment. Each line segment may extend from junction-to-junction, junction-to-terminal, or terminal-to-terminal. The scale of the map shall be sufficient to easily identify all segments as well as the density on the segment.

B. Traffic density should be shown numerically in millions of gross tons per mile depicted on separate maps for each calendar year, 1971 through 1975. Where lack of information makes such a showing impossible, as with certain non-mainlines, lines may be classified as follows:

(1) Segments with from 0.0 to 1.0 million gross tons per mile annually may be designated simply as (A) segments.

(2) Segments with greater than 1.0 and less than 5.0 million gross tons per mile annually may be designated simply as (B) segments.

Gross tonnage shall be the combined weight of locomotives and all trailing cars and their contents by direction of travel.

C. A brief written description of the procedures employed to determine density, particularly with respect to the treatment of traffic seasonality.

D. On segments where three or more daily passenger trains are operated in each direction, passenger frequencies should be shown; an indication should be made whether such trains are intercity or commuter. On segments with less than three daily passenger trains, passenger and freight gross ton miles can be consolidated, if desired; such consolidation should be noted in C above.

E. In cases where trackage rights or paired-trackage agreements of more than 15 route miles are in effect, the operating railroad shall indicate: (a) the segments where these agreements exist, (b) the tonnage produced by the owning railroad, and (c) tonnage produced by each tenant railroad. Non-owning railroads using another carrier's line under a trackage rights or paired-track agreement shall indicate segments where these agreements exist, and if tonnage is indicated, which company generated such tonnage.

F. As part of the systems analysis indicate any lines for which there is substantial evidence that significant traffic changes will occur in the next five years. These should be discussed in terms of projected gross tonnages by line segment. Examples of this include, but are not limited to, large new traffic sources that will be tapped and major changes in current routing patterns. To be considered significant, the traffic changes should generally involve a net change of at least 10 million gross tons per mile annually.

G. Please identify any low density line for which the traffic density does not fairly reflect the economic viability of the line or its contribution to the economic viability of the carrier and state the reasons why. An example could include a low density line with high revenue.

H. Please comment on any lines of other rail carriers that have a significant impact on the economic viabiilty of your company.

I. A copy of the current operating timetables and all track charts, plus a map of operating divisions if such map is available.

J. The name, title, and telephone number of a designated contact for questions concerning the above data.

4. *Submission of Section 503(a) Analysis:* Information submitted pursuant to section 503(a) of the Act should be addressed to Mr. James L. Newkirk, Chief, Railroad Development Division, Office of Policy and Program Development, Federal Railroad Administration, Room 5100, 400 Seventh Street, S.W., Washington, D.C. 20590. He can be reached at (202) 426–0771 to answer any questions regarding these guidelines and the analysis required by section 503(a). As data for each section is gathered and validated, please submit separately rather than waiting for all sections to be completed.

(Section 503(a), Pub. L. No. 94–210, 45 U.S.C. 823(a); delegation of authority from the Secretary of Transportation).

Issued in Washington, D.C. on March 10, 1976.

ASAPH H. HALL,
Administrator.

[FR Doc.76–7280 Filed 3–11–76;8:45 am]

Office of Pipeline Safety Operations

TECHNICAL PIPELINE SAFETY STANDARDS COMMITTEE

Advisory Committee Meeting

The Technical Pipeline Safety Standards Committee will meet at 9 a.m. on March 30 and 31, 1976, in a conference room of the Le Pavillon Hotel, Poydras and Baronne Streets, New Orleans, Louisiana.

The Committee is established under Section 4 of the Natural Gas Pipeline Safety Act of 1968. The duties of the Committee are to review and report on the technical feasibility, reasonableness, and practicability of proposed Federal gas pipeline safety standards and amendments thereto. Proposed amendments to safety standards in 49 CFR Part 192 on the agenda for this meeting concern the following:

(1) Offshore pipeline facilities.
(2) Caulked bell and spigot joints.
(3) Pipe bending limitations.

The meeting is open to the public. Persons desiring to attend the meeting should contact Ms. Peggy Hammond, Office of Pipeline Safety Operations, 2100 Second Street, SW., Washington, D.C. 20590, telephone (202) 426–2392, prior to 5 p.m. on March 26, 1976.

This notice is issued under section 10 (a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 36 Stat. 770).

Issued in Washington, D.C., on March 8, 1976.

CESAR DELEON,
Acting Director, Office of Pipeline Safety Operations.

[FR Doc.76–7138 Filed 3–11–76;8:45 am]

federal register

FRIDAY, MARCH 12, 1976

PART II:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

STANDARDS FOR HUMAN BLOOD, BLOOD PRODUCTS AND BIOLOGICAL PRODUCTS

Source Plasma (Human)

Title 21—Food and Drugs

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

SUBCHAPTER F—BIOLOGICS

[Docket No. 75N-0386]

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

PART 640—ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS

Source Plasma (Human)

The Food and Drug Administration is amending the biologics regulations for the manufacture of Source Plasma (Human) based on two separate proposals published in the FEDERAL REGISTER of May 28, 1974 (39 FR 18614) and July 17, 1974 (39 FR 26161). The amendments are effective May 11, 1976.

A. In the May 28 proposal, the Commissioner of Food and Drugs proposed regulations concerning "Current Good Manufacturing Practice for Blood and Blood Components." Proposed § 606.16 *Plasmapheresis* prescribed requirements for obtaining plasma intended for further manufacture into noninjectable products. Interested persons were given until August 26, 1974, to file written comments with the Hearing Clerk, Food and Drug Administration (FDA), regarding the proposal. Twenty-five letters received in response to this proposal related specifically to plasmapherisis. Many of the comments were substantially the same as, or similar to, those received in response to the July 17 proposal, since both proposals concerned products obtained by plasmapheresis intended for further manufacture into noninjectable products.

B. In the July 17 proposal, the Commissioner proposed to amend the Source Plasma (Human) regulations, §§ 640.60 through 640.70 (21 CFR 640.60 through 640.70) by redefining Source Plasma (Human) to include plasma collected by plasmapheresis intended for use in manufacturing noninjectable products, commonly referred to as "clinical chemistry controls" or "diagnostic reagents." In addition, the Commissioner proposed numerous amendments to clarify and strengthen the existing Source Plasma (Human) regulations in light of FDA inspectional and other regulatory experience. Also proposed was an amendment to § 610.40 (21 CFR 610.40) to impose further limitations on the use of hepatitis reactive blood, plasma, or serum in the manufacture of licensed in vitro diagnostic biological products and to provide similar restrictions on the use of hepatitis reactive material in the manufacturing of unlicensed in vitro diagnostic biological products.

Interested persons were given until August 16, 1974 to file written comments regarding the proposal. Seventeen letters of comment addressed that portion of the proposal regarding Source Plasma (Human). Five letters of comment addressed that portion of the proposal concerning the test for hepatitis B surface antigen. The Commissioner responded to these five comments in the final order concerning the test for hepatitis B surface antigen published in the FEDERAL REGISTER of July 15, 1970 (40 FR 29706).

The Commissioner concludes that it is appropriate in this preamble to respond to comments regarding the section on plasmapheresis in the May 28 proposal, as well as the comments to the July 17 Source Plasma (Human) proposal. Items 1, 3, 9, 11, 14, 17, 19, and 47 reflect substantively similar comments that were received in response to the May 28 and July 17 proposals. Items 4, 10, 18, 21, 22, and 23 reflect comments that were received only in response to the May 28 proposal, and the remaining items reflect comments received only in response to the July 17 proposal. To aid the reader, no references are made to the plasmapheresis section of the May proposal. Rather, all comments refer to the corresponding July proposed regulation. A summary of the comments and the Commissioner's conclusions are as follows:

1. Three comments expressed concern that the proposed regulations would curtail the supply of Source Plasma (Human) intended for further manufacture into noninjectable products from overseas operations and from certain blood banks associated with hospitals or located in remote areas, which are distant from licensed plasmapheresis centers. One of the comments stated that blood banks associated with hospitals only plasmapherese donors occassionally, and therefore will probably not bother to obtain a license.

The Commissioner rejects the suggestion that licensing plasma for manufacture into noninjectable products will seriously reduce its supply since many of the establishments that will be applying for a license for Source Plasma (Human) for use in manufacturing noninjectable products are already licensed for plasma for injectable products. The Commissioner recognizes, however, that specific exemptions to the licensing requirements may be necessary to authorize donations in special circumstances, as for an individual who possesses a rare antibody but is located in an area not reasonably accessible to a licensed Source Plasma (Human) facility. Establishments which have identified and obtained donation agreements from persons whose plasma contains special characteristics must be permitted to continue to plasmapherese in cases where the limited numbers of these donors and the infrequent donations might otherwise discourage the obtaining of this material under federal interstate licensure. Accordingly, § 640.71 redesignated as § 640.75 *Alternate procedures* (21 CFR 640.75) provides for collection and processing procedures that are at variance with the regulations, including the licensing requirements, provided that prior approval is obtained from the Director, Bureau of Biologics.

2. Two comments questioned the legislative authority under the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act for FDA to promulgate regulations relating to donor protection and to control plasma intended for chemistry controls. One of the comments further suggested that rulemaking concerning this issue should proceed only after a second notice.

In the FEDERAL REGISTER of August 26, 1972 (37 FR 17419), the Commissioner first announced that all establishments engaged in interstate shipment of human plasma were subject to the licensing provisions of section 351 of the Public Health Service Act and proposed standards for the collection and processing of the licensed product, Source Plasma (Human). The Commissioner concluded that the standards must contain provisions to protect the health of plasma donors to ensure a continued, healthy donor population to serve as a source of plasma. Procedures for donor protection, based upon recommendations of the Advisory Committee of the Division of Medical Sciences, National Academy of Sciences—National Research Council, were incorporated in that original proposal.

The donor protection requirements ultimately adopted by the Commissioner and promulgated as part of the final regulation, published in the FEDERAL REGISTER of July 20, 1973 (38 FR 19362), reflect not only the recommendation of the Advisory Committee but also the views of representatives of the plasma collection and fractionation industries and individual citizens who had commented on the proposal. Indeed, the comments suggested even more stringent requirements than originally proposed, and many were incorporated into the final regulation. The opportunity for comment on the authority of the Commissioner to promulgate regulations relating to donor protection was provided when the standards were first proposed. The proposal to expand the definition of Source Plasma (Human) to include plasma intended for noninjectable products, at issue in this rule making action, did not include any revision in the existing regulations.

Moreover, certain aspects of the donor protection requirements directly affect the safety, purity, and potency of the plasma, such as those provisions concerning donor suitability that are designed to assure that plasma is free of disease-carrying agents. In an indirect but no less important manner, the requirements for donor protection assure, as the Commissioner stated more than 3 years ago, that there will be a continuous and healthy donor population. Finally, the Commissioner believes that it is an inherent obligation of government to assure that where standards are established for products, the public health factors that are integral to the product must be considered and protected. Such action is necessary and proper in the exercise of the underlying authority.

In the preamble of the July 1974 proposal on Source Plasma (Human), the Commissioner reiterated the importance of the donor protection provisions in the plasma licensing scheme. The Commissioner also noted the failure of a number of license applicants to comply with the donor protection provisions of the regulations, particularly when these facilities

were processing plasma for use in noninjectable products only. Inadequate donor protection practices defeat one of the major purposes of the regulations; namely, to protect plasma donors. Since the proposal was published, FDA has inspected numerous plasmapheresis facilities that were collecting plasma for use in noninjectable products and has found that some are not observing recognized requirements of donor protection. In some cases, firms that had failed to receive a license due to their inability to comply with the additional standards continued their operations as before, but redirected their plasma to subsequent use for noninjectable products.

It is apparent that the failure of the Source Plasma (Human) regulations to extend to noninjectable products has created a haven for those plasmapheresis facilities that are unwilling to meet the requirements of donor protection. The Commissioner has concluded that these facts justify a redefinition of Source Plasma (Human) to include all plasmapheresis operations, regardless of the eventual use of the plasma. The continued existence of a double standard of donor protection is unacceptable. The eventual use to which a donor's plasma is put is irrelevant to the application of basic measures to protect the plasma donor from the possibility of exploitation during the donor's participation in the plasmapheresis program.

Application of the Source Plasma (Human) licensure requirements and additional standards to plasma for noninjectable products is consistent with the existing statutory scheme since section 351 of the Public Health Service Act applies to all blood components "applicable to the prevention, treatment, or cure of diseases or injuries of man." Human plasma is a blood component within the meaning of the act, and the uses of clinical chemistry controls, typing sera, diagnostic reagents, and the like, place them clearly within the statutory definition. Clinical chemistry controls and diagnostic reagents are used as standards to calibrate equipment in the diagnosis of disease, or they are used directly in assaying specimens of body fluids taken from patients to determine, for example, the presence of disease or the appropriate remedy. All of the information obtained from the use of the plasma and serum as clinical chemistry controls or as diagnostic reagents is used by licensed physicians to treat patients and to evaluate patient response to treatment. A product is "applicable to the prevention, treatment or cure of diseases or injuries of man" when used for any purpose of diagnosis or as an aid in diagnosis (21 CFR 600.3(j)). Thus, the Commissioner concludes that defining Source Plasma (Human) to include plasma for both injectable and noninjectable products is authorized by section 351 of the Public Health Service Act. The additional standards will apply to all such plasma.

Since the reasons for the Commissioner's decision to apply the licensure requirements of Source Plasma (Human) to plasma obtained by plasmapheresis and used for noninjectable products were set forth fully in the proposal, proper time and procedures for public comment have already been provided and no further notice is necessary, as suggested in one of the comments.

3. Four comments objected to the phrase "assuring the donor's safety and the sterility of the licensed Source Plasma (Human)" appearing in the preamble of the proposal. The comments objected to the implication that Source Plasma (Human) must be sterile. The comments stated that to require sterility would serve no useful purpose because current regulations for the final injectable products prepared from Source Plasma (Human) require product sterility. The comments also asserted that the container for plasma intended for manufacturing into noninjectable products need not be sterile or pyrogen-free as such properties are not essential for such product.

The proposed rules did not propose nor do the regulations require that Source Plasma (Human) itself be sterile. However, plasma should be prepared by a method that maximizes the likelihood of an uncontaminated product, particularly for plasma intended for manufacture into injectable products. The Commissioner agrees that containers for plasma for use in noninjectable products need be neither sterile nor pyrogen-free. Although the comments were directed to a phrase in the preamble of the proposal, they are applicable to certain provisions of § 640.68(a) concerning sterile systems, and the Commissioner is revising that provision to require that the interior surface of only those containers used for Source Plasma (Human) intended for manufacturing into injectable products, and all transfer and administration sets inserted into the blood container shall be sterile, pyrogen-free, nontoxic, and compatible with the contents.

4. One comment suggested that the regulations require tests prior to plasmapheresis to determine the sensitivity of a donor's red blood cells to break down (osmotic fragility) to reduce the risk that the cells will not survive after reinfusion into the donor's body (the cell viability syndrome). In addition, the comment suggested that tests to determine the amount of antihemophilic factor and other coagulation factors should be required to detect any coagulation deficiencies as well as to serve as indirect indicators of freedom from liver deficiencies (hepatitic status) reflected by decreased protein synthesis by the liver.

No data were submitted with the comment nor is the Commissioner aware of any data suggesting that the plasmapheresis procedure subjects donors to physical and physio-chemical stresses requiring testing, as suggested by the comment. However, the Commissioner would welcome submission of data to support the suggested testing. In the absence of such data, the comment is rejected.

5. One comment stated that in proposed § 640.60 the phrase "stabilized against clotting" in the definition of Source Plasma (Human) is unnecessary and should be omitted. Another comment indicated that it is not clear whether the phrase refers to "human blood" or "fluid portion of human blood." This comment noted that in the collection of plasma for manufacturing into some reagents, it is necessary for a clot to form to convert the plasma to serum.

The Commissioner concurs that the phrase "stabilized against clotting" is unnecessary since the regulations under § 640.64 currently provide that the anticoagulant be present in the blood container into which the blood is collected. Accordingly, the phrase is deleted from § 640.60 in the final regulations.

6. The present regulations in § 640.63 (b) require that the donor shall be examined by a licensed physician on the day of the first donation or no more than 1 week before the first donation. However, it has come to the attention of the Commissioner that donors who are receiving immunization injections, e.g., D positive red blood cells, for the production of high titer serum are often injected with the antigen a week or more before the first donation. Consequently, such donors may not receive the physical examination before the first immunization.

The Commissioner concludes that it is in the interest of the health of such donors that the initial medical examination be performed before the injection procedure has begun. Accordingly, the Commissioner is amending § 640.63 in the final regulations to require that (1) the initial medical examination of a donor who is to be immunized must be performed within 1 week before the first immunization injection, and (2) the medical examination for plasmaphereses need not be repeated if the first donation occurs within 21 days after the first injection.

7. One comment suggested that proposed § 640.63(e), which prohibits a donor from being plasmapheresed for 8 weeks if the red blood cells have not been returned, be expanded to include individuals who have given a unit of whole blood. Two other comments suggested that the 8-week waiting period is too restrictive and that plasmapheresis should be permitted whenever the hemoglobin or hematocrit value meets prescribed levels.

The Commissioner agrees that the loss of red blood cells to the donor will have the same effect whether the loss results from the donation of whole blood or from failure to return the red blood cells to a plasmapheresis donor. Accordingly, the same 8-week waiting period required by § 640.3(b) (21 CFR 640.3(b)) should apply to both types of donors, and § 640.63 (e) is amended in the final regulations to prohibit plasmapheresis of a donor who has been a whole blood donor within the 8-week period, unless the donor has been examined by a qualified licensed physician and certified by the physician to be acceptable prior to 8 weeks.

The Commissioner disagrees with the two comments suggesting that plasmapheresis should be permitted after a loss

of red blood cells so long as the donor's hemoglobin or hematocrit value meets prescribed levels, regardless of the elapsed time. The respondents apparently do not consider that such donors may again not receive their red blood cells, in which case they may lose the equivalent of two units of whole blood (1,000 milliliters) within a 48-hour period. Such a loss of whole blood could result in a depletion of iron reserves and may endanger a donor's health. The waiting period is necessary to allow the donor's hematocrit value and iron stores to return to levels which are normal for each donor regardless of whether that donor's hematocrit or hemoglobin value meets the generally acceptable level established by the Source Plasma (Human) regulations. Accordingly, the comments are rejected.

8. One comment recommended that in proposed §§ 640.64 and 640.68 the term "non-pyrogenic" be substituted for the term "pyrogen-free." The comment stated that the term "non-pyrogenic" is more scientifically accurate than "pyrogen-free."

The Commissioner rejects the suggestion that one term is more scientifically accurate than the other since both terms indicate that the tested material does not contain pyrogens as determined by the test method used. In addition, since many existing biologic regulations use the term "pyrogen-free," it is logical and consistent to use the same term throughout the biologics regulations. Accordingly, the comment is rejected.

9. Seven comments objected to the provision in proposed § 640.64(c) that an amendment of the product license must be obtained for use of an anticoagulant solution formula differing from that specified in the regulations, when the plasma is intended for manufacture of a noninjectable product. It was suggested that written approval from the Director, Bureau of Biologics, rather than amendment of the product license, would be sufficient and would save time.

The Commissioner advises that written approval by the Director constitutes an amendment of the product license. The time required for approval depends on the complexity and completeness of submitted information and not on any internal differences in the processing of such requests. Accordingly, the comments are rejected.

10. One comment suggested that in § 640.64(c)(1) the name "Anticoagulant Acid Citrate Dextrose Solution" should be changed to be consistent with that of the U.S. Pharmacopeia XIX, "Anticoagulant Citrate Dextrose Solution."

The Commissioner accepts the comment and § 640.64(c) is amended in the final regulations to adopt the change. For consistency in the biologics regulations, the Commissioner is also amending §§ 640.4(d)(1) and 640.7(a)(1)(i) to reflect this name change. The parenthetical abbreviation "ACD" remains unchanged since it is also the correct abbreviation for the USP name for the anticoagulant.

11. Two comments objected to the reference in proposed § 640.65(b) to both "plasma" and "serum" as the material used in performing the quantitative testing for serum proteins or immunoglobulins. The comment indicated that the test is performed on serum only.

The Commissioner advises that some blood establishments are satisfactorily using plasma for the quantitative test for proteins or immunoglobulins. Accordingly, the comment is rejected. However, the Commissioner is amending § 640.65(b) to specify that protein determinations may be performed on either plasma or serum.

12. One comment objected to the restriction in proposed § 640.65(b)(1) that the quantitative tests for serum proteins or immunoglobulins be conducted by the electrophoresis or immunodiffusion tests only. The comment stated that other acceptable tests, such as quantitative nephelometric measurements, should be permitted.

The Commissioner agrees that any quantitative test for determining serum proteins or immunoglobulins should be permitted, if the test is equivalent to the electrophoresis or immunodiffusion tests. Accordingly, the final regulation is amended in § 640.65(b)(1)(i) to permit use of such tests.

13. One comment questioned the value in proposed § 640.65(b)(1) of the quantitative test for serum proteins or immunoglobulins, which is required to be performed every 4 months. It was suggested that the total serum protein test, which is conducted each time a donor is plasmapheresed, would adequately protect donors if an upper limit were established for an acceptable total serum protein level. However, the comment provided no suggested upper limit or data to support deletion of the periodic quantitative test for serum proteins or immunoglobulins test requirements. Another comment indicated that a quantitative test for serum immunoglobulins is necessary to protect the donor's health, thereby supporting the proposed regulation. The respondent submitted data from clinical studies reflecting that donors with stable total serum protein levels may, nevertheless, have marked variations in their gamma globulin composition.

The Commissioner advises that available data support continued requirement of a quantitative test for serum proteins or immunoglobulins. Accordingly, the comment suggesting elimination of such testing is rejected.

14. Six comments objected to the requirement in proposed § 640.65(b)(1) that the total protein determination be performed by a chemical assay method. It was suggested that determination of total protein by use of a refractometer is as good as, if not better than, the chemical assay method.

The Commissioner recognizes that the total protein determination can be adequately obtained by both a refractometer or the chemical assay method. Accordingly, the requirement that only a chemical assay method be used for the total protein determination is deleted from the final regulations.

15. One comment concerning proposed § 640.65(b)(1) presented data to illustrate that the total protein levels of serum, collected in microhematocrit capillary tubes prior to plasmapheresis, averages 0.4 gram per 100 milliliters more than those levels of serum collected from venous blood following removal of the final unit of blood. For this reason, it was suggested that either the total protein value prescribed in § 640.65(b), which is normally determined on a sample of serum collected after withdrawing the first unit of blood from the donor, be lowered from 6.0 to 5.5 grams per 100 milliliters of serum, or that the total protein value prescribed in § 640.63(c)(5), which is normally determined on a sample of plasma collected before withdrawing a unit of blood, be raised from 6.0 to 6.2 grams per 100 milliliters of serum.

The Commissioner is aware that total protein levels may be slightly higher for plasma samples taken before withdrawing a unit of blood compared with the levels determined for serum samples taken after withdrawing a unit of blood. However, these differences may be due to physiologic factors, such as the rate of movement of albumin from the extravascular to the intravascular spaces, which is not significant in determining acceptability of a donor. Since the data presented provide no information on the reasons for the variation in total protein levels, and in view of the extensive satisfactory experience with donor safety resulting from use of the presently required 6.0 grams minimum level of total serum protein per 100 milliliters of serum the Commissioner finds no reason for revising the regulations as proposed by the comment. Accordingly, the comment is rejected.

16. One comment concerning proposed § 640.65(b)(1) stated that there are occasions when a donor's serum is found to be reactive due to a biologic false-positive result from a nonspecific serologic test for syphilis performed by the plasmapheresis facility. However, the donor's serum may subsequently be found nonreactive by a more specific test performed by a state or local health agency or other laboratory that possesses the equipment and expertise for specific testing for syphilis. The comment noted that such a donor would be unjustly rejected under the present requirements and suggested that provision be made to permit the use of results of a more specific test for syphilis that is performed by a qualified testing facility other than the plasmapheresis center.

The Commissioner agrees that results of a more specific test for syphilis that is performed by a qualified laboratory may be used to determine acceptability of a donor. Accordingly, new paragraph (b)(2)(iii) is added to § 640.65 to provide for plasmapheresis of a donor found serologically reactive by a biologic false-positive test result for syphilis provided that no underlying disorder has caused the reactive result and such information

is documented in the donor's file at the plasmapheresis center.

17. Six comments concerning proposed § 640.65(b)(1) stated that manufacturers of positive control serum used in performing the serologic test for syphilis will be unable to obtain adequate material for production of this necessary control reagent since a donor with a reactive serologic test for syphilis may not be plasmapheresed. Another comment questioned the necessity of excluding reactive donors because the noninfectivity of such plasma when used for manufacturing purposes has been well established.

The Commissioner recognizes the importance of maintaining an adequate supply of source material for preparation of positive control reagents for use in performing the serologic test for syphilis. Since the source material for such control reagents can be obtained only from donors with a reactive serological test for syphilis, the Commissioner agrees with the comment suggesting that provisions should be made in the regulations for collecting plasma from such donors. However, the Commissioner believes that syphilitic persons must not be exploited and that it is the obligation of the FDA to assure that its regulations do not sanction continued illness of any person. The Commissioner is aware that such plasma is noninfectious when used for other manufacturing uses. However, he has concluded that prohibiting use of plasma from a donor with a positive serological test for syphilis, except to obtain control reagents, is a necessary and proper element of donor protection. Accordingly, new paragraph (b)(2)(iv) is added to § 640.65 in the final regulations to permit the plasmapheresis of a donor with a reactive serologic test for syphilis only to obtain plasma to be used for further manufacture into control serum for the serological test for syphilis, provided the plasmapheresis center has documentation in the donor's file that treatment has been initiated for syphilis and that continuance in the plasmapheresis program will not interfere with or jeopardize the treatment. In addition, § 640.70(a)(8) (redesignated from proposed § 640.69(e)) requires appropriate labeling for such plasma, and new § 640.72(a)(5) is added to require that distribution records indicate by number those plasma units found reactive to a serological test for syphilis.

18. One comment suggested that the serological test for syphilis in proposed § 640.65(b)(1) should be conducted at each plasmapheresis session rather than at 4-month intervals, as presently required.

The Commissioner advises that the 4-month test for syphilis is designed primarily to identify the disease in donors and to ensure treatment before a donor is seriously affected. Indeed, many States require referral of such individuals to the State health authorities for treatment. Moreover, since the disease-causing spirochetes are destroyed during processing of the plasma, more frequent testing will not increase assurances of the safety of the final product. The respondent submitted no data nor is the Commissioner aware of any data to support a change in this requirement. Accordingly, the comment is rejected.

19. Three comments concerning proposed § 640.65(b)(2) suggested that a provision be included in the regulations to apply to a situation in which a repeat donor does not appear within the 4-month period, but does appear shortly thereafter. For such a donor a sample of blood could not be collected for the required 4-month tests, and the physician would not have a current serum protein or immunoglobulin test result to review. Consequently, the donor would not be able to be immediately plasmapheresed but rather would have to be processed as a new donor in accordance with § 640.63. The comment suggested that the regulations should permit the plasmapheresis center to collect the 4-month sample and continue plasmapheresis of the donor. The review of the results of the 4-month tests would be made within 21 days, and together with the physician's review of the donor's records, a decision would be made as to whether or not the donor could continue on the program.

The Commissioner recognizes that the plasmapheresis center can only request that the donor return for the 4-month tests and has no control over the reliability of the donor to return for such tests. For this reason, the Commissioner accepts the suggestion that the regulations be amended to permit the plasmapheresis center to collect the sample for the 4-month testing and continue plasmapheresis of a donor who returns shortly after the 4-month period. To protect the donor, the physician on the plasmapheresis center's premises must approve the return of the donor to the plasmapheresis program before plasmapheresis is begun. The Commissioner concludes, however, that a donor from whom the plasmapheresis center is unable to obtain a sample for testing for a period exceeding 6 months must be processed as a new donor before returning to the plasmapheresis program.

Accordingly, new paragraph (b)(1)(ii) and (iii) is added to § 640.65 of the final regulations to provide exceptions to the 4-month testing and record review requirements. The new provision also includes a maximum period of 6 months in which the donor may be absent from the program and then reinstated without being considered as a new donor.

20. Four comments concerning proposed § 640.65(b)(2) questioned the necessity of a tracing of the serum protein electrophoretic pattern if the calculated value of each component is available. The comments indicated that such a requirement would exclude the use of more sophisticated instruments that quantitate serum proteins but do not provide tracings.

The Commissioner concurs with the comments since it is not his intention to prevent the use of new equipment or techniques that produce results at least equivalent to existing permitted equipment or techniques. Accordingly, § 640.65(b)(2)(i) of the final regulations requires that the results of the tests include tracings, if any, of the plasma or serum electrophoresis pattern. Tracings are not required if the instruments used for the tests quantitate the plasma or serum proteins but do not provide tracings.

21. Two comments concerning § 640.65(b)(6) of the regulations indicated that the volume of blood permitted to be withdrawn from a donor is excessive.

In the preamble of the Source Plasma (Human) regulations published in the FEDERAL REGISTER of July 20, 1973 (38 FR 19362), the Commissioner established the volume of blood permitted to be withdrawn from a donor. This level was based upon data available at that time and upon discussions with an advisory committee concerned with safeguards for plasma donors. The respondents submitted no new data, nor is the Commissioner aware of any data, to support a reduction of the volume of blood currently permitted to be withdrawn from a donor. Accordingly, the comments are rejected. However, the Commissioner will propose to reduce the currently permitted volume of blood to be withdrawn from a donor in the event that data become available to support such a proposal.

22. One comment requested clarification of the phrase in § 640.65(b)(6), "at one time."

The Commissioner advises that the phrase refers to the volume of blood collected into a single container.

23. Seven comments objected to the requirement in § 640.66 that immunizing agents must be either licensed or approved by the Director of the Bureau of Biologics.

The Commissioner considers licensure and approval of immunizing agents necessary to assure the safety of the donor and recipient of the immunizing agent. It should be noted that approval of a Source Plasma (Human) license application describing procedures for obtaining and transfusing red blood cells intended for immunization constitutes approval of the red blood cells as immunogens pursuant to § 640.66. Accordingly, the comments are rejected.

24. One comment suggested that reference to "Normal Saline" in proposed § 640.68(a) should be replaced with "Sodium Chloride Injection, USP," the official terminology of the United States Pharmacopeia.

The Commissioner agrees, and the final regulation is so amended.

25. One comment concerning proposed § 640.68(a) requested that an appropriate method for the pyrogenicity testing of administration and transfer sets be included in the regulations.

The Commissioner concludes that it is unnecessary to include such procedures in the regulations governing Source Plasma (Human). Such testing is the responsibility of the manufacturer of the sets and must be performed in compliance with the test procedures prescribed in the U.S. Pharmacopeia.

26. Three comments suggested that the regulations in proposed § 640.69(a)

should permit the pooling of plasma that is from different donors and is intended for manufacture into noninjectable products only after the plasma is removed from the red blood cells and the red blood cell container is sealed.

The Commissioner agrees that the regulations should specify that the pooling of plasma that is from different donors and is intended for manufacture into noninjectable products must be performed in a manner that will eliminate the possibility of cross-contamination of one donor's red blood cells with the plasma of another donor. Accordingly, a new paragraph (a)(2) is added to § 640.69 in the final regulations to provide that plasma from one donor may be pooled with plasma from another donor, provided that the plasma from each donor is first separated from the red blood cells and the red blood cell container is sealed.

27. Seven comments concerning proposed § 640.69(a) suggested that the pooling of plasma from two or more donors should be permitted without requiring prior written approval from the Director of the Bureau of Biologics.

Since the regulations are now revised to permit pooling only under prescribed conditions that assure safety of the donor, provision for prior approval is no longer necessary. Accordingly, this requirement is deleted from § 640.69(a) of the final regulations.

28. Three comments objected to the requirement in proposed § 640.69(b) that Source Plasma (Human) be stored at a temperature below −20° C. It was suggested that the storage temperature appropriate for the final product to be prepared from the plasma should be permitted.

The Commissioner agrees that Source Plasma (Human) intended for manufacture into noninjectable products may be stored at a temperature warmer than −20° C if such temperature is appropriate for the intended final product. Section 640.69(b) is amended accordingly with the provision that such temperatures are included in the license application of the Source Plasma (Human) manufacturer. However, the Commissioner advises that Source Plasma (Human) intended for manufacture into injectable products must be stored at a temperature of −20° C or colder. Such storage temperature is necessary to assure preservation of labile factors, such as antihemophilic factor. In addition, this storage temperature is desirable for minimizing bacterial growth if there is any inadvertent contamination of the plasma during processing.

29. One comment suggested that provisions be made in proposed § 640.69(b) for storage of plasma at −5° C immediately after separation from the red blood cells and transfer to −20° C storage when the plasma is frozen. The comment stated that this procedure would reduce the fluctuations in temperature of the −20° C freezer that result from frequent opening of the door to add plasma to the freezer.

The Commissioner advises that the plasma should be frozen as quickly as possible. Many establishments employ a rapid freezing method of dry ice and alcohol to freeze the plasma initially and then place a number of the quick-frozen plasma units into the −20° C freezer. This method reduces the number of times needed to open the −20° C freezer. The respondent's proposed initial storage of plasma at −5° C will not freeze the plasma as quickly as −20° C storage or the rapid freezing method of dry ice and alcohol. Accordingly, the comment is rejected, and no change is made in the final regulation.

30. Two comments suggested that the requirement in proposed § 640.69(c) that each unit of Source Plasma (Human) intended for manufacturing into injectable products be inspected for thawing before issuing is unnecessary. The comments stated that if continuous monitoring of the freezer indicated that the temperature remained at −20° C or colder, such freezer temperature records would be sufficient evidence that the plasma had remained at the proper temperature.

The Commissioner agrees that continuous monitoring of the freezer temperature provides adequate assurance that the plasma has remained frozen throughout the storage period. Accordingly, § 640.69(c) is amended in the final regulations to exempt manufacturers from the requirement of examining each unit of plasma for evidence of thawing, provided that adequate temperature monitoring is maintained and documented by the appropriate records.

31. To be consistent with the organization and format of other biologic regulations, the Commissioner has redesignated paragraph (e) of § 640.69 as § 640.70 *Labeling;* paragraph (f) of § 640.69 as § 640.71 *Manufacturing responsibility;* paragraph (g) of § 640.69 as § 640.72 *Records;* paragraph (h) of § 640.69 as § 640.73 *Reporting of fatal donor reactions;* § 640.70 *Modifications of Source Plasma (Human)* as § 640.74 *Modifications of Source Plasma (Human);* and § 640.71 Alternate procedures as § 640.75 *Alternate procedures.* These revisions do not alter the substance of the regulations, but serve to divide them into more manageable section headings for easier reference.

32. Six comments suggested that the required label statements "For Reagents Only" and "Caution: For Use in Manufacturing Products Not Intended For Injection" in proposed § 640.69(e)(1) and (5) are duplicative and that one of the statements should be deleted. Five of six comments favored retaining the statement "Caution: For Use In Manufacturing Products Not Intended For Injection" since this would enable manufacturers to use a "strip label" to distinguish between the two uses of the plasma, thus eliminating the expense and multiplicity of labels and reducing the chance of labeling mixups.

The Commissioner agrees that having the two statements is redundant. Inasmuch as Source Plasma (Human) is a product with two distinct uses, the Commissioner believes that information regarding the use of the plasma assumes new importance and should be in a prominent position on the label and should be in large type. For this reason, the Commissioner has determined that Source Plasma (Human) intended for further manufacture into noninjectable products shall bear the statement, which may be in the form of a strip label, "Caution: For Use In Manufacturing Noninjectable Products Only" following the proper name of the product. The statements proposed in § 640.69(e)(1) and (5) are no longer needed. This new required label statement is incorporated into § 640.70(a)(2) of the final regulations.

33. The Commissioner is revising proposed § 640.69(e)(3) (redesignated as § 640.70(a)(5)) to permit the use of the donor number or bleed number or both on the label of each unit of Source Plasma (Human). Inspections of Source Plasma (Human) manufacturing establishments by the FDA have revealed that the bleed number may provide more exact identification of a unit of plasma than the donor number. If a donor gives 4 single units of plasma each week, the same donor number may appear on each unit of plasma. However, a new bleed number is assigned to the plasma from a donor each time the donor is plasmapheresed, and the number may provide a better means of identifying a unit of plasma.

34. One comment requested that proposed § 640.69(e)(3) (redesignated § 640.70(a)(5)) be revised to permit the use of a pool number in lieu of individual donor or bleed numbers on the label of plasma that has been pooled from two or more donors, provided the plasmapheresis center maintains records adequate for tracing the blood product to specific donors.

The Commissioner concurs with this request since the processing records maintained by the Source Plasma (Human) manufacturer provide identification of the individual plasma units comprising the pool. Accordingly, § 640.70(a)(5) of the final regulations is amended to permit the use of a pool member in place of the donor or bleed numbers to identify pooled plasma from two or more donors.

35. One comment concerning proposed § 640.69(e)(4) (redesignated as § 640.70(a)(6)) suggested that plasma that has been pooled from two or more donors be labeled with the pooling date of the plasma rather than the collection date of each unit. The comment also proposed that the records of the Source Plasma (Human) manufacturer be required to indicate the collection date of each unit of plasma.

The Commissioner recognizes that all units of plasma may not be added to the pool on the same date, making it difficult to calculate a pooling date that is used for determining the age of the plasma. To eliminate crowding of the label with collection dates of pooled

plasma from two or more donors, the Commissioner has revised § 640.70(a)(6) of the final regulations to permit use of the collection date of the oldest unit of plasma in the pool to be on the plasma label, regardless of when the plasma was pooled, provided that the pooling records show the collection date of each unit comprising the pool.

36. One comment interpreted proposed § 640.69(e) (redesignated as § 640.70) to require that the label of plasma intended for manufacture into noninjectable products must identify the specific product for which that plasma is intended.

The respondent's interpretation is incorrect. Except for plasma for use in manufacturing the positive control serum for the serologic test for syphilis, the regulations do not require that the labeling of Source Plasma (Human) identify the final product that is to be prepared from the plasma. Rather, the regulations require only that, when applicable, the label state that the plasma is intended for manufacture into a noninjectable final product.

37. The Commissioner is amending proposed § 640.69(f) (redesignated as § 640.71) to reflect the types of facilities with which testing arrangements can be made by a Source Plasma (Human) manufacturer. The amendment concerns clarification of the phrase "Clinical laboratory licensed under section 353 of the Public Health Service Act." In view of the fact that a clinical laboratory does not necessarily need to be licensed under section 353 of the Public Health Service Act to meet prescribed standards, the final regulation is revised to include the wording "a clinical laboratory which meets the standards of the Clinical Laboratories Improvement Act of 1967 (42 U.S.C. 263a)." Such clinical laboratories include not only those licensed under section 353 of the Public Health Service Act, but also those having letters of exemption from licensing from the Center for Disease Control. Letters of exemption are given to clinical laboratories accredited by the College of American Pathologists, or permitted by New York State. The regulation is further revised to include the phrase "provided the establishment or clinical laboratory is qualified to perform the assigned test." This phrase is added because a "licensed" or "accredited" laboratory may be capable of performing various categories of test procedures, but may not be qualified to perform the specific assigned test(s).

38. Three comments suggested that proposed § 640.69(f)(4)(ii) (redesignated as § 640.71(d)(2)) be amended to permit inspectors from the Center for Disease Control to inspect off-premises testing procedures and facilities.

The Commissioner advises that such amendment is unnecessary. The Center for Disease Control is the government agency charged with administering the provisions of the Clinical Laboratories Improvement Act of 1967 (42 U.S.C. 263a) and has authority to inspect clinical laboratories that it licenses.

39. Six comments concerning proposed § 640.69(f)(4)(iii) (redesignated as § 640.71(d)(3)) suggested that proficiency testing programs from either the Center for Disease Control or the Bureau of Biologics should be acceptable.

The Commissioner believes that it is the responsibility of the FDA to assure that an establishment is capable of performing testing for compliance with the food and drug regulations. Accordingly, the Commissioner rejects the comment and establishments are required to continue participation in the specially designed proficiency testing programs initiated by the FDA.

40. One comment concerning proposed § 640.69(g) (redesignated as § 640.72) suggested that documentation of proper shipping temperatures for plasma intended for manufacturing into noninjectable products should not be required since, in most instances, the shipping temperature would not affect the final product.

The Commissioner concludes that due to the ordinarily short shipping time required for the product and in view of the nature of the product and its intended use, documentation of shipping temperatures for plasma for noninjectable products is unnecessary. Accordingly, the Commissioner accepts the comment, and § 640.72(a)(1) of the final regulations requires that documentation of shipping temperatures be maintained only for plasma intended for manufacturing into injectable products.

41. One comment concerning proposed § 640.69(g) (redesignated as § 640.72) suggested that the regulations provide examples of shipping techniques that assure compliance with the shipping temperature reqirement. The technique suggested was to freeze the plasma in a slanted position and then ship it in an upright position so that any thawing of plasma can be easily detected by inspection.

The Commissioner believes that there is no need to provide examples of techniques for assuring compliance with shipping temperature requirements because many techniques, including the one suggested, are well known by blood establishments and companies specializing in the delivery of Source Plasma (Human). Accordingly, the comment is rejected, and no change is made in the final regulation.

42. One comment concerning proposed § 640.69(g) (redesignated as § 640.72) inquired whether each negative test result for detection of the hepatitis B surface antigen and the amount or weight of plasma withdrawn from a donor each time must be recorded on the individual donor records. The comment suggested that such information is unnecessary for individual donor records since the same information is recorded and maintained in the area where the testing and weighing are performed.

The Commissioner agrees that this information need not be duplicated. Accordingly, the final regulations are amended in § 640.72(a)(2) to provide that negative test results for the detection of hepatitis B surface antigen and the volume or weight of plasma withdrawn from a donor need not be kept on the individual donor record, provided that such information is maintained elsewhere on the premises of the plasmapheresis center where the donor's plasma is collected.

43. One comment concerning proposed § 640.69(g) (redesignated as § 640.72) asked whether the donor record must include a reaction occurring before the actual plasmapheresing was initiated, such as a donor fainting in the waiting room before being processed or fainting when a sample of blood is withdrawn for a laboratory test.

The Commissioner advises that any donor reaction observed while the donor is on the plasmapheresis premises must be noted in the donor's record, whether it occurred before, during, or after collection of the plasma. In addition, donor reactions reported after the donor has left the premises and attributable to the donor's visit to the center shall be recorded on the donor's record. The Commissioner concludes that such occurrences are a necessary part of the donor's total record to determine the donor's suitability to continue in the program. Accordingly, the final regulations are revised in § 640.72(b) to require that any donor reaction while on the plasmapheresis premises or reported to the plasmapheresis center shall be recorded.

44. One comment concerning proposed § 640.69(g) (redesignated as § 640.72) asked whether a record of donor rejection was necessary for a donor who is obviously intoxicated or a donor who returns to the plasmapheresis center before the required time interval between donations. It was suggested that the regulation be amended to require that a record of donor rejection be maintained only if the donor is rejected after initiation of the processing of the donor.

The Commissioner advises that a record of rejection is necessary for prospective donors. The record may provide valuable information for the blood establishment in evaluating the medical history and suitability of the donor for plasmapheresis. Accordingly, the comment is rejected.

45. One comment concerning proposed § 640.69(h) relating to the reporting of severe adverse reactions (incorporated into new § 640.73) requested further more precise identification of reactions that are considered reportable. Two other comments suggested that the requirement that the Bureau of Biologics be notified immediately by telephone of a severe adverse reaction was impractical due to the time changes between the West and East coasts.

The proposed § 640.69 defined a severe reaction as a clinical response that results in death or life-threatening illness. However, the Commissioner recognizes that many clinical responses, if not properly treated, could aggravate or develop into a life-threatening illness. Consequently, the regulation could be misinterpreted to mean that all clinical responses must be reported. Since the

Commissioner is most concerned about life-threatening responses that result in death, to preclude ambiguity, § 640.73 is amended in the regulations to require that only fatal donor reactions must be reported to the Bureau of Biologics. All other donor reactions must be recorded in the records of the plasmapheresis center as required by § 640.72(d).

The Commissioner accepts the comments suggesting that immediate notification, by telephone, of a fatal reaction is impractical due to the time changes between the East and West coasts. Section 640.73 is amended accordingly.

46. One comment concerning proposed § 640.69(h) (incorporated into new § 640.73) inquired how the proposed regulations would affect foreign establishments and suppliers of Source Plasma (Human).

The Commissioner advises that the regulations are applicable to all establishments, both foreign and domestic, that introduce or market Source Plasma (Human) in the United States.

47. Seven comments concerning proposed § 640.71 (redesignated as § 640.75) suggested that the Source Plasma (Human) manufacturer should not be required to obtain approval for an alternate procedure only at the time of licensing or in the form of an amendment to the Source Plasma (Human) product license. The comments stated that amendment of the product license requires too much time and that written approval from the Director of the Bureau of Biologics should be adequate.

The Commissioner advises that approval by the Director of the Bureau of Biologics of any procedure used in processing a licensed product constitutes an amendment of the product license. The time required for approval depends upon the complexity and completeness of submitted information and not upon the characterizaton of the processing of such requests. Accordingly, the comments are rejected.

48. One comment concerning proposed § 640.71 (redesignated as § 640.75) noted that provisions for an alternate procedure applied only to Source Plasma (Human) intended for manufacturing into noninjectable products. The comment suggested that the provision should also apply to plasma for injectable products, such as plasma from a donor who had recently recovered from herpes zoster. Although certain donors may not meet all the requirements of donor suitability, their plasma may be rare and very valuable in the production of therapeutic agents that cannot be obtained from plasma of another donor.

The Commissioner concurs with the suggestion that alternate procedures should apply to Source Plasma (Human) intended for manufacturing into both injectable and noninjectable products, and § 640.75 is so amended in the final regulations.

49. The Commissioner is adding new § 640.76 to the final regulations to require that Source Plasma (Human) for manufacture into injectable products that has been inadvertently exposed to temperatures warmer than −20° C or −5° C during storage or shipment, respectively, must be relabeled as "Source Plasma (Human) Salvaged" and appropriate records made of the cause of the deviation and the corrections taken by the manufacturer. The new section is added in response to a number of inquiries received by the Bureau of Biologics concerning necessary action when the storage or shipping temperature of plasma intended for manufacturing into injectable products exceeds that specified in the regulations. In addition, a new paragraph (b) is added to § 640.70 to prescribe labeling requirements for such products.

50. The Commissioner is amending § 610.53 (21 CFR 610.53 and § 640.70 (redesignated as § 640.74) to correct the references, as needed, to section numbers that have been redesignated.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262) and under authority delegated to the Commissioner (21 CFR 2.120), Subchapter F of Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

A. In Part 610, in § 610.53 by revising the listing for Source Plasma (Human) to read as follows:

§ 610.53 Dating periods for specific products.

* * * * *

Source Plasma (Human).		In lieu of an expiration date, the collection date shall appear on the label as prescribed in § 640.70(a)(6) of this chapter.

* * * * *

B. In Part 640 as follows:

1. In § 640.4 by revising its heading and the heading of paragraph (d)(1) to read as follows:

§ 640.4 Collection of blood.

* * * * *

(d) * * *

(1) *Anticoagulant citrate dextrose solution (ACD).* * * *

2. In § 640.7 by revising paragraph (a)(1)(i) to read as follows:

§ 640.7 Labeling.

* * * * *

(a) * * *

(1) * * *

(i) Either "ACD", or "anticoagulant citrate dextrose solution",

* * * * *

3. By revising § 640.60 to read as follows:

§ 640.60 Source Plasma (Human).

The proper name of the product shall be Source Plasma (Human). The product is defined as the fluid portion of human blood collected by plasmapheresis and intended as source material for further manufacturing use. The definition excludes single donor plasma products intended for intravenous use.

4. In § 640.63 by revising paragraph (b) and adding new paragraph (e) to read as follows:

§ 640.63 Suitability of donor.

* * * * *

(b) *Initial medical examinations.* (1) Each donor shall be examined by a qualified licensed physician on the day of the first donation or no more than 1 week before the first donation and at subsequent intervals of no longer than 1 year.

(2) If a donor is to be immunized for the production of high titer plasma, the initial medical examination shall be performed within no more than 1 week before the first immunization injection. The medical examination for plasmapheresis need not be repeated if the first donation occurs within 21 days after the first injection.

(3) Each donor shall be certified to be in good health by the examining physician. The certification of good health shall be on a form supplied by the licensed establishment and shall indicate that the certification applies to the suitability of the individual to be a plasmapheresis donor and, when applicable, an immunized donor.

* * * * *

(e) *Failure to return red blood cells.* Any donor who has not had the red blood cells returned from a unit of blood collected during a plasmapheresis procedure or who has been a donor of a unit of whole blood shall not be subjected to plasmapheresis for a period of 8 weeks unless the donor has been examined by a qualified licensed physician and certified by the physician to be acceptable for further plasmapheresis before expiration of the 8-week period.

5. In § 640.64 by revising the introductory text of paragraph (c) and the heading of paragraph (c)(1) to read as follows:

§ 640.64 Collection of blood for Source Plasma (Human).

* * * * *

(c) *The anticoagulant solution.* The anticoagulant solution shall be sterile and pyrogen-free. One of the following formulas shall be used in the indicated volumes, except that a different formula may be used for plasma for manufacture into noninjectable products if prior written approval is obtained from the Director of the Bureau of Biologics at the time of licensing or in the form of an amendment to the Source Plasma (Human) product license.

(1) *Anticoagulant citrate dextrose solution (ACD).* * * *

6. In § 640.65 by revising paragraphs (a) and (b) (1) and (2) to read as follows:

§ 640.65 Plasmapheresis.

(a) *Procedure-general.* The plasmapheresis procedure is a procedure in which, during a single visit to the establishment, blood is removed from a donor, the plasma separated from the formed elements, and at least the red blood cells returned to the donor. This procedure shall be described in detail in the product license application.

(b) * * *

(1) (i) A sample of blood shall be drawn from each donor on the day of the first medical examination or plasmapheresis, whichever comes first and at least every 4 months thereafter by a qualified licensed physician or by persons under his supervision and trained in such procedure. A serologic test for syphilis, a total plasma or serum protein determination, and a plasma or serum protein electrophoresis or quantitative immunodiffusion test or an equivalent test to determine immunoglobulin composition of the plasma or serum shall be performed on the sample.

(ii) A repeat donor who does not return for plasmapheresis at the time the 4-month sample is due to be collected may be plasmapheresed on the day he appears: *Provided,* That no longer than 6 months has elapsed since the last sample was collected, and the physician on the premises approves the plasmapheresis procedure and so indicates by signing the donor's record before such procedure is performed. The sample for the 4-month tests shall be collected on the day of the donor's return.

(iii) A repeat donor from whom the plasmapheresis center is unable to obtain a sample for testing as prescribed in paragraph (b) (1) (i) of this section for a total period exceeding 6 months shall be processed as a new donor.

(2) (i) The accumulated laboratory data, including tracings, if any, of the plasma or serum protein electrophoresis pattern, the calculated values of each component, and the collection records shall be reviewed by a qualified licensed physician within 21 days after the sample is drawn to determine whether or not the donor may continue in the program. The review shall be signed by the reviewing physician. If the protein composition is not within normal limits established by the testing laboratory, or if the total protein is less than 6.0 grams per 100 milliliters of samples, the donor shall be removed from the program until these values return to normal.

(ii) A donor with a reactive serologic test for syphilis shall not be plasmapheresed again until the donor's serum is tested and found to be nonreactive to a serologic test for syphilis, except as provided in paragraph (b) (2) (iii) and (iv) of this section.

(iii) A donor whose serum is determined to have a biologic false-positive reaction to a serologic test for syphilis may be plasmapheresed: *Provided,* That the donor's file identifies the serologic test for syphilis and results used to confirm the biologic false-positive reaction and indicates that the physician on the premises has determined the false-positive reaction is not the result of an underlying disorder that would disqualify the donor from participation in the plasmapheresis program. If the serologic test for syphilis is performed at a facility other than the plasmapheresis center, all applicable provisions of § 640.71 shall be met.

(iv) A donor with a reactive serologic test for syphilis may be plasmapheresed only to obtain plasma to be used for further manufacturing into control serum for the serologic test for syphilis: *Provided,* That the physician on the premises approves the donation, the donor's file contains a signed statement from a physician or clinic establishing that treatment for syphilis has been initiated and that continuance in the plasmapheresis program will not interfere with or jeopardize the treatment of the syphilitic donor.

7. By revising § 640.67 to read as follows:

§ 640.67 Test for hepatitis B surface antigen.

Each unit of Source Plasma (Human) shall be nonreactive to a test for the hepatitis B surface antigen as prescribed in §§ 610.40 and 610.41 of this chapter, except insofar as permitted in § 610.40(d) (2) and (3) of this chapter.

8. In § 640.68 by revising paragraph (a) to read as follows:

§ 640.68 Processing.

(a) *Sterile system.* All administration and transfer sets inserted into blood containers used for processing Source Plasma (Human) intended for manufacturing into injectable or noninjectable products and all interior surfaces of plasma containers used for processing Source Plasma (Human) intended for manufacturing into injectable products shall be sterile, pyrogen-free, nontoxic, and compatible with the contents under normal conditions of use. Only Sodium Chloride Injection USP shall be used as a red blood cell diluent. If the method of separation of the pasma intended for injectable products involves a system in which an airway must be inserted into the plasma container, the airway shall be sterile and constructed so as to exclude microorganisms and maintain a sterile system.

* * * * *

9. In § 640.69 by revising paragraphs (a), (b), and (c) and deleting paragraphs (e), (f), and (g), as follows:

§ 640.69 General requirements.

(a) *Pooling.* Two units of Source Plasma (Human) from the same donor may be pooled if such units are collected during one plasmapheresis procedure: *Provided,* That the pooling is done by a procedure that does not introduce a risk of contamination of the red blood cells and, for plasma intended for injectable products, gives maximum assurance of a sterile container of plasma.

(1) The pooling of plasma from two or more donors is not permitted in the manufacture of Source Plasma (Human) intended for manufacturing into injectable products.

(2) The pooling of plasma from two or more donors by the manufacturer of Source Plasma (Human) intended for manufacturing into noninjectable products is permitted: *Provided,* That the plasma from two or more donors is pooled after the plasma has been removed from the red blood cells, and after the red blood cell containers are sealed.

(b) *Storage.* Immediately after filling, plasma intended for manufacturing into injectable products shall be stored at a temperature not warmer than 20° C., except for plasma collected as provided in § 640.74. Plasma intended for manufacturing into noninjectable products may be stored at temperatures appropriate for the intended use of the final product, provided these temperatures are included in the Source Plasma (Human) license application.

(c) *Inspection.* Source Plasma (Human) intended for manufacturing into injectable products shall be inspected for evidence of thawing at the time of issuance, except that inspection of individual plasma containers need not be made if the records of continuous monitoring of the storage temperature establish that the temperature remained at −20° C or colder. If there is evidence that the storage temperature has not been maintained at −20° C or colder, the plasma may be relabeled and issued as provided in § 640.76(a).

* * * * *

(e)–(g) [Removed]

10. By redesignating present § 640.70 *Modification of Source Plasma (Human)* as § 640.74 and adding new § 640.70 to read as follows:

§ 640.70 Labeling.

(a) In addition to the labeling requirements of § 610.62 of this chapter, and in lieu of the requirements in §§ 610.60 and 610.61 of this chapter, the following information shall appear on the label affixed to each container of Source Plasma (Human):

(1) The proper name of the product.

(2) The statement "Caution: For Manufacturing Use Only" for products intended for further manufacturing into injectable products, or the statement, "Caution: For Use In Manufacturing Noninjectable Products Only", for products intended for further manufacturing into noninjectable products. The statement shall follow the proper name in the same size and type of print as the proper name.

(3) The statement "Store at −20° C. or colder": *Provided,* That where plasma is intended for manufacturing into noninjectable products, this statement may be omitted if replaced by a statement of the temperature appropriate for the final product to be prepared from the plasma.

(4) The total volume or weight of plasma and total quantity and type of anticoagulant used.

(5) The donor number or individual bleed number, or both. If plasma is pooled from two or more donors, either all donor numbers, all bleed numbers, or a pool number that is traceable to each individual unit comprising the pool.

(6) The collection date of the plasma. If plasma intended for manufacturing into noninjectable products is pooled from two or more donors, either the collection date for each donation or the collection date of the oldest unit in the pool: *Provided,* That the pooling records show

the collection date for each unit comprising the pool.

(7) A statement as to whether the plasma was collected from normal donors or from immunized donors. In the case of immunized donors, the label shall state the immunizing antigen.

(8) The test for hepatitis B surface antigen used and the results.

(9) When plasma collected from a donor is reactive for the serologic test for syphilis, a statement that the plasma is reactive and must be used only for the manufacturing of positive control reagents for the serologic test for syphillis.

(10) Name, address, and license number of the manufacturer.

(b) Source Plasma (Human) diverted for Source Plasma (Human) Salvaged shall be relabeled "Source Plasma (Human) Salvaged" as prescribed in § 640.76. Immediately following the proper name of the product, the labeling shall conspicuously state "CAUTION: DO NOT USE FOR PRODUCTS REQUIRING LABILE FACTORS" and, where applicable, "STORAGE TEMPERATURE EXCEEDED −20° C." or "SHIPPING TEMPERATURE EXCEEDED −5° C."

11. By adding new § 640.71 to read as follows:

§ 640.71 Manufacturing responsibility.

(a) All steps in the manufacture of Source Plasma (Human), including donor examination, blood collection, plasmapheresis, laboratory testing, labeling, storage, and issuing shall be performed by personnel of the establishment licensed to manufacture Source Plasma (Human), except that the following tests may be performed by personnel of an establishment licensed for blood or blood derivatives under section 351(a) of the Public Health Service Act, or by a clinical laboratory that meets the standards of the Clinical Laboratories Improvement Act of 1967 (CLIA) (42 U.S.C. 263a): *Provided*, The establishment or the clinical laboratory is qualified to perform the assigned test(s).

(1) The test for hepatitis B surface antigen.

(2) The total plasma or serum protein and the quantitative test for plasma or serum proteins or for immunoglobulins.

(3) The serologic test for syphilis.

(b) Such testing shall not be considered divided manufacturing, which requires two product licenses for Source Plasma (Human): *Provided*, That

(1) The results of such tests are maintained by the establishment licensed for Source Plasma (Human) whereby such results may be reviewed by a licensed physician as required in § 640.65(b)(2) and by an authorized representative of the Food and Drug Administration.

(2) The Source Plasma (Human) manufacturer has obtained a written agreement that the testing laboratory will permit authorized representatives of the Food and Drug Administration to inspect its testing procedures and facilities during reasonable business hours.

(3) The testing laboratory will participate in any proficiency testing programs undertaken by the Bureau of Biologics, Food and Drug Administration.

12. By adding new § 640.72 to read as follows:

§ 640.72 Records.

(a) In addition to the recordkeeping requirements of this subchapter, the following records shall be maintained:

(1) Documentation compiled every 3 months establishing that the shipping temperature requirements of § 600.15 of this title and § 640.74(b)(2) are being met for Source Plasma (Human) intended for manufacture into injectable products.

(2) For each donor, a separate and complete record of all initial and periodic examinations, tests, laboratory data, interviews, etc., undertaken pursuant to §§ 640.63, 640.65, 640.66 and 640.67, except that negative test results for the detection of the hepatitis B surface antigen and the volume or weight of plasma withdrawn from a donor need not be kept on the individual donor record: *Provided*, That such information is maintained on the premises of the plasmapheresis center where the donor's plasma has been collected.

(3) The original or a clear copy of the donor's written consent for participation in the plasmapheresis program or for immunization.

(4) The certification of the donor's good health as prescribed in § 640.63(b)(3).

(5) If plasma that is reactive to a serologic test for syphilis is issued as prescribed in § 640.65(b)(2)(iv), the distribution records shall indicate by number those units that are reactive.

(b) Each donor record must be directly cross-referenced to the unit(s) of Source Plasma (Human) associated with the donor.

(c) If a repeat donor is rejected or a donor's plasma is found unsuitable, the donor's record shall contain a full explanation for the rejection.

(d) If a donor has a reaction while on the plasmapheresis premises, or a donor reaction is reported to the center after the donor has left the premises, the donor's record shall contain a full explanation of the reaction, including the measures taken to assist the donor and the outcome of the incident.

13. By adding new § 640.73 to read as follows:

§ 640.73 Reporting of fatal donor reactions.

If a donor has a fatal reaction which, in any way, may be associated with plasmapheresis the Director of the Bureau of Biologics shall be notified by telephone as soon as possible. If the facility is located outside of the continental United States, notification by cable or telegram shall be acceptable.

14. By amending redesignated § 640.74 (formerly § 640.70) by revising paragraph (b)(4) to read as follows:

§ 640.74 Modification of Source Plasma (Human).

* * * * *

(b) * * *

(4) The label affixed to each container of liquid Source Plasma (Human) shall contain, in addition to the information required by § 640.70(a) but excluding § 640.70(a)(3), the name of the manufacturer of the final blood derivative product for whom it was prepared.

* * * * *

15. By adding new §§ 640.75 and 640.76 to read as follows:

§ 640.75 Alternate procedures.

Source Plasma (Human) may be collected and processed at variance with one or more of the requirements of this subpart, including the licensing requirements: *Provided*, That prior approval for such alternate procedures is obtained from the Director of the Bureau of Biologics. Such approval may be obtained orally but must be followed by a written request and a written approval.

§ 640.76 Products stored or shipped at unacceptable temperatures.

(a) Source Plasma (Human) intended for manufacture into injectable products that is inadvertently exposed to a storage temperature warmer than −20° C and colder than 10° C may be issued only if labeled as "Source Plasma (Human) Salvaged". The label shall be revised before issuance and appropriate records shall be maintained identifying the units involved, their disposition, and fully explaining the conditions that caused the temperature exposure.

(b) Source Plasma (Human) for manufacture into injectable products that is inadvertently exposed to shipping temperatures warmer than −5° C and colder than 10° C shall be labeled by the plasma derivative manufacturer as "Source Plasma (Human) Salvaged". Appropriate records shall be maintained identifying the units involved, their disposition, and fully explaining the conditions that caused the accidental temperature exposure.

(c) Source Plasma (Human) shall be relabeled as "Source Plasma (Human) Salvaged" by covering the original label with either (1) a complete new label containing the appropriate information or (2) a partial label affixed to the original label and containing the appropriate new information, which covers the incorrect information regarding storage temperature.

Effective date. This regulation shall be effective on May 11, 1976.

Plasmaphereses establishments that have not previously submitted license ap-

plications because they were producing source plasma intended for noninjectable use only shall file an establishment and product license application by May 11, 1976.

Plasmaphereses establishments that have pending or approved license applications for Source Plasma (Human) intended for injectable products shall file appropriate amendments by May 11, 1976.

Until such time as final action has been taken regarding approval or denial of a seemingly valid license application or amendment, establishments may continue to ship Source Plasma (Human): *Provided*, That these additional standards for Source Plasma (Human) are being adhered to in all respects.

(Sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262))

Dated: March 4, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc. 76-6899 Filed 3-11-76;8:45 am]

federal register

FRIDAY, MARCH 12, 1976

PART III:

DEPARTMENT OF LABOR

Office of the Secretary

■

SPECIAL TARGET GROUPS, YOUTH PROGRAMS AND OTHER SPECIAL PROGRAMS

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

PART 97—SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Subpart D—Special Target Groups and Youth Programs and Other Special Programs

On Tuesday, August 12, 1975, the Department of Labor published in the FEDERAL REGISTER (40 FR 33920) a notice of proposed rulemaking with a proposed amendment to Part 97. The proposed amendment would add a new Subpart D, containing regulations to govern programs and activities for special manpower target groups and youth programs and other special programs authorized by sections 301 and 304, Title IIIA of the Comprehensive Employment and Training Act of 1973, as amended (Pub. L. 93-203, 87 Stat. 839; and Pub. L. 93-567, 88 Stat. 1845).

All comments submitted with respect to the new proposed Subpart D were given due consideration. Several comments were acted upon and the proposal has been changed accordingly. In addition, some editorial and clarifying changes have been made. All substantive changes are discussed below.

1. In § 97.303, *Definitions*, the definition of "local government" is changed to make clear that institutions of higher education, hospitals, and school districts are excluded from the meaning of the term only for the purposes of the grant administration provisions contained in § 97.341 through § 97.355. It should be noted that public institutions of higher education, hospitals, and school districts are eligible for funding under subpart D pursuant to § 97.308, *Eligibility for funds*, wherein the term "agency" of a State or local government does include public institutions of higher education, public hospitals, and school districts.

2. In paragraph (d) of § 97.308, *Eligibility for funds*, public nonprofit organizations are identified as being eligible for funds under Subpart D.

3. In paragraph (g) of § 97.308, *Eligibility for funds*, Indian and native American organizations which are eligible for funds under Subpart B of Part 97, are identified as being eligible for funds under Subpart D.

4. The guidelines relating to program specifications included in the Secretary's solicitations for funding proposals or applications which were contained in § 97.310, *Specifications*, have been placed in paragraph (g) of § 97.309. In addition, language has been added to these guidelines to enable the Secretary to require a sponsor cost contribution as a condition for proposal or application approval.

5. Section 97.310 has been renamed *Submitting a proposal or application*. In this section guidelines relating to the submission of proposals or applications, both solicited and unsolicited, have been added to Subpart D.

6. In § 97.311, *Proposal or application format and content*, paragraph (c)(14) is added which requires that proposals and applications contain the assurances and certifications which are required of program sponsors by statute and regulation.

7. In paragraph (d) § 97.313, *Rejection of a proposal or application*, a deletion of words is made which has the effect of releasing the Secretary from any regulatory obligation under this Subpart to respond to an unsolicited proposal or application. However, the Secretary intends, as a matter of practice and as the availability of staff permits, to respond to all unsolicited proposals or applications, except those submitted by private, profitmaking organizations.

8. In § 97.318, *Basic responsibilities of program sponsors*, paragraph (f) is added which makes program sponsors responsible for consulting appropriate labor organizations and obtaining their concurrence in the design and operation of any training or employment program to be implemented where a collective bargaining agreement exists with the participating employer.

9. In § 97.320, *Eligibility for participation*, paragraph (c) is changed, at the recommendation of the U.S. Department of Justice, to read as follows: "Citizenship may not be used as a criterion to prevent persons from participating in a program. However, program participation shall be limited to nationals of the United States and aliens who have been accorded the privilege of residing in the United States as lawful permanent residents or are otherwise legally available for work in the United States."

10. In paragraph (e) of § 97.320, *Eligibility for participation*, training for technological change is added as a program activity for which the Secretary may establish especially suitable participation eligibility guidelines.

11. A new § 97.334, entitled *Maintenance of effort*, is included to reflect the program requirements stated in section 703(11) of the Act. The former § 97.334, *Limitations on Federal funds*, is redesignated § 97.335; and the former § 97.335, *Subagreements*, is redesignated § 97.336.

12. In § 97.347, *Matching share*, which is applicable to grants with units of State or local governments, language is added to indicate the conditions under which the guidelines for evaluating the grantee's contribution are to be employed.

13. In paragraph (b) of § 97.366, *Matching share*, which is applicable to grants or contracts with public and private institutions of higher education, public and private hospitals, and other public and private nonprofit organizations, language is added to indicate the conditions under which the guidelines for evaluating the recipient's contribution are to be employed.

14. Some comments requested that the clearinghouse procedures of Office of Management and Budget (OMB) Circular A-95 be added to these regulations. The Department is not doing so because revised OMB Circular A-95 does not cover programs under sections 301 and 304 of the Comprehensive Employment and Training Act; see 41 FR 2052, January 13, 1976.

Accordingly, 29 CFR is amended, effective April 12, 1976, as follows:

1. 29 CFR 94.3 *Consolidated table of contents for Parts 94-99* is amended by adding the table of contents for the new Subpart D of Part 97 after the table of contents for Subpart C of Part 97 as follows:

§ 94.3 Consolidated table of contents for Parts 94-99.

* * * * *

PART 97—SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

* * * * *

SUBPART D—SPECIAL TARGET GROUPS AND YOUTH PROGRAMS AND OTHER SPECIAL PROGRAMS

General

Sec.
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2. 29 CFR Part 97 is amended by adding a new Subpart D to read as follows:

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AUTHORITY: Comprehensive Employment and Training Act of 1973 (Pub. L. 93-203, sec. 602(a), 87 Stat. 839) unless otherwise noted.

Subpart D—Special Target Groups and Youth Programs and Other Special Programs

GENERAL

§ 97.301 Scope.

(a) Pursuant to section 301 of the Act, the Secretary will use funds available under Title III of the Act to provide additional manpower services as authorized under Title I and Title II of the Act to segments of the population that are in particular need of such services including youth, offenders, persons of limited English-speaking ability, older workers, and other persons who the Secretary determines have particular disadvantages in the labor market. The Secretary shall take into account the need for continued funding of programs of demonstrated effectiveness.

(b) Pursuant to section 304 of the Act, the Secretary may use funds available under Title III of the Act to provide financial assistance in urban and rural areas, including areas having large concentrations or proportions of low-income, unemployed persons, and rural areas having substantial outmigration to urban areas, for comprehensive work and training programs and necessary supportive and followup services.

(c) In combination, sections 301 and 304 of the Act enable the Secretary to respond directly through the implementation and financial support of manpower programs and services, to manpower problems of special significance as these problems become apparent from time to time. The Secretary intends to exercise authority under these two sections in a flexible manner, flexibility being necessary to meet shifting manpower needs and priorities both swiftly and decisively. The use of this authority will not be limited to permanently fixed and narrow purposes.

§ 97.302 Purpose.

(a) The purpose of this Subpart D is to prescribe the Department of Labor's rules and regulations that govern:

(1) Identifying on a continuing basis the manpower problems of special significance which might be resolved, in whole or in part, through programs and services required under section 301 and authorized under section 304 of the Act, or both;

(2) Allocating resources available under Title III of the Act to alleviate specific problems identified;

(3) Awarding Federal financial assistance necessary to carry out individual programs under section 301 or section 304 of the Act; and

(4) Administering and operating individual programs under section 301 or section 304 of the Act.

(b) This Subpart D contains the regulatory material necessary for the implementation and operation of programs under sections 301 and 304 of the Act, including specific references to rules and requirements which are set forth in other parts of Title 29 and which are applicable to programs under this subpart.

(c) When the regulations set forth in this subpart conflict with other regulations promulgated under the Act in 29 CFR Parts 94 through 99, the regulations contained in this subpart shall prevail and apply to programs under this subpart.

§ 97.303 Definitions.

Definitions for abbreviations and major terms used in this subpart are contained in § 94.4 of this title. Additional terms applicable only to this subpart or having special significance in this subpart are defined as follows:

"Affirmative action effort" shall mean a program effort intended to provide or foster new employment opportunities for members of groups which have, for reasons of past custom, historical practice, or otherwise, been discouraged from entering certain occupational fields.

"Job search and relocation assistance" shall mean assisting an individual by locating a job opportunity that meets the individual's specific needs and by providing assistance, including financial support, to relocate the individual and the family near the new job site.

"Limited English-speaking ability" shall mean an inability to speak the English language which impairs a person's ability to seek or obtain employment.

"Local government" shall mean a local unit of government including specifically a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, and other regional or interstate government entity; for the purposes of § 97.341 through § 97.355, "local government" shall also mean any agency or intrumentality of a local government exclusive of institutions of higher education, hospitals, and school districts.

"Program," except where the context indicates otherwise, shall mean a program, project or service funded and carried out under this subpart.

"Skill improvement training" shall mean training given to an individual to make that individual more employable or to increase the possibilities of retention in his chosen field.

"State" shall mean any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States; for the purposes of § 97.341 through § 97.355, "State" shall also mean any agency or instrumentality of a State exclusive of institutions of higher education and hospitals.

"Training for technological change" shall mean training given to an individual who faces unemployment or underemployment caused by newly emergent technology in an occupational field.

"Upgrading training" shall mean training given to an individual who needs such training to advance above an entry-level or dead-end employment position.

Allocation of Available Resources

§ 97.304 General.

The Secretary will allocate funds made available to carry out the purposes of sections 301 and 304 of the Act to resolve, in whole or in part, specific and identifiable manpower problems of special significance. These problems may be identified and funds allocated on bases which include, but are not limited to:

(a) Severe employment and training problems and needs which are identified as being common to members of specific segments of the population such as those indicated in § 97.301(a);

(b) Severe employment and training problems and needs which are identified as being special to certain geographical areas of the country, such as areas having a large concentration or proportion of low-income, unemployed persons, and rural areas having substantial outmigration to urban areas;

(c) The need, if any, to continue funding of programs of demonstrated effectiveness;

(d) Severe manpower and training problems and needs identified as existing within critical industries or occupational fields;

(e) Emergency or disaster; and

(f) Any other basis which is appropriate to national manpower priorities and emphases as they evolve from time to time.

§ 97.305 Allocation planning.

The Secretary will develop an allocation plan for the sum of money made available each fiscal year to carry out the purposes of sections 301 and 304 of the Act. The allocation plan will be designed to:

(a) Identify each specific manpower problem of special significance for which resources will be allocated;

(b) Indicate the approximate level of resources to be allocated for each problem identified;

(c) Indicate, in brief, the types of programs to be implemented with resources allocated for each problem identified;

(d) Indicate, to the extent possible, the geographical areas to be served by planned activities;

(e) Indicate the effects or benefits anticipated from the programs or services to be implemented; and

(f) Provide any background or explanatory material which might be necessary for a full understanding of the priorities and methods reflected in the plan.

§ 97.306 Public notification.

(a) The Secretary will notify the public of the plan for allocating the sum of money made available each fiscal year to carry out the purposes of sections 301 and 304 of the Act. This notification will be accomplished by publication in the Federal Register. The published plan will contain all elements specified in § 97.305 and will, if possible, be published prior to the fiscal year covered by the plan.

(b) The plan will not limit the Secretary in allocating funds in a manner or for specific purposes other than those set forth in the plan. The purposes of this notification process do not include committing the Secretary to any fixed plan or order of priorities. The sole purposes to be served in this notification process are:

(1) To inform the public with respect to current planning of Department of Labor manpower activities;

(2) To inform prime sponsors of manpower problems judged to be of special significance and impact on the well-being of the country; and

(3) To provide prime sponsors and other agencies responsible for conducting manpower or related programs with general information useful for planning their own operations.

(c) The Secretary may, at any time, revise the plan or implement operational deviations from the plan. The Secretary will, however, notify the public as soon as is practicable of any material revision to the plan or any major operational deviations from the plan. This notification will be published in the Federal Register and will include any background or explanatory material necessary for a full understanding of the action taken or to be taken.

Award of Federal Funds

§ 97.307 General.

(a) The Secretary may make such grants, contracts, or other agreements which provide for the award of Federal funds as may be necessary to carry out the purposes of sections 301 and 304 of the Act.

(b) Any grant, contract, or other agreement under this subpart which involves the award of Federal funds will be developed and executed in accordance with the provisions set forth in § 97.308 through § 97.315.

§ 97.308 Eligibility for funds.

The Secretary may award funds available under this subpart to carry out the purposes of sections 301 and 304 of the Act to the following types of organizations:

(a) States and agencies of a State;

(b) Units of general local government and their agencies;

(c) Consortia which have been approved by the Department as prime sponsors under Title I of the Act which are made up of:

(1) Units of general local government; or

(2) A State and a unit or units of general local government;

(d) Public and private nonprofit organizations other than political parties;

(e) Private, profitmaking organizations;

(f) Other Federal establishments and agencies; and

(g) Indian tribes of Federal or State reservations and other Indian and Na-

tive American organizations eligible for funds under Subpart B of this part.

§ 97.309 Soliciting applications for Federal funds.

(a) The Secretary may solicit or request eligible organizations to submit a proposal or application for funds.

(b) Except under conditions described in paragraph (c) of this section, the Secretary may limit solicitation to organizations which have special or unique capabilities to operate a program.

(c) When soliciting proposals from private, profitmaking organizations, the Secretary will issue a formal Request for Proposal.

(d) A solicitation or request to submit a proposal or application for funds is not an assurance or commitment that a proposal or application will be approved or accepted for funding.

(e) The Secretary may solicit or request a proposal or application for funds at any time.

(f) Funds allocated to carry out the purposes of section 304 of the Act are allocated for specific geographical areas. In awarding funds to carry out the purposes of section 304 of the Act, the Secretary will give primary consideration to awarding funds to prime sponsors which are responsible for the jurisdiction or jurisdictions in which Federal assistance is to be provided. In this respect, the Secretary will not solicit or request proposals or applications for these funds from other eligible organizations until consultation with the appropriate prime sponsors, if any, discloses that award of funds to an eligible organizations other than the prime sponsor would enhance program effectiveness.

(g) In soliciting proposals or applications for funds the Secretary may specify detailed program requirements to which the proposal or application must assure adherence as a condition for approval or acceptance. These specifications may include, but are not limited to:

(1) The type of manpower program to be conducted;

(2) The target group to be served;

(3) The geographic area in which the program is to be carried out;

(4) Minimum quantifiable performance goals;

(5) The results and benefits expected; and

(6) The approximate costs, including any sponsor contribution the Secretary may require.

§ 97.310 Submitting a proposal or application.

(a) When the Department solicits proposals or applications for a specific type of program under this subpart, the solicitation will contain instructions for eligible organizations with regard to submission of the proposal or application, including time frames; the need, if any, to provide a preliminary notification of intent to apply for funds, and the receiving office or offices.

(b) Before preparing and submitting an unsolicited proposal or application, eligible organizations are strongly encouraged to contact the Department for information concerning the availability of funds and the specific procedures involved in the preparation and submission of a proposal or application. In this regard, interested parties should contact:

Director, Office of Comprehensive Employment Development, Employment and Training Administration, U.S. Department of Labor, Room 6000, Patrick Henry Building, 601 D St., N.W., Washington, D.C. 20213.
Attention: ONP.

(c) The State and area-wide planning and development clearinghouse notification and review procedures set forth in Office of Management and Budget (OMB) Circular A-95 do not apply to programs under this subpart.

§ 97.311 Proposal or application format and content.

(a) Where the applicant is a State government or a local government, the application shall follow the format prescribed in Federal Management Circular (FMC) 74-7, Attachment M.

(b) Where the applicant or proposer is an organization other than a State government or a local government, the application or proposal shall be prepared in a format prescribed by the Department.

(c) As a condition for approval or acceptance, a proposal or application for funds must indicate or contain the following:

(1) The performance period of the program;

(2) A program budget for the Department's share and, if applicable, the program sponsor's share which accounts for administrative costs, participant allowances, participant wages, participant fringe benefits, training costs, and participant services costs;

(3) The need for the program and its objectives, including a precise indication of the target group or groups to be served;

(4) The results or benefits to be derived from the program, including the benefits which will accrue to program participants;

(5) A description of the separate functions of the program and the methods and procedures to be used in performing these functions, including, as appropriate:

(i) Recruitment and selection of participants;

(ii) Assessment of participants;

(iii) Orientation;

(iv) Counseling;

(v) Classroom training or education;

(vi) Payment of training and other allowances;

(vii) On-the-job training;

(viii) Subsidized community service or public service employment;

(ix) Work experience;

(x) Job development;

(xi) Job placement and followup;

(xii) Supportive services to participants such as health care and medical services, child care, residential support, assistance in securing bonds, and family planning assistance; and

(xiii) Other manpower activities such as the removal of artificial barriers to employment, job restructuring, revision or establishment of merit systems, and the development and implementation of affirmative action plans.

(6) Quantified performance goals;

(7) The steps to be taken by the program sponsor to evaluate program performance in comparison with program goals;

(8) Procedures for establishing cooperative relationships, liaison and working linkages with other manpower and manpower related agencies;

(9) Program activities to carry out under contract, subcontract, or subgrant with justification therefor;

(10) The specific geographic location or locations of program activity including, in cases of multistate programs, a state-by-state breakout as to funds budgeted and numbers of participants planned;

(11) The program staff structure, including brief position descriptions for professional staff and program administrators;

(12) The arrangements or agreements made with any labor organization which is necessarily connected with the program;

(13) When the applicant or proposer is an organization other than a State or local government, a description of the general structure of the organization and a certified statement by a Certified Public Accountant attesting to the adequacy of the applicant's or proposer's financial management system; and

(14) The completed forms, provided by the Department, which contain assurances and certifications required of program sponsors by statute and regulation.

§ 97.312 Review.

(a) The Secretary will review and consider for approval or acceptance each proposal or application for funds which is submitted in response to a specific solicitation or request made by the Secretary.

(b) The Secretary may review and consider for approval or acceptance an unsolicited proposal or application for funds submitted by an eligible organization other than a private, profitmaking organization.

(c) The Secretary will not consider or approve any unsolicited proposal or application submitted by a private, profitmaking organization.

(d) When reviewing and considering a proposal or application, the Secretary will determine whether:

(1) It meets the requirements of the Act, the regulations promulgated under the Act, and other applicable law;

(2) It is complete;

(3) It contributes to the implementation of the allocation plan described in § 97.305;

(4) The planned expenditures for program activity and services are substantiated and reasonable;

(5) The performance goals set forth are reasonable in view of past program experience in the same or similar activ-

ity and conform with documentation provided by the proposer or applicant;

(6) Operational methods are adequate;

(7) Administrative costs are reasonable and properly justified;

(8) The applicant or proposer evidences adequate internal administrative controls, accounting procedures, personnel standards and other capabilities that assure effective use of government funds; and

(9) Sufficient funds are available under the Act to fund the program in whole or in part.

§ 97.313 Rejection of a proposal or application.

(a) When the review of a proposal or application reveals that it is not approvable, the Secretary will notify the proposer or applicant in writing that the proposal or application is rejected. This notification shall include the reason or reasons for rejection.

(b) The rejection of a proposal or application is a final act.

(c) A rejection will not prejudice the review and consideration of any future proposal or application submitted by an eligible organization.

(d) The notification described in paragraph (a) of this section is not required with respect to any unsolicited proposal or application.

§ 97.314 Negotiation.

(a) When the review of a proposal or application reveals that it is generally adequate for favorable consideration, the Secretary may negotiate with the eligible organization to arrive at an agreement which is advantageous to the Department. The subjects of negotiation may include, but are not limited to:

(1) Separate program functions or components;

(2) Subgrantees, contractors, or subcontractors;

(3) Funding level and budget line items;

(4) Program objectives; and

(5) Performance standards.

(b) The Secretary may reject any separate program function or component described in the proposal or application when he determines it will not serve the purposes of the Act.

(c) The Secretary may, if negotiation does not result in a mutually acceptable conclusion, reject the subject proposal or application. In this event, written notification shall be provided to the eligible organization in accordance with § 97.313.

§ 97.315 Award.

(a) The Secretary may, if a proposal or application assures an agreement which is advantageous, approve the proposal or application and award funds without negotiation.

(b) The Secretary may also approve a proposal or application as revised during negotiation.

(c) Award of funds will be accomplished through the execution of a legally binding agreement in document form. The document, which will be prepared by the Department, will contain:

(1) The proposal or application as approved by the Secretary; and

(2) Department of Labor requirements for program administration.

(d) When the program sponsor is a unit of State or local government, the Secretary will use a grant agreement to implement the program and award funds.

(e) When the program sponsor is a nonprofit organization, public or private, other than unit of State or local government, the Secretary will use a grant agreement or a contract, whichever is appropriate, to implement the program and award funds. Determination as to the most appropriate of these two legal instruments shall be based, in each case, upon the following general criteria:

(1) The contract is the appropriate instrument when the Department has a need to exercise considerable direction and control over the program.

(2) The grant is the appropriate instrument when the Department does not need to exercise considerable direction and control over the program.

(f) When the program sponsor is a unit of the Federal Government other than the Department of Labor, the Secretary will use an interagency agreement, which will be in document form, to implement the program and award Federal funds.

(g) When the program sponsor is a private, profitmaking organization, the Secretary will use a contract to implement the program and award Federal funds.

PROGRAM OPERATION

§ 97.317 General.

Program operation requirements for activities carried out under sections 301 and 304 of the Act are set forth in § 97.317 through § 97.332. The utilization of funds under this subpart is conditioned upon adherence to the Act, the regulations promulgated under the Act, and other applicable law.

§ 97.318 Basic responsibilities of program sponsors.

Each organization which enters an agreement with the Department and is awarded funds by the Department under this subpart shall be responsible for:

(a) Following and enforcing the requirements of the Act, the regulations in this subpart, and all other applicable laws;

(b) Implementing and carrying out the program in accordance with the terms and provisions of the program agreement;

(c) Conducting program activities that are, to the maximum extent feasible, consistent with each participant's fullest capabilities and which will lead to employment opportunities enabling each participant to become economically self-sufficient and which will contribute to the occupational development or upward mobility of each participant;

(d) Advising each participant of his rights and responsibilities prior to entering the program;

(e) Making every reasonable effort to achieve program goals; and

(f) Consulting appropriate labor organizations and obtaining their concurrence in the design and operation of any training program to be implemented where a collective bargaining agreement exists with a participating employer.

§ 97.319 Cooperative relationships.

(a) Each organization conducting a program under this subpart shall, to the maximum extent feasible:

(1) Establish cooperative relationships or linkages with other manpower and manpower related agencies in the area within its jurisdiction and, in particular, with agencies operating programs through the Department including but not limited to SESA's and prime sponsors under title I of the Act; and

(2) Notify the appropriate apprenticeship agency of training activities in apprenticeable occupations.

(b) Each organization conducting a program under this subpart in which recipients of Aid to Families with Dependent Children (AFDC) participate shall coordinate services with the local sponsor, if any, of the Work Incentive Program (WIN). Coordination is necessary because provision of manpower services to recipients of AFDC who have been required to register for the WIN program may be affected by the provisions of title IV of the Social Security Act and the WIN regulations in Part 56 of this title.

§ 97.320 Eligibility for participation.

(a) Except as permitted under paragraph (e) of this section, participation in programs under this subpart shall be limited to persons who are economically disadvantaged, unemployed or underemployed. However, any agreement entered by the Secretary under this subpart may specify the target group or groups to benefit from or be served by the program.

(b) Participants in public service employment programs under this subpart must meet the eligibility qualifications stated in § 96.47 of this title.

(c) Citizenship may not be used as a criterion to prevent persons from participating in a program. However, program participation shall be limited to nationals of the United States and aliens who have been accorded the privilege of residing in the United States as lawful permanent residents or are otherwise legally available for work in the United States.

(d) Program sponsors shall give special consideration to disabled veterans and veterans of the Vietnam-era who meet the eligibility requirements in paragraph (a) of this section.

(e) The provisions of paragraph (a) of this section notwithstanding, the Secretary may establish especially suitable and appropriate eligibility guidelines for persons participating in and benefitting from affirmative action efforts, job search and relocation assistance, skill improvement training, training for technological change, and upgrading training as these types of services are authorized by § 97.321(b). Where special eligi-

bility guidelines are in effect, they shall be stated in the program agreement.

§ 97.321 Permissible activities.

(a) A program under section 301 of the Act may include any type of manpower activity which is authorized under Title I or Title II of the Act and the regulations applicable thereto as set forth in Part 95 and Part 96 of this title.

(b) A program under section 301 of the Act may, in addition to the activities authorized by paragraph (a) of this section, include the following types of activities:

(1) Affirmative action;

(2) Job search and relocation assistance;

(3) Skill improvement training;

(4) Training for technological change; and

(5) Upgrading training.

(c) Under section 304 of the Act, comprehensive work and training programs, and necessary supportive and followup services may be carried out, including the following:

(1) Programs to provide part-time employment, on-the-job training, and useful work experience for students from low-income families who are in the 9th through 12th grades of school or are equivalent in age to students in these grades and who need the earnings to resume or maintain attendance in school;

(2) Programs to provide unemployed, underemployed, or low-income persons, aged 16 and over, with useful work and training, including sufficient basic education and institutional or on-the-job training, designed to assist them to develop their maximum occupational potential and to obtain regular competitive employment;

(3) Jobs, including those in recreation and related programs for economically disadvantaged youth during the summer months;

(4) Special programs which involve work activities directed to the needs of those chronically unemployed poor who have poor employment prospects and are unable, because of age, lack of employment opportunity, or otherwise, to secure appropriate employment or training assistance under other programs, and which, in addition to other services provided, will enable such persons to participate in projects for the betterment, physical improvement, or beautification of the community or area served by the program;

(5) Special programs which provide unemployed or low-income persons with jobs leading to career opportunities, including new types of careers, in programs designed to improve the physical, social, economic, or cultural condition of the community or area served;

(6) Special services, when required, for middle-aged and older persons, including recruitment, placement, and counseling for such persons who are unemployed as a result of the closing of a plant or factory or a permanent large-scale reduction in the work force of a locality, and the provision of grants to prime sponsors to assist the prime sponsors in securing part-time or temporary employment for middle-aged and older persons; and

(7) Other manpower programs conducted by community-based organizations.

§ 97.322 Services to persons of limited English-speaking ability.

Each program sponsor conducting a program with significant participation by persons of limited English-speaking ability shall establish operating procedures to ensure:

(a) That, when teaching of skills for occupations not requiring high proficiency in English is authorized, instruction is given in the primary language of the participant;

(b) That instruction in the English language is made available to participants with limited English-speaking ability; and

(c) That the primary language of the participants is used in the delivery of other authorized services including, but not limited to:

(1) Dissemination of information;

(2) Job placement services;

(3) Counseling;

(4) Training; and

(5) Employment supervision.

§ 97.323 Services to offenders.

(a) Programs under section 301 of the Act which are intended to serve offenders shall be designed to enable participants to secure and obtain meaningful employment. Program functions or components may include, but are not limited to:

(1) Basic education;

(2) Drug addiction or dependency rehabilitation;

(3) Use of training equipment comparable to that currently used on the job for which training is provided;

(4) Making arrangements for training, job placement, or related services with:

(i) Employers;

(ii) Labor organizations; and

(iii) Parole, probationary, and judicial authorities; and

(5) Any other service which contributes to the employability of offenders.

(b) The Secretary may, however, limit the program functions or components to specific services or types of services within individual programs for offenders under this subpart.

§ 97.324 Training for lower wage industries and relocation of industries.

The regulations contained in § 95.36 of this title apply to programs under this subpart.

§ 97.325 Non-Federal status of participants.

Participants in programs under this subpart are not Federal employees for any purpose and are not subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employment benefits.

§ 97.326 Training allowances.

(a) *General.* (1) For each program under this subpart that includes activities in which allowances may be authorized for payment to participants, the Secretary, subject to the requirements and limitations of this section, will determine:

(i) Whether basic allowances are payable and the extent to which they shall be waived or adjusted upward;

(ii) Whether incentive allowances to public assistance recipients are payable;

(iii) Whether incentive allowances to institutionalized persons are payable and the amounts which are payable;

(iv) Whether allowances for exceptional expenses incurred by program participants are payable and the rates or schedules which will govern payments; and

(v) The delivery agent or agents authorized to operate the allowance payment system.

(2) When a program under this subpart includes activities in which allowances may be authorized for payment to participants, the Secretary's determinations with respect to these allowance payments will be stated in the program agreement. Program sponsors may pay allowances only as authorized by the program agreement.

(b) *Basic allowances.* (1) Basic allowances under this subpart may be paid only to individuals who participate in a course of training or education for which no wages are payable. Basic allowances may not, however, be paid to any individual who is receiving public assistance or whose needs or income are taken into account in determining public assistance payments to others or be paid to institutionalized persons.

(2) Basic allowances may be paid only to reimburse participants for the hours they spend (or are excused for good cause therefrom) in a course of training or education for which no wages are payable. Reimburseable hours may include those spent by participants in supportive activities, such as orientation and counseling, carried out in conjunction with the course of training or education in which the individual is enrolled.

(3) When no waiver or other adjustment is in effect, the basic allowance for one week shall be computed by applying whichever is higher of (i) the minimum hourly wage prescribed by State or local law in the jurisdiction in which the training or education is conducted or (ii) the minimum hourly wage prescribed under Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, to to the number of hours which are reimbursable for that week.

(4) The basic allowance paid to a participant for one week shall be increased by $5 for each dependent over two, up to a maximum of four additional dependents. The maximum increase for dependents is $20 for six or more dependents.

(5) Any sum of money received by a participant as an unemployment compensation benefit in a week shall be sub-

tracted from the participant's basic allowance payment for that week. For the purposes of this paragraph, unemployment compensation benefits do not include separation payments provided under a collective bargaining agreement; and the basic allowance payment to which an individual is entitled may not be diminished because of a separation payment provided under a collective bargaining agreement.

(6) The basic allowance may be adjusted upward to the degree that the local costs of living exceed the national norm.

(7) Periodic increases to the basic allowance paid to participants in a program under this subpart may be authorized to provide an additional incentive for continued participation in the course of training or education.

(8) For any program under this subpart, or any component thereof, that includes activities in which basic allowances may be authorized for payment to participants, the Secretary may waive the payment of all or part of the basic allowances. However, any such waiver:

(i) May be made only to increase the number of individuals who may be served or to otherwise promote the purposes of this subpart;

(ii) Must be applied to all participants in a program, or component thereof, who would otherwise be entitled, except as provided by paragraph (b) (8) (iii) of this section.

(iii) May apply to participants on an individual basis only when:

(A) Approved by the Department of Labor Contract/Grant Officer in writing;

(B) Agreed to freely, in writing, by the individual who is affected; and

(C) Funds allocated for basic allowances under the program agreement have been depleted;

(iv) May apply to basic allowance increments for dependents only when basic allowances have been waived in whole;

(v) May not be made solely because a participant is a veteran and receives benefits through the Vietnam Era Veteran's Readjustment Assistance Act, as amended; and

(vi) Must be made known, in writing, to all participants affected.

(c) *Incentive allowances for public assistance recipients.* (1) When an individual who is receiving public assistance or whose needs or income are taken into account in determining public assistance payments to others participates in a program under this subpart, or a component thereof, in which basic allowances have been authorized, the individual shall be paid an incentive allowance in lieu of the basic allowance. Under programs, or components thereof, where the payment of basic allowances has been waived in whole for participants who would otherwise be entitled, no incentive allowances may be paid.

(2) Incentive allowances shall be paid to entitled participants at the rate of $30 per week.

(3) Incentive allowances to entitled participants shall be reduced pro rata under part-time courses of training or education for which no wages are payable and shall be reduced pro rata for absences without good cause.

(4) Incentive allowances shall be disregarded in determining the amount of public assistance payments individuals are entitled to receive under Federal or federally assisted public assistance programs.

(d) *Incentive allowances for institutionalized persons.* (1) Incentive allowances may be paid to institutionalized persons, including prison inmates, who participate in a program under this subpart.

(2) The determination as to whether such allowances will be paid, and the amounts thereof, will be made by the Secretary in consultation with officials of the institutions. In the case of prison inmates, all or part of such payments, as determined by the Secretary and the head of the institution, may be held in reserve and delivered upon the participants' release from the institution.

(3) Incentive allowances for institutionalized persons may not be paid at a rate which exceeds the minimum wage prescribed by Section 6(a) (1) of the Fair Labor Standards Act of 1938, as amended, as applied to the number of hours spent (or excused for good cause therefrom) by the participant in training, education, or related program activities carried out under this subpart.

(e) *Exceptional expenses allowances.* Allowances may be paid to participants in a program under this subpart for the exceptional expenses they incur in connection with program activities. Reasonable allowances may be provided for expenses including, but not limited to:

(1) Meal expenses;

(2) Transportation expenses; and

(3) Lodging expenses.

(f) *Time limitation.* Allowances may not be paid under any course of training or education having a duration in excess of 104 weeks.

(g) *Repayments.* Each delivery agent responsible for operating an allowance payment system under this subpart shall, to the extent possible, require participants to repay the amount of any allowance overpayments received. Any overpayment not returned may be set off against any future allowance or other benefits under the Act to which the participant may become entitled. Where the overpayment was made in the absence of fault on the part of the participant, repayment shall be waived where recovery would be against equity and good conscience or would otherwise defeat the purposes of the program.

(h) *Allowance payment systems.* Each allowance payment system established or used in conjunction with a program under this subpart shall include:

(1) A procedure to obtain information concerning receipt of unemployment compensation by participants entitled to basic allowances;

(2) A procedure to encourage each participant entitled to basic allowances to apply for unemployment compensation benefits to which the participant is also entitled if he or she is not already receiving them;

(3) Determination of entitlement and computation of amount to be paid;

(4) Issuance and distribution of payments;

(5) Maintenance of payment records and preparation of required reports;

(6) Maintenance of a system to detect and collect overpayments; and

(7) Close working arrangements with other agencies to obtain necessary information to minimize unauthorized payments, including arrangements with:

(i) The State employment security agency for verification of unemployment compensation benefits;

(ii) Local welfare agencies for verification of public assistance payments; and

(iii) Training facilities for submittal of payment requests and time and attendance certifications.

§ 97.327 Wages, minimum duration of training and reasonable expectation of employment.

The regulations contained in § 95.35 of this title apply to programs under this subpart.

§ 97.328 General benefits and working conditions for program participants.

The regulations contained in § 98.24 of this title apply to programs under this subpart.

§ 97.329 Adverse actions.

Each program sponsor shall establish procedures for resolving any issue arising between it and a participant or an applicant for participation. Such procedures shall include an opportunity for an informal conference and a prompt determination of the issue. Such procedures shall also include a notice setting forth the grounds for any adverse action proposed to be taken against a participant and giving the participant an opportunity to respond. If an issue cannot be resolved, the participant or applicant for participation may request a review of the issue by the Contract or Grant Officer who shall act on behalf of the Secretary.

§ 97.330 Labor standards.

All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating, of projects, buildings and works which are federally assisted under this subpart shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 27a–5).

§ 97.331 Nondiscrimination and equal employment opportunities.

The regulations contained in § 98.21 of this title apply to programs under this subpart.

§ 97.332 Nepotism.

The regulations contained in § 98.22 of this title apply to programs under this subpart.

§ 97.333 Special limitations on participant activities.

The regulations contained in § 98.23 of this title apply to programs under this subpart.

§ 97.334 Maintenance of effort.

Program sponsors shall use Federal funds provided under this subpart to supplement, rather than supplant, the level of funds that would otherwise be made available from non-Federal sources for the purpose of planning and administering programs and activities within the scope of this subpart.

§ 97.335 Limitations on Federal funds.

Federal funds provided under this subpart may be expended only for purposes permitted by the applicable Federal cost principles.

(a) The cost principles in Subpart 1–15.7 of Title 41 of the Code of Federal Regulations apply to program sponsors which are units of State or local government.

(b) The cost principles in Subpart 1–15.3 of Title 41 of the Code of Federal Regulations apply to program sponsors which are institutions of higher education.

(c) The cost principles in Subpart 1–15.2 of Title 41 of the Code of Federal Regulations apply to all types of program sponsor organizations not covered by paragraphs (a) and (b) of this section.

§ 97.336 Subagreements.

(a) Program sponsors under this subpart may contract, subcontract, or subgrant for portions of the required program activity only if specifically authorized to do so by the program agreement.

(b) Where contracting, subcontracting, or subgranting is authorized, the regulations contained in § 98.27 of this title apply, except that no contract, subcontract, or subgrant may be entered which has a performance period extending beyond the termination date of the basic program agreement.

ADMINISTRATIVE REQUIREMENTS FOR PROJECT GRANTS TO STATE AND LOCAL GOVERNMENTS

§ 97.341 General.

The Department's administrative requirements, standards, and procedures for grants awarded under this subpart to State and local governments are stated in § 97.341 through § 97.355. These requirements, standards, and procedures reflect those authorized and required by Federal Management Circular (FMC) 74–7; and they explicate the material contained in FMC 74–7 as it applies to State and local governments which are awarded grants under this subpart. Each State and local government which is awarded a grant under this subpart must conform to these administrative requirements, standards, and procedures. Hereinafter, State and local governments which are awarded a grant under this subpart are referred to as "grantees."

§ 97.342 Cash depositories.

(a) Any moneys advanced to a grantee are "public moneys" (owned by the Federal Government) and must be deposited in a bank with FDIC insurance coverage; and the balances exceeding FDIC coverage must be collaterally secure, as provided for in 12 U.S.C. 265.

(b) Except as provided by paragraph (a) of this section, there are no Department of Labor requirements for the physical segregation of cash depositories for grant funds which are provided to the grantee, nor are there any other requirements or eligibility standards for cash depositories in which Federal grant funds are deposited by the grantee.

(c) A separate bank account may be used when payments under letter of credit are made on a "checks-paid" basis in accordance with agreements entered into by a grantee, the Federal Government, and the banking institutions involved.

(d) Consistent with the national goal of expanding the opportunities for minority business enterprises, grantees are encouraged to use minority banks.

§ 97.343 Bonding and insurance.

Each grantee shall apply its normal bonding and insurance requirements, including fidelity bonds, to protect the interest of the Federal Government.

§ 97.344 Records maintenance.

(a) Each grantee shall retain for a period of at least three years all financial records, supporting documents, statistical records, and all other records pertinent to the program. The retention period starts from the date of the submission of the final expenditure report or, for grants which are renewed annually, from the date of the submission of the annual expenditure report, except that:

(1) The records shall be retained beyond the three-year period for as long as any audit findings remain unresolved;

(2) Records for nonexpendable property acquired with grant funds shall be retained for three years after its final disposition; and

(3) When grant records are transferred to or maintained by the Department, the three-year retention requirement does not apply to the grantee with respect to these records.

(b) Grantees may substitute microfilm copies in lieu of original records only with the written permission of the Grant Officer.

(c) When the Department determines that certain grant records have long-term or historical retention value, the grantee shall, upon the Department's request, deliver the records to the Department. The grantee may request an arrangement to retain the records when they are continuously needed for joint use.

(d) The Secretary of Labor and 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 grantee and its subgrantees and contractors which are pertinent to the grant program for the purpose of making audit, examination, excerpts and transcripts.

(e) (1) The names of all participants supported under the Act are considered public information.

(2) Other information regarding applicants, program participants, or their immediate families, which may be obtained through application forms, interviews, tests, reports from public agencies, counselors, or any other source, shall be made available to the public by the grantee to the same degree it makes such information available about its own employees in the governmental jurisdiction. Without the permission of the applicant or participant, such information which is not normally made available to the public on the grantee's own employees in the governmental jurisdiction shall be divulged only as necessary for purposes related to the performance or evaluation of the grant under this subpart to persons having responsibilities under the grant, including those furnishing services to the program under subgrant or contract, and to governmental authorities to the extent necessary for the proper administration of law.

(3) The names of all individuals employed in staff positions under the Act are considered public information. A grantee shall make other information available to the public pertaining to individuals employed in staff positions under the Act in the same manner and to the same extent as such information is made available on its regular employees. A grantee shall make other information available to the public on individuals employed in staff positions by the administrative unit of a consortium who are not also employed by a member jurisdiction in accordance with the policy of the member jurisdiction which has the least restrictive policy.

(f) Grantees shall maintain records on each program participant, including:

(1) Personal indentifying information and characteristics;

(2) Residence;

(3) The work history of the participant;

(4) Program activities and supportive services in which the individual participated; and

(5) Status of the participant upon termination from the program.

§ 97.345 Single State agency not required.

No single State agency or multimember board or commission need be established or designated to administer or supervise the administration of grant programs under this subpart.

§ 97.346 Program income.

(a) In accordance with Section 203 of the Intergovernmental Cooperation Act of 1968 (Pub. L. 90–577), the Federal Government will not hold any grantee which is a State or an agency or instrumentality of a State accountable for interest earned on grant funds pending their disbursement for program purposes.

(b) Grantees which are units of local government shall return to the Federal Government all interest earned on advances of grant funds (42 *Comp.* Gen. 289).

(c) Proceeds from the sale of real and personal property, either provided by the Federal Government or purchased in whole or in part with Federal funds, shall be handled in accordance with the *MA Property Handbook* which implements Attachment N of FMC 74–7.

(d) Royalties received from copyrights and patents during the grant period shall be retained by the grantee and be added to the funds already committed to the program. After termination or completion of the grant, the Federal share of royalties, which is any amount in excess of $200 received annually, shall be returned to the Department.

(e) All other gross income earned by grant-supported activities during the grant period shall be retained by the grantee and shall be added to funds committed to the program and be used to further program objectives.

When the grantee freely contributes to the costs of the program or when the Secretary requires the grantee to share the costs of the program, the criteria and procedures for evaluating and determining the allowability of cash and in-kind contributions made by grantees are those set forth in Attachment F of FMC 74–7.

§ 97.348 Standards for grantee financial management systems.

(a) Each grantee shall operate a financial management system which provides for:

(1) Accurate, current, and complete disclosure of the financial results of the grant program in accordance with the Federal reporting requirements;

(2) Records which identify the source and application of funds for grant-supported activities, including records containing information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income;

(3) Effective control over and accountability for all funds, property and other assets to safeguard these assets and to ensure that they are used only for authorized purposes;

(4) The comparison of actual costs with amounts budgeted for the grant;

(5) Procedures to minimize the time elapsing between the transfer of funds from the U,S. Treasury and the disbursement by the grantee when funds are advanced by the Federal Government;

(6) Drawdowns from the U.S. Treasury through the commercial bank as close as possible to the time of disbursements when advances are made by the letter-of-credit method;

(7) Procedures for determining the allowability and allocability of costs in accordance with the provisions of FMC 74-4; and

(8) Accounting records which are supported by source documentation.

(b) Each grantee shall audit or have audited the grant financial records to determine, at a minimum, the fiscal integrity of financial transactions and reports, and the compliance with laws, regulations and administrative requirements. The grantee shall schedule these audits with reasonable frequency, usually annually, but not less frequently than once every two years. The grantee shall establish a systematic method to assure timely and appropriate resolution of audit findings and recommendations.

(c) Because the Department requires financial reporting on an accrual basis, the grantee shall, when its own accounting system is not kept on that basis, develop the required reporting information through analysis of documentation on hand or on the basis of best estimates.

(d) Each grantee shall require subgrantees or contractors (i.e., recipients of subgrants or contracts which are passed through by the grantee) to adopt all the standards set forth in this section, except the standard applicable to letter-of-credit drawdowns as described in paragraph (a) (6) of this section.

§ 97.349 Financial reporting requirements.

(a) Each grantee shall periodically submit a Financial Status Report which, on an accrual basis, indicates total costs incurred by cost category including indirect costs, if any. This report shall be prepared to coincide with the ending dates for Federal fiscal year quarters and shall be submitted to the Department no later than 30 days after the end of the quarterly reporting period. If the grant period ends at a date other than the last day of a Federal fiscal year quarter, a final report covering the entire grant period shall also be required. Grantees must certify to the accuracy and completeness of the costs reported.

(b) Each grantee shall periodically submit a Report of Federal Cash Transactions. Grantees which receive annual grants totalling $1 million or more shall submit this report monthly; and all other grantees shall submit it quarterly.

(c) Specific instructions and procedures for preparing and submitting the Financial Status Report and the Report of Federal Cash Transactions are contained in the *Forms Preparation Handbook*. These written procedures and instructions implement Attachment H of FMC 74–7. The Department will furnish a copy of the Handbook to each grantee.

§ 97.350 Monitoring and reporting program performance.

(a) Each grantee shall continually monitor the performance of grant supported activities to assure that program goals are being met and that the requirements of the Act and the regulations in this subpart are being met.

(b) Each grantee shall periodically submit a Program Status Summary (including any special supplement the Department may require). This report shall be prepared to coincide with the ending dates for Federal fiscal year quarters and shall be submitted to the Grant Officer no later than 30 days after the end of the quarterly reporting period. If the grant period ends at a date other than the last day of a Federal fiscal year quarter, a final report covering the entire grant period shall also be required. Specific instructions for the preparation of this report are contained in the *Forms Preparation Handbook*. Instructions for supplemental reports will be provided by the Department. The Program Status Summary provides the following types of information together with a comparison of the same items as they appear in the grant document:

(1) The total number of enrollments with granted funds during the grant period;

(2) The total number of participants placed in unsubsidized employment upon termination from the program and the number entering school, other training or military service;

(3) The level of enrollment associated with each program activity;

(4) The number of individuals within the target group or groups being served by the program; and

(5) A brief narrative account of significant program accomplishments and problem areas.

(c) Each grantee shall submit a Quarterly Summary of Participant Characteristics with the Program Status Summary. This report will include characteristics data aggregated for all participants as set forth in the report form and will include all participants terminating or placed during the reporting period. For participants who entered employment during the report period, the report will also aggregate the average wage before enrollment and upon termination from the program. Specific instructions for the preparation of this report are contained in the *Forms Preparation Handbook*.

(d) Each grantee shall, without regard to normal reporting periods, advise the Grant Officer of the following types of conditions as soon as they become known:

(1) Problems, delays, or adverse conditions which may materially affect the ability to attain program goals with an indication of what corrective action has been or will be taken and an indication of the Federal assistance, if any, which may be helpful in resolving the situation; and

(2) favorable developments or events which will materially assist the program in meeting or exceeding its intended purposes and goals.

(e) If a performance review conducted by the grantee discloses the need for grant budget revision, the grantee shall submit a request for revision to the Grant Officer.

(f) The Department will make onsite visits as frequently as is practicable to review program accomplishments and management control systems and to provide technical assistance. Grantees shall cooperate fully with the Department in the performance of these visits.

§ 97.351 Payment procedures.

(a) Consistent with the requirements, criteria and standards stated in Attachment J of FMC 74–7, grant payments will be made through a letter of credit, an ad-

vance by Treasury check, or a reimbursement by Treasury check.

(b) Specific instructions and procedures for preparing forms associated with grant payments are contained in the *Forms Preparation Handbook.*

(c) The Department may withhold payments for proper charges if the grantee has failed to comply with program objectives, grant award conditions, or Federal reporting requirements or if the grantee is indebted to the United States and collection of the debt will not impair the accomplishment of the objectives of any grant program sponsored by the United States. When it determines to withhold payments, the Department will inform the grantee with reasonable notice that payments will not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness of the United States is liquidated.

§ 97.352 Budget revision procedures.

(a) The grant budget is the approved financial plan for the Federal share and, if applicable, the nonfederal share to carry out the purposes of the grant as set forth in the grant agreement document. Grantees shall promptly request prior written approvals from the Grant Officer for budget revision whenever:

(1) The revision results from a net increase or decrease from the anticipated enrollment level of 15 percent or more, or from other significant changes in the scope of the grant program;

(2) The revision indicates a need for additional Federal funding;

(3) The Federal share of the grant budget is over $100,000 and the cumulative amount of transfers among direct cost object class budget categories exceeds or is expected to exceed $10,000, or 5 percent of the total grant budget, whichever is greater;

(4) The Federal share of the grant budget is $100,000 or less and the cumulative amount of transfers among direct cost object categories exceeds or is expected to exceed 5 percent of the total grant budget;

(5) The revision involves the transfer of amounts budgeted for indirect costs to absorb increases in direct costs;

(6) The revision pertains to the addition of cost items requiring approval in accordance with the provisions of FMC 74–4; or

(7) The grantee plans to transfer Federal funds allotted for training allowances or other direct payments to participants to other categories of expense.

(b) Before deviating from the grant budget in any manner described in paragraph (a) of this section, the grantee must obtain the prior written approval of the Grant Officer. All other deviations from the grant budget may be undertaken by the grantee without the approval of the Grant Officer. These deviations include the use of additional grantee funds to further the purposes of the program and the transfer of amounts budgeted for direct costs to absorb authorized increases in indirect costs.

(c) Each grantee shall promptly notify the Grant Officer when the amount of Federal funds authorized is expected to exceed actual needs by more than $5,000 or 5 percent of the Federal grant, whichever is greater.

(d) When requesting approval for budget revisions grantees must use the budget forms which are used in the grant agreement document. However, grantees may request by letter the cost item approvals required by FMC 74–4.

(e) Under normal circumstances, the Department will notify the grantee of budget revision approvals or disapprovals within 30 days of receipt of the request. If the revision request is still under consideration at the end of 30 days, the Department will inform the grantee in writing as to when the Department's decision will be forthcoming.

§ 97.353 Grant closeout procedures.

(a) Subsequent to the completion date of the grant, i.e., the date stated in the grant agreement document or any amendment thereto upon which Federal assistance under the grant ends, the grant must be closed out. Grant closeout is the process by which the Department determines that all required administrative actions and all required grant work have been completed by the grantee and the Department. The Department will provide each grantee with the necessary forms (with instructions) associated with the closeout of the grant. The basic procedures for closeout are described in this paragraph.

(1) If grant payments are made on a letter of credit, the Department will notify the grantee that the letter of credit is to be cancelled and that, following cancellation, any further payments under the grant will be made by Treasury check upon submission and approval of the required payment requests.

(2) Upon receipt and approval of the necessary requests, the Department will make prompt payment to the grantee for allowable reimbursable costs under the grant being closed out.

(3) Upon the Department's request the grantee shall immediately refund any unencumbered balance of cash drawn down from the letter of credit or advanced by Treasury check. Items to be included with the refund check are detailed in the *Forms Preparation Handbook.*

(4) Within 90 days after the completion date, the grantee shall submit the following financial and inventory reports which are described in the *Forms Preparation Handbook:*

(i) A final Financial Status Report;

(ii) A final Report of Federal Cash Transactions;

(iii) The Grantee's Assignment of Refunds, Rebates, and Credits;

(iv) Bank Statement—Special Bank/Financial Account;

(v) Cancellation/Adjustment of Fidelity Bond;

(vi) A list of possible claimants for unclaimed checks cancelled or payment stopped;

(vii) Grant Closeout Tax Certification;

(viii) Government Property Inventory; and

(ix) Inventory Certificate.

(5) Within 90 days after the completion date, the grantee shall submit the Grantee's Release form as described in the *Forms Preparation Handbook.*

(6) Within 30 days after the completion date, the grantee shall submit a final Program Status Summary (with supplement if appropriate) and Quarterly Summary of Participant Characteristics.

(7) After receipt of the documents and final reports described in paragraphs (a)(4) through (a)(6) of this section, the Department will make settlement for any upward or downward adjustment to the Federal share of costs.

(8) In the event a final audit has not been performed prior to closeout of the grant, the Department retains the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

(b) Suspension of a grant is an action by the Secretary which temporarily suspends Federal assistance under the grant pending corrective action by the grantee or pending a decision by the Secretary to terminate the grant. In the event that the Secretary determines that a grantee has failed to comply with stipulations, standards, or conditions of the grant agreement, the Secretary may, on reasonable notice to the grantee, suspend the grant, and withhold further payments, or prohibit the grantee from incurring additional obligations of grant funds, pending corrective action by the grantee or a decision to terminate in accordance with paragraph (c)(1) of this section. The Secretary may allow all necessary and proper costs which the grantee could not reasonably avoid during the period of suspension provided that they meet the provisions of FMC 74–4.

(c) The termination of a grant is the cancellation of Federal assistance, in whole or in part, under a grant at any time prior to the completion date.

(1) The Secretary may terminate any grant in whole, or in part, at any time before the date of completion, whenever, it is determined that the grantee has failed to comply with the conditions of the grant. The Secretary will promptly notify the grantee in writing of the determination and the reasons for the termination, together with the effective date. Payments made to grantees or recoveries by the Department under grants terminated for cause shall be in accord with the legal rights and liabilities of the parties.

(2) A grant may be terminated in whole or in part when both the grantee and the Secretary 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

terminations, the portion to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Secretary will allow full credit to the grantee for the Federal share of the noncancellable obligations, properly incurred by the grantee prior to termination.

§ 97.354 Property management standards.

Standards for the management, control, and disposition of grant-acquired property are contained in the *MA Property Handbook*. Grantees must adhere to the standards set forth in the handbook. A copy of the handbook, which implements Attachment N of FMC 74–7, will be furnished by the Department to each grantee.

§ 97.355 Procurement standards.

The standards to be used by grantees for the procurement of supplies, equipment, and other services with Federal grant funds are those stated in Attachment O of FMC 74–7.

ADMINISTRATIVE STANDARDS FOR PROGRAM AGREEMENTS WITH PUBLIC AND PRIVATE INSTITUTIONS OF HIGHER EDUCATION, PUBLIC AND PRIVATE HOSPITALS, AND OTHER PUBLIC AND PRIVATE NONPROFIT ORGANIZATIONS

§ 97.361 General.

The Department's administrative requirements, standards, and procedures for program agreements awarded under this subpart to public and private institutions of higher education, public and private hospitals, and other public and private nonprofit organizations, including Indian Tribes are stated in § 97.361 through § 97.375. These requirements, standards, and procedures reflect those described by the General Services Administration in their notice of proposed rulemaking for 34 CFR 258 which was published Monday, February 10, 1975, in the FEDERAL REGISTER (40 FR 6304–6312). The requirements, standards, and procedures stated in § 97.361 through § 97.375 will be amended as any subsequent effective regulations in 34 CFR 258 might indicate. Each public or private institution of higher education, public or private hospital, or other public or private nonprofit organization, including any Indian Tribe, which is awarded a program agreement under the Act must conform to these requirements, standards and procedures. Hereinafter, these types of organizations will be referred to as "recipients."

§ 97.362 Cash depositories.

(a) A separate bank account shall be used when letter-of-credit agreements entered into by the recipient, the Federal Government and the bank involved provide that drawdowns will be made when the recipient's checks are presented to the bank for payment.

(b) Any Federal funds which are advanced to a recipient are subject to the control and regulation of the United States and its officers, agents or employees (public moneys as defined in Treasury Circular No. 1976). Funds advanced must be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage; and the balance exceeding FDIC coverage must be collaterally secured. In order to ensure that security is obtained, a special bank account with a lien in favor of the Federal Government is required when funds are advanced to a recipient.

(c) Except as provided by paragraphs (a) and (b) of this section, there are no Department of Labor requirements for the physical segregation of cash depositories for Federal program funds which are provided to the recipient, nor are there any other requirements or eligibility standards for cash depositories in which Federal program funds are deposited by the recipient.

(d) Consistent with the national goal of expanding opportunities for minority business enterprises, recipients are encouraged to use minority banks (a bank at least 50 percent owned by minority group members).

§ 97.363 Bonding and insurance.

(a) When advance payments are made to the recipient, the recipient shall obtain fidelity bond coverage which meets the specifications described in paragraphs (a)(1) through (a)(6) of this section.

(1) Fidelity bond coverage shall be in the form of a blanket position bond with an approved corporate surety covering any and all officers and employees of the recipient organization who are involved in the activities of the program.

(2) The amount of the bond shall be $25,000 or the amount of the advance payment, whichever is less.

(3) If possible, both the recipient and the Secretary of Labor shall be named as the insureds. If this is not possible, the recipient shall be named as the insured.

(4) The period of coverage shall be at least one year, with a discovery period of no less than one year after the cancellation or other termination of the bond.

(5) The bond shall stipulate that the Department of Labor Contract/Grant Officer be given 35 days advance notice by the surety prior to making any material change in, or cancellation of, the bond. The advance notice shall be provided by certified mail.

(6) If the bond covers advance payments under funding agreements with more than one agency, the bond shall contain a recovery provision for each Federal agency involved.

(b) Recipients shall obtain and maintain in force during the lifetime of the program agreement "third person" liability insurance of the types and in the amounts described in this paragraph.

(1) The recipient shall obtain and maintain Worker's Compensation insurance for his staff in the amounts required by State law.

(2) The recipient shall obtain and maintain Occupational Diseases Insurance as required by applicable law. In an area where all occupational diseases are not compensable under applicable law, insurance for occupational diseases shall be secured under the employer liability section of the recipient's insurance policy. Minimum coverage per incident is $100,000.

(3) The recipient shall obtain and maintain Employer Liability insurance to cover any liability imposed upon the recipient, by law, for damages on account of personal injuries, including death resulting therefrom, sustained by the recipient's employees by reason of accident. Minimum coverage per incident is $100,000.

(4) The recipient shall obtain and maintain General Liability Insurance (Bodily Injury) to provide coverage against claims arising from bodily injury or death to third parties occurring on the recipient's business premises or through the recipient's operations, except those arising from motor vehicles away from the premises, those covered by Worker's Compensation Law, and other exclusions stated in the policy. The minimum coverage for bodily injury is $100,000 per person and $300,000 per accident.

(5) The recipient shall obtain and maintain Automobile Liability insurance. The required coverage is $100,000 per person and $300,000 per accident for bodily injury and $25,000 per accident for property damage. The types and amounts stated for vehicle insurance must apply to any vehicle operated or used in connection wth project activities. In the event a privately-owned vehicle is used, the Federal Government's share of insurance premiums, including any additional coverage required to conform with the requirements of this paragraph, shall be prorated in accordance with the vehicle's actual use while conducting activities under the program.

§ 97.364 Records maintenance.

(a) Each recipient shall retain for a period of at least three years all financial records, supporting documents, statistical records, and all other records pertinent to the program. For types of program agreements other than contracts the retention period starts from the date of the submission of the final expenditure report or, for agreements which are renewed annually, from the date of the submission of the annual expenditure report. For contracts, the retention period starts from the date of final payment.

For all types of program agreements, however:

(1) The records shall be retained beyond the three-year period for as long as any audit findings remain unresolved;

(2) Records for nonexpendable property acquired with Federal program funds shall be retained for three years after its final disposition; and

(3) When program records are transferred to or maintained by the Depart-

ment, the three-year retention requirement does not apply to the recipient with respect to these records.

(b) Recipients may substitute microfilm copies in lieu of original records only with the written permission of the Contract/Grant Officer.

(c) When the Department determines that certain project records have long-term or historical retention value, the recipient shall, upon the Department's request, deliver the records to the Department. However, the recipient may request an arrangement to retain the records when they are continuously needed for joint use.

(d) The Secretary of Labor and 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 recipient and its subgrantees, contractors, and subcontractors which are pertinent to the program for the purpose of making audit, examination, excerpts and transcripts.

(e) (1) The names of all participants supported under the Act are considered public information.

(2) Other information regarding applicants, program participants, or their immediate families, which may be obtained through application forms, interviews, tests, reports from public agencies, counselors, or any other source, shall be made available to the public by the recipient to the same degree it makes such information available about its own employees. Without the permission of the applicant or participant, such information which is not normally made available to the public on the recipient's own employees shall be divulged only as necessary for purposes related to the performance or evaluation of the program agreement to persons having responsibilities under the agreement, including those furnishing services to the program under subgrant, contract, or subcontract, and to governmental authorities to the extent necessary for the proper administration of law.

(3) The names of all individuals employed in staff positions under the Act are considered public information. A recipient shall make other information available to the public pertaining to individuals employed in staff positions under the Act in the same manner and to the same extent as such information is made available on its regular employees.

(f) Recipients shall maintain records on each program participant, including:

(1) Personal identifying information and characteristics;

(2) Residence;

(3) The work history of the participant;

(4) Program activities and supportive services in which the individual participated; and

(5) Status of the participant upon termination from the program.

§ 97.365 Program income.

(a) In accordance with Section 203 of the Intergovernmental Cooperation Act of 1968 (Pub. L. 90-577), the Federal Government will not hold any recipient which is an instrumentality of a State accountable for interest earned on Federal program funds pending their disbursement for program purposes.

(b) Recipients which are not instrumentalities of a State shall remit to the Federal Government all interest earned on advances of Federal program funds.

(c) Proceeds from the sale of real and personal property, either provided by the Federal Government or purchased in whole or in part with Federal funds, shall be handled in accordance with the *Property Handbook for MA Contractors.*

(d) Royalties received as a result of copyrights or patents will be retained by the recipient unless the terms of the program agreement provide otherwise.

(e) All other gross income earned by program activities during the program agreement period shall be retained by the recipient and shall be added to funds committed to the program and be used to further program objectives.

§ 97.366 Matching share.

(a) Definitions of terms for the purposes of this section are provided in this paragraph.

(1) "Program costs" means all allowable costs incurred by a recipient (as set forth in the applicable Federal cost principles) and the value of in-kind contributions made by third parties in accomplishing the objectives of the program agreement during the program period.

(2) "Matching share" means that portion of the program costs not borne by the Federal Government.

(3) "Cash contributions" means the recipient's cash outlay, including the outlay of money contributed to the recipient by non-Federal parties.

(4) "In-kind contributions" means the value of noncash contributions provided by the recipient and nonfederal third parties. Property purchased with Federal funds may not be considered as any part of the recipient's in-kind contribution. In-kind contributions may be in the form of real property and nonexpendable personal property, and the value of goods and services directly benefitting the program.

(b) When the recipient freely contributes to the costs of the program or when the Secretary requires the recipient to share the costs of the program, the matching share may consist of items described in this paragraph.

(1) The matching share may include charges incurred by the recipient as program costs. It is acknowledged that not all charges require cash outlays by the recipient during the program period, such as depreciation and use charges for buildings and equipment.

(2) The matching share may include program costs financed with cash contributed or donated to the recipient by public agencies and institutions, and private organizations and individuals.

(3) The matching share may include program costs represented by services and real and personal property, or use thereof, donated by public agencies and institutions, and private organizations and individuals.

(c) All contributions, both cash and in-kind, will be accepted as part of the recipient's matching share when the contributions meet all the following criteria:

(1) Are verifiable from the recipient's records;

(2) Are not included as contributions to any other federally assisted program;

(3) Are necessary and reasonable for proper and efficient accomplishment of program objectives;

(4) Are types of charges which would be allowable under the applicable cost principles;

(5) Are not paid by the Federal Government directly or indirectly under another agreement; and

(6) Conform to the other requirements and standards stated in this section.

(d) Values for recipient in-kind contributions will be established in accordance with the applicable cost principles.

(e) Specific procedures for recipients in establishing the value of in-kind contributions from non-Federal third parties are described in this paragraph.

(1) Volunteer services may be furnished by professional and technical personnel, consultants, and other skilled and unskilled labor. Volunteer service may be counted toward the matching share if the service is an integral and necessary part of the approved program. Rates for volunteers must be consistent with those paid for similar work in the recipient's organization. In instances when the required skills are not found in the recipient's organization, rates must be consistent with those paid for similar work in the labor market in which the recipient competes for the kind of services involved. When an employer other than the recipient furnishes the services of an employee, these services must be valued at the employee's regular rate of pay (excluding fringe benefits and overhead costs) provided that these services are in the same skill for which the employee is normally paid.

(2) Donated expendable personal property includes such items as expendable equipment, office supplies, laboratory supplies or workshop and classroom supplies. Values assessed to expendable personal property included in the matching share must be reasonable and must not exceed the market value of the property at the time of the donation.

(3) (i) Depreciation or use charges may be made for the contributed use of equipment, buildings, or land which directly supports project activities. The full value of equipment or other capital assets and fair rental charges for land may be included only if permitted and approved by the Department in writing.

(ii) The value of donated property will be determined in accordance with the usual accounting policies of the recipient with the following qualifications:

(A) The value of donated land and buildings may not exceed its fair market value at the time of donation as established by an independent appraiser (e.g., certified real property appraiser or Gov-

ernment Services Administration (GSA) representative);

(B) The value of donated nonexpendable personal property may not exceed the fair market value of equipment and property of the same age and condition at the time of donation;

(C) The value of donated space may not exceed the fair rental value of comparable space as established by an independent appraiser of comparable space and facilities in a privately owned building in the same locality; and

(D) The value of loaned equipment may not exceed its fair rental value.

(f) Volunteer services contributed from non-Federal third parties must, to the extent feasible, be supported by the same methods used by the recipient for its employees. Also, the basis used for determining the value of personal services, material, equipment and land contributed from non-Federal third parties must be documented.

§ 97.367 Standards for recipient financial management systems.

(a) Each recipient shall operate a financial management system which provides for:

(1) Accurate, current, and complete disclosure of the financial results of the program in accordance with the Federal reporting requirements;

(2) Records which identify the source and application of funds for federally supported program activities, including records containing information pertaining to Federal program awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income;

(3) Effective control over and accountability for all funds, property and other assets to safeguard these assets and to ensure that they are used only for authorized purposes;

(4) The comparison of actual costs with amounts budgeted for the program;

(5) Procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and the disbursement by the recipient when funds are advanced by the Federal Government;

(6) Drawdowns from the U.S. Treasury through the commercial bank as close as possible to the time of disbursements when advances are made by the letter-of-credit method;

(7) Procedures for determining the allowability and allocability of costs in accordance with the applicable Federal cost principles and the terms of the agreement; and

(8) Accounting records which are supported by source documentation.

(b) Each recipient shall conduct or arrange for examinations in the form of audits or internal audits of its financial transactions. These examinations may be performed only by individuals who are sufficiently independent of those who authorize the expenditure of Federal funds to produce unbiased opinions, conclusions or judgments. These examinations shall be made to ascertain the effectiveness of the financial management system and internal procedures that have been established to meet the terms and conditions of the program agreement. Examinations should be conducted on an organizationwide basis to test the fiscal integrity of financial transactions, as well as compliance with the terms and conditions of the project agreement. The tests must include an appropriate sampling from the program agreement. Examinations must be conducted with reasonable frequency, but not less frequently than once every two years. The recipient shall establish a systematic method to assure timely and appropriate resolution of audit findings and recommendations.

(c) Because the Department requires financial reporting on an accrual basis, the recipient shall, when its own accounting system is not kept on that basis, develop the required reporting information through analysis of documentation on hand or on the basis of best estimates.

(d) Recipients shall require their subgrantees, contractors, and subcontractors to adopt the standards stated in this section, except those for letter-of-credit drawdowns as described in paragraph (a)(6) of this section.

§ 97.368 Financial reporting requirements.

(a) Each recipient shall periodically submit a Financial Status Report which, on an accrual basis, indicates total costs incurred by cost category including indirect costs, if any. This report shall be prepared to coincide with the ending dates for Federal fiscal year quarters and shall be submitted to the Department no later than 30 days after the end of the quarterly reporting period. If the program period ends at a date other than the last day of a Federal fiscal year quarter, a final report covering the entire program period shall also be required. Recipients must certify to the accuracy and completeness of the costs reported.

(b) Each recipient shall periodically submit a Report of Federal Cash Transactions. Recipients which receive advances totalling $1 million or more per year shall submit this report monthly; and all other recipients shall submit it quarterly.

(c) Specific instructions and procedures for preparing and submitting the Financial Status Report and the Report of Federal Cash Transactions are contained in the *Forms Preparation Handbook*. The Department will furnish a copy of the handbook to each recipient.

§ 97.369 Monitoring and reporting program performance.

(a) Each recipient shall continually monitor the performance of program activities to assure that program goals are being met and that the requirements of the Act and the regulations in this subpart are being met.

(b) Each recipient shall periodically submit a Program Status Summary (including any special supplement the Department may require). This report shall be prepared to coincide with the ending dates for Federal fiscal year quarters and shall be submitted to the Contract/Grant Officer no later than 30 days after the end of the quarterly reporting period. If the program period ends at a date other than the last day of a Federal fiscal year quarter, a final report covering the entire program period shall also be required. Specific instructions for the preparation of this report are contained in the *Forms Preparation Handbook*. Instructions for supplemental reports will be provided by the Department. The Program Status Summary provides the following types of information together with a comparison of the same items as they appear in the grant document:

(1) The total number of enrollments with program funds during the program period;

(2) The total number of participants placed in unsubsidized employment upon termination from the program and the number entering school, other training or military service;

(3) The level of enrollment associated with each program activity;

(4) The number of individuals within the target group or groups being served by the program; and

(5) A brief narrative account of significant program accomplishments and problem areas.

(c) Each recipient shall submit a Quarterly Summary of Participant Characteristics with the Program Status Summary. This report will include characteristics data aggregated for all participants as set forth in the report form and will include all participants terminating or placed during the reporting period. For participants who entered employment during the report period, the report will also aggregate the average wage before enrollment and upon termination from the program. Specific instructions for the preparation of this report are contained in the *Forms Preparation Handbook*.

(d) Each recipient shall, without regard to normal reporting periods, advise the Contract/Grant Officer of the following types of conditions as soon as they become known:

(1) Problems, delays, or adverse conditions which may materially affect the ability to attain program goals with an indication of what corrective action has been or will be taken and an indication of the Federal assistance, if any, which may be helpful in resolving the situation; and

(2) Favorable developments or events which will materially assist the program in meeting or exceeding its intended purposes and goals.

(e) If a performance review conducted by the grantee discloses the need for program budget revision, the recipient shall submit a request for revision to the Contract/Grant Officer.

(f) The Department will make onsite visits as frequently as is practicable to review program accomplishments and management control systems and to provide technical assistance. Recipients shall cooperate fully with the Department in the performance of these visits.

§ 97.370 Payment procedures.

(a) Consistent with all applicable Federal requirements, payments to recipients will be made through letter-of-credit, advance by Treasury check, or reimbursement by Treasury check. The Department will provide specific instructions and procedures to each recipient.

(b) The Department may withhold payments for proper charges if the recipient has failed to comply with program objectives, award conditions, or Federal reporting requirements or if the recipient is indebted to the United States and the collection of the debt will not impair the accomplishment of the objectives of any project or program sponsored by the United States. When it determines to withhold payments, the Department will inform the recipient with reasonable notice that payments will not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the United States is liquidated.

§ 97.371 Budget revision procedures.

(a) The program budget is the approved financial plan for the Federal share and, if applicable, the non-Federal shares as set forth in the program agreement document. Recipients shall promptly request the prior written approval of the Contract/Grant Officer for budget revision whenever:

(1) The revision results from a net increase or decrease from the anticipated enrollment level of 15 percent or more, or from other significant changes in the scope of the program;

(2) The revision indicates a need for additional Federal funding;

(3) The Federal share of the budget is over $100,000 and the cumulative amount of transfers among direct cost object class budget categories exceeds or is expected to exceed 5 percent of the total budget;

(4) The revision involves the transfer of amounts budgeted for indirect costs to absorb increases in direct costs or vice versa;

(5) The revision pertains to expenditures which require approval in accordance with FMC 73-8 (34 CFR Part 254) (Cost Principles for Educational Institutions); or

(6) The recipient plans to transfer Federal funds allotted for training allowances or other direct payments to participants to other categories of expense.

(b) Before deviating from the budget in any manner described in paragraph (a) of this section, the recipient must obtain the prior written approval of the Contract/Grant Officer. All other deviations from the budget may be undertaken by the recipient without the approval of the Contract/Grant Officer. These deviations include the use of additional recipient funds to further the purposes of the program.

(c) Each recipient shall promptly notify the Contract/Grant Officer when the amount of Federal funds authorized is expected to exceed actual needs by more than $5,000 or 5 percent of the Federal award, whichever is greater.

(d) When requesting approval for budget revisions, recipients must use the budget forms which are used in the program agreement document.

(e) Under normal circumstances, the Department will notify the recipient of budget revision approvals or disapprovals within 30 days of receipt of the request. If the revision request is still under consideration at the end of 30 days, the Department will inform the recipient in writing as to when the Department's decision will be forthcoming.

§ 97.372 Closeout procedures.

Subsequent to the completion date of the agreement, i.e., the date stated in the agreement document or any amendment thereto upon which Federal assistance under the agreement ends, the agreement must be closed out. Closeout is the process by which the Department determines that all required administrative actions and all required program work have been completed by the recipient and the Department. The Department will provide each recipient with the necessary forms (with instructions) associated with the closeout of the agreement. The basic procedures for closeout are described in this section.

(a) If payments are made on a letter of credit, the Department will notify the recipient that the letter of credit is to be cancelled and that, following cancellation, any further payments under the agreement will be made by Treasury check upon submission and approval of the required payment requests.

(b) Upon receipt and approval of the necessary requests, the Department will make prompt payment to the recipient for allowable reimbursable costs under the agreement being closed out.

(c) Upon the Department's request, the recipient shall immediately refund any unencumbered balance of cash drawn down from the letter of credit or advanced by Treasury check. Items to be included with the refund check are detailed in the *Forms Preparation Handbook*.

(d) Within 90 days after the completion date, the recipient shall submit the following financial and inventory reports:

(1) A final Financial Status Report;

(2) A final Report of Federal Cash Transactions;

(3) The Assignment of Refunds, Rebates, and Credits;

(4) Bank Statement-Special Bank/Financial Account;

(5) Cancellation/Adjustment of Fidelity Bond;

(6) A list of possible claimants for unclaimed checks cancelled or payment stopped;

(7) Closeout Tax Certification;

(8) Government Property Inventory; and

(9) Inventory Certificate.

(e) Within 90 days after the completion date, the recipient shall submit the required Release form.

(f) Within 30 days after the completion date, the recipient shall submit a final Program Status Summary (with supplement if appropriate) and Quarterly Summary of Participant Characteristics.

(g) After receipt of the documents and final reports described in paragraphs (a) through (f) of this section, the Department will make settlement for any upward or downward adjustment to the Federal share of costs.

(h) In the event a final audit has not been performed prior to closeout of the agreement, the Department retains the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

§ 97.373 Suspension and termination procedures.

(a) Suspension of an agreement is an action by the Secretary which temporarily suspends Federal assistance under the agreement pending corrective action by the recipient or pending a decision by the Secretary to terminate the agreement. In the event that the Secretary determines that a recipient has failed to comply with stipulations, standards, or conditions of the agreement, the Secretary may, on reasonable notice to the recipient, suspend the agreement, and withhold further payments, or prohibit the recipient from incurring additional obligations of Federal funds, pending corrective action by the recipient or a decision to terminate in accordance with paragraph (b)(1) of this section. The Secretary may allow all necessary and proper costs which the recipient could not reasonably avoid during the period of suspension provided that they meet the provisions of the applicable cost principles.

(b) The termination of an agreement is the cancellation of Federal assistance, in whole or in part, under an agreement at any time prior to the completion date.

(1) The Secretary may terminate any agreement in whole, or in part, at any time before the date of completion, whenever it is determined that the recipient has failed to comply with the conditions of the agreement. The Secretary will promptly notify the recipient in sons for the termination, together with the effective date. Payments made to recipients or recoveries by the Department under agreements terminated for cause shall be in accord with the legal rights and liabilities of the parties.

(2) An agreement may be terminated in whole or in part when both the recipient and the Secretary 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 terminations, the portion to be terminated. The recipient shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Secretary will allow full credit to the recipient for the Federal share of the noncancellable obligations, properly incurred by the recipient prior to termination.

(3) If the agreement is in the form of a contract, the Contracting Officer may cancel the agreement (i.e., contract) in whole or in part whenever the Contracting Officer determines that termination would be in the best interest of the Government.

§ 97.374 Property management standards.

Standards for the management, control, and disposition of property acquired under the agreement are contained in the *Property Handbook for MA Contractors*. Recipients shall adhere to the standards set forth in the handbook. A copy of the handbook will be furnished by the Department to each recipient.

§ 97.375 Procurement standards.

(a) Recipients shall procure supplies, equipment and other services with Federal program funds in an effective manner and in compliance with the provisions of applicable Federal law and executive orders. Recipients shall rely on the private sector to provide goods and services to the extent feasible. The term "procurement" refers to the acquisition of supplies, equipment and other services from outside sources which are to be used by the recipient in carrying out its organizational mission and responsibilities under the program.

(b) The recipient shall maintain a code or standard of conduct which shall govern the performance of its officers, employees and agents in the award and administration of procurement contracts using Federal program funds. The recipient's officers, employees and agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from actual or potential contractors. The recipient's code or standard of conduct shall provide for disciplinary actions against persons who violate the code or standard.

(c) All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient should be alert to organizational conflicts of interest or noncompetitive practices among contractors which may eliminate competition or otherwise restrain trade. Procurement awards shall be made to the bidder/offeror with the lowest bid/offer, provided the bidder/offeror is responsible and its bid/offer is responsive to the solicitation and is most advantageous to the recipient, price and other factors considered. Solicitations for procurements must describe clearly the requirements which the bidder/offeror must meet in order for the bid/offer to be evaluated by the recipient. Any and all bids/offers may be rejected when it is in the recipient's interest to do so.

(d) Recipients shall establish procurement procedures which, as a minimum, are based on the requirements described in paragraph (d)(8) of this section.

(1) Proposed procurement actions shall include a procedure to assure the avoidance of purchasing unnecessary or duplicative items. When appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(2) Solicitations for supplies and services shall be based upon a clear and accurate description of the technical requirements for the material, product or service to be procured. Such a description shall not, in competitive procurements, contain features which unduly restrict competition. "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 bidders/offerors shall be clearly specified.

(3) Positive efforts must be made by recipients to utilize small businesses and minority-owned businesses as sources of supplies and services. These efforts should focus on allowing these types of sources the maximum feasible opportunity to compete for procurement awards under the program agreement.

(4) The type of procuring instruments used, e.g., fixed price contracts, cost reimbursement contracts, purchase orders, and incentive contracts, shall be determined by the recipient to be appropriate for the particular procurement and for promoting the best interests of the program. The "cost plus a percentage of cost" method of contracting may not be used.

(5) Procurement contracts may be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the 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.

(6) No proposed sole source procurement contracts in which the aggregate expenditure is expected to exceed $5,000 may be awarded without prior written approval from the Contract/Grant Officer.

(7) Procurement records and files for purchases in excess of $10,000 shall include:

(i) Basis for contractor selection;

(ii) Justification for lack of competition when competitive bids or offers are not obtained and the written authority of the Contract/Grant Officer for the noncompetitive procurement as is required by paragraph (d)(7) of this section; and

(iii) Basis for award cost or price.

(8) A system for procurement contract administration shall be maintained to ensure contractor conformance with terms, conditions and specifications of the contract and to ensure adequate and timely followup of all purchases.

(e) In addition to provisions which provide for a sound and complete agreement, the recipient shall include in procurement agreements the provisions described and required by paragraphs (e)(1) through (e)(5) of this section. These provisions shall also be applied to subcontracts.

(1) Contracts in excess of $10,000 shall contain provisions or conditions that will allow for administrative, contractual, or legal remedies in instances in which contractors violate or breach contract terms and provide for such remedial actions as may be appropriate.

(2) All contracts in excess of $10,000 must contain suitable provisions for termination by the recipient including the manner by which termination will be effected and the basis for settlement. In addition, these contract provisions must 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) 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 welfare, 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 Department's regulations and recipient's regulations. The contractor must be advised as to the source of additional information regarding these matters.

(4) All negotiated procurement contracts in excess of $2,500 shall include a provision to the effect that the recipient, the Department, the Comptroller General of the United States, and any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to the activities of the program.

(5) Procurement agreements and subproject agreements in excess of $100,000 shall contain a provision which requires the awardee to agree to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act of 1970. Violations must be reported to the Department and the Regional Office of the Environmental Protection Agency.

(f) The standards contained in this section in no way relieve the recipient of contractual responsibilities arising under its contracts or subagreements. The recipient is the responsible authority, without recourse to the Department, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of the program agreement. This includes disputes, claims, protests of award, source evaluation, or other matters of a contractual nature. Matters concerning violation of law are to be referred to the appropriate local, State, or Federal authority.

PRIVATE PROFITMAKING ORGANIZATIONS—CONTRACT ADMINISTRATION

§ 97.381 Administration.

(a) The Secretary will require private, profitmaking organizations which are awarded contracts under this subpart to submit program progress reports. Specific reporting requirements will be stated in the contracts.

(b) The Secretary will require private, profitmaking organizations which are awarded contracts under this subpart to

maintain records on individual participants. Specific record keeping requirements will be stated in the contracts.

(c) In all aspects of program administration other than those covered by paragraphs (a) and (b) of this section, the regulations contained in 41 CFR, Chapter 1, shall apply.

INTERAGENCY AGREEMENTS

§ 97.386 Administration.

(a) The secretary will require other Federal establishments which receive and utilize funds under this subpart to submit financial reports and standard program progress reports. However, the Secretary will not require these reports to be submitted more frequently than quarterly.

(b) The Secretary will require other Federal establishments which receive and utilize funds under this subpart to maintain the standard records on individual participants and participant activities.

(c) In all aspects of program administration other than those described in paragraphs (a) and (b) of this section, Federal establishments which receive and utilize funds under this subpart may use their normal administrative procedures.

ASSESSMENT AND EVALUATION

§ 97.391 General.

Procedures which will be observed by the Department in assessing and evaluating the results and effectiveness of programs under this subpart are described in § 97.391 through § 97.393 of this part. The Department will assess program sponsors to determine whether they are carrying out the purposes and provisions of the Act in accordance with their program agreements. The Secretary will also evaluate the overall effort under this subpart to aid in the overall administration of the Act.

§ 97.392 Responsibilities of the Secretary.

(a) As used in this section, the term "assessment" means the Federal review of the performance of individual program sponsors; and the term "evaluation" means the Federal study of the overall results and general effectiveness of activities under this subpart.

(b) The Secretary has the responsibility to determine whether program sponsors are operating in accord with their respective program agreements in carrying out the purposes and provisions of the Act and are demonstrating maximum efforts to achieve the stated goals and objectives of their programs.

(c)(1) Assessment will be conducted through the review of required periodic reports and, as necessary, will be supplemented with special reports from program sponsors, the examination of records maintained by program sponsors, selective on-site reviews, including the investigation of allegations or complaints, or other examination as may be deemed necessary and appropriate by the Secretary.

(2) Assessment may also be conducted for purposes of offering technical assistance and recommendations for corrective actions to program sponsors as considered necessary.

(d) The Secretary has the responsibility to provide for the continuing evaluation of all activities conducted under the Act. These studies will include examination of:

(1) Cost in relation to effectiveness;

(2) Impact on communities and participants;

(3) Implications for related programs;

(4) The effectiveness with which the needs of the target groups are being met;

(5) Adequacy of mechanisms for administration;

(6) Opinions of participants about the strengths and weaknesses of programs; and

(7) The extent to which artificial barriers restricting employment and advancement opportunities in organizations receiving funds under this subpart have been removed.

(e) The Secretary will compile, on a State, regional, and national basis, information obtained from periodic reports or special reports, surveys or samples required from program sponsors, including information related to:

(1) Participant characteristics;

(2) Duration in training and employment situations; and

(3) Costs.

(f) Evaluations carried out in accordance with paragraph (d) of this section may be conducted directly by the Department or through contract, grant or other arrangements.

§ 97.393 Limitation.

The Secretary may not, in arranging for the evaluation of projects under this subpart, utilize for such evaluation any non-governmental individual, institution or organization which is associated with any program as a consultant, technical advisor or in any similar capacity.

CONSULTATION WITH THE SECRETARY OF HEALTH, EDUCATION AND WELFARE

§ 97.396 General.

The Secretary will consult with the Secretary of Health, Education and Welfare with respect to arrangements for services of a health, education, or welfare character in programs under this subpart. This consultation will focus on the relationship of such services under this subpart with those being delivered under laws administered by the Secretary of Health, Education and Welfare.

§ 97.397 Youth programs.

Prior to awarding funds directly to any local or State education agency to implement a youth program as authorized by section 304(a)(1) of the Act, the Secretary will consult with the Secretary of Health, Education and Welfare to obtain his comments and guidance on the planned program.

Signed at Washington, D.C. this 8th day of March, 1976.

WILLIAM H. KOLBERG,
Assistant Secretary for Employment and Training.

[FR Doc.76-7026 Filed 3-11-76;8:45 am]

federal register

FRIDAY, MARCH 12, 1976

PART IV:

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

■

OFFSHORE OIL AND GAS LEASE SALE FOR NORTHERN GULF OF ALASKA TO BE HELD IN ANCHORAGE, ALASKA ON APRIL 13, 1976

UNITED STATES
DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Outer Continental Shelf Off
Alaska

Oil and Gas Lease Sale No. 39
April 13, 1976

1. Authority. This notice is published pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343) and the regulations issued thereunder (43 CFR Part 3300).

2. Filing of Bids. Sealed bids will be received by the Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management, either in person or by mail, for the oil and gas lease sale on tracts described in paragraph 12 herein, and located in the Outer Continental Shelf adjacent to the State of Alaska. Bids sent by mail should be addressed to P.O. Box 1159, Anchorage, Alaska 99510, and will be received until 9:30 A.M., a.s.t., April 13, 1976. Bids delivered in person to the Manager will be received at his office at 800 A Street, Anchorage, Alaska, until 4:00 p.m., a.s.t., April 12, 1976; or at the Grand Ballroom, Westward Hotel, 500 West 3rd Avenue, Anchorage, Alaska 99501, between the hours of 8:00 a.m., a.s.t., and 9:30 a.m., a.s.t., April 13, 1976. Bids received by the Manager later than the times and dates specified above will be returned to the bidders

unopened. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 9:30 a.m., a.s.t., April 13, 1976. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. Particular attention is directed to 43 CFR 3302.3 (1975) as amended in the Federal Register, Vol. 41, No. 17, page 3737, dated January 26, 1976, and entitled Qualified Joint Bidders. The list of restricted joint bidders which applies to this sale was published in the Federal Register, Vol. 40, No. 211, page 50735, dated October 31, 1975.

3. Rent, Royalty and Bonus. Bids submitted on all tracts to be offered at this sale must be on a cash bonus bid basis with a fixed royalty of 16 2/3 percent. Leases which may be issued will provide for a yearly rental or minimum royalty of $7.41 per hectare 1/ or fraction thereof.

4. Method of Bidding. A separate bid in a sealed envelope must be submitted for each tract. The envelope should be labeled "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10:00 a.m., a.s.t., April 13, 1976." A suggested bid form appears in paragraph 15. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft, certified check, or money order, payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 12 will be considered. Companies submitting joint bids must express on the

1/ One hectare equals 2.471 acres.

bid form the proportionate interest of each company participating in that joint bidding in a percent to a maximum of five decimal places, as well as submit a sworn statement that the bid is not disqualified under 43 CFR 3302.3-4(c). The form for the statement appears in pargraph 16. Bidders are advised of other documents that may be required under 43 CFR 3302.4. Bidders are warned against violation of Section 1860 in Title 18 U.S.C., prohibiting unlawful combination or intimidation of bidders.

5. Equal Opportunity. Each bidder must have submitted by 9:30 a.m., a.s.t., April 13, 1976, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375, on the Compliance Report Certification Form, Form 1140-8 (November 1973) and the Affirmative Action Representation Form, Form 1140-7 (December 1971).

6. Bid Opening. Bids will be opened on April 13, 1976, beginning at 10:00 a.m., a.s.t., in the Grand Ballroom, Westward Hotel, at the address stated in paragraph 2. The opening of bids is for the sole purpose of publicly announcing and recording bids received; no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight April 13, 1976, that bid will be returned unopened to the bidder as soon thereafter as possible.

7. Deposit of Payments. Any cash, checks, drafts or money orders submitted with a bid may be deposited in a suspense account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bids on behalf of the United States.

8. Withdrawal of Tracts. The United States reserves the right to withdraw any tract from this sale prior to the issuance of a written acceptance of a bid for that tract.

9. Acceptance or Rejection of Bids. The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(1) The bidder has complied with all requirements of this notice and applicable regulations;

(2) His bid is the highest valid cash bonus bid; and

(3) The amount of the bid is at least $61.78 per hectare and has been determined to be adequate by the United States.

10. Successful Bidders. Each person who has submitted a bid that is accepted by the United States will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's annual rental and satisfy the bonding requirements set forth in 43 CFR 3304.1 within the time frame provided in 43 CFR 3302.5.

11. Protraction Diagrams. The tracts offered at this lease sale, described in paragraph 12, may be located on the following Outer Continental Shelf Official Protraction Diagrams which may be purchased for $2.00 each from the Manager, Alaska Outer Continental Shelf Office at the address stated in paragrah 2:

(1) NO 7-1 Icy Bay

(2) NO 6-2 Middleton Island

12. Tract Descriptions.

OCS OFFICIAL PROTRACTION DIAGRAM, NO 7-1, ICY BAY
(Approved October 31, 1974)

Tract No.	Block	Description	Hectares	Acreage
39- 1	3	1/	1788.75	4420.00
39- 2	4	1/	1885.88	4660.00
39- 3	5	1/	2019.43	4990.00
39- 4	6	1/	1958.72	4840.00
39- 5	7	1/	1011.74	2500.00
39- 6	9	1/	101.17	250.00
39- 7	23	All	2304.00	5693.18
39- 8	24	All	2304.00	5693.18
39- 9	25	All	2304.00	5693.18
39-10	26	All	2304.00	5693.18
39-11	27	All	2304.00	5693.18
39-12	28	All	2304.00	5693.18
39-13	29	1/	2270.34	5610.00
39-14	30	1/	1776.61	4390.00
39-15	31	1/	1007.69	2490.00
39-16	(32	1/		
	(33	1/	617.16	1525.00
39-17	59	All	2304.00	5693.18
39-18	60	All	2304.00	5693.18
39-19	61	All	2304.00	5693.18
39-20	62	All	2304.00	5693.18
39-21	63	All	2304.00	5693.18
39-22	64	All	2304.00	5693.18
39-23	65	All	2304.00	5693.18
39-24	66	All	2304.00	5693.18
39-25	67	All	2304.00	5693.18
39-26	68	All	2304.00	5693.18
39-27	69	All	2304.00	5693.18
39-28	70	All	2304.00	5693.18
39-29	71	All	2304.00	5693.18
39-30	72	All	2304.00	5693.18
39-31	73	All	2304.00	5693.18
39-32	74	All	2304.00	5693.18
39-33	75	All	2304.00	5693.18
39-34	76	All	2304.00	5693.18
39-35	77	1/	2237.96	5530.00
39-36	(78	1/		
	(79	1/	1454.88	3595.00
39-37	99	All	2304.00	5693.18
39-38	100	All	2304.00	5693.18
39-39	101	All	2304.00	5693.18
39-40	104	All	2304.00	5693.18
39-41	105	All	2304.00	5693.18
39-42	106	All	2304.00	5693.18
39-43	107	All	2304.00	5693.18

ICY BAY (contd.)

Tract No.	Block	Description	Hectares	Acreage
39-44	108	All	2304.00	5693.18
39-45	109	All	2304.00	5693.18
39-46	110	All	2304.00	5693.18
39-47	111	All	2304.00	5693.18
39-48	112	All	2304.00	5693.18
39-49	113	All	2304.00	5693.18
39-50	114	All	2304.00	5693.18
39-51	115	All	2304.00	5693.18
39-52	116	All	2304.00	5693.18
39-53	117	All	2304.00	5693.18
39-54	118	All	2304.00	5693.18
39-55	119	All	2304.00	5693.18
39-56	120	All	2304.00	5693.18
39-57	121	All	2304.00	5693.18
39-58	122	All	2304.00	5693.18
39-59	123	1/	1740.19	4300.00
39-60	(124			
	(125	1/	894.37	2210.00
39-61	142	All	2304.00	5693.18
39-62	143	All	2304.00	5693.18
39-63	144	All	2304.00	5693.18
39-64	145	All	2304.00	5693.18
39-65	149	All	2304.00	5693.18
39-66	150	All	2304.00	5693.18
39-67	151	All	2304.00	5693.18
39-68	152	All	2304.00	5693.18
39-69	153	All	2304.00	5693.18
39-70	154	All	2304.00	5693.18
39-71	155	All	2304.00	5693.18
39-72	156	All	2304.00	5693.18
39-73	157	All	2304.00	5693.18
39-74	158	All	2304.00	5693.18
39-75	159	All	2304.00	5693.18
39-76	160	All	2304.00	5693.18
39-77	161	All	2304.00	5693.18
39-78	162	All	2304.00	5693.18
39-79	163	All	2304.00	5693.18
39-80	164	All	2304.00	5693.18
39-81	165	All	2304.00	5693.18
39-82	166	All	2304.00	5693.18
39-83	167	All	2304.00	5693.18
39-84	168	All	2304.00	5693.18
39-85	169	1/	2193.44	5420.00
39-86	185	All	182.55	451.08
39-87	186	All	2304.00	5693.18
39-88	187	All	2304.00	5693.18
39-89	188	All	2304.00	5693.18
39-90	189	All	2304.00	5693.18

ICY BAY (contd.)

Tract No.	Block	Description	Hectares	Acreage
39-91	193	All	2304.00	5693.18
39-92	194	All	2304.00	5693.18
39-93	195	All	2304.00	5693.18
39-94	196	All	2304.00	5693.18
39-95	197	All	2304.00	5693.18
39-96	198	All	2304.00	5693.18
39-97	199	All	2304.00	5693.18
39-98	200	All	2304.00	5693.18
39-99	201	All	2304.00	5693.18
39-100	202	All	2304.00	5693.18
39-101	203	All	2304.00	5693.18
39-102	204	All	2304.00	5693.18
39-103	205	All	2304.00	5693.18
39-104	206	All	2304.00	5693.18
39-105	207	All	2304.00	5693.18
39-106	209	All	2304.00	5693.18
39-107	210	All	2304.00	5693.18
39-108	211	All	2304.00	5693.18
39-109	229	All	286.87	708.86
39-110	230	All	2304.00	5693.18
39-111	231	All	2304.00	5693.18
39-112	232	All	2304.00	5693.18
39-113	233	All	2304.00	5693.18
39-114	239	All	2304.00	5693.18
39-115	240	All	2304.00	5693.18
39-116	241	All	2304.00	5693.18
39-117	242	All	2304.00	5693.18
39-118	243	All	2304.00	5693.18
39-119	247	All	2304.00	5693.18
39-120	248	All	2304.00	5693.18
39-121	249	All	2304.00	5693.18
39-122	273	All	391.15	966.53
39-123	274	All	2304.00	5693.18
39-124	275	All	2304.00	5693.18
39-125	283	All	2304.00	5693.18
39-126	284	All	2304.00	5693.18
39-127	285	All	2304.00	5693.18
39-128	291	All	2304.00	5693.18
39-129	292	All	2304.00	5693.18
39-130	293	All	2304.00	5693.18
39-131	294	All	2304.00	5693.18
39-132	295	All	2304.00	5693.18
39-133	317	All	495.38	1224.08

ICY BAY (contd.)

Tract No.	Block	Description	Hectares	Acreage
39-134	318	All	2304.00	5693.18
39-135	319	All	2304.00	5693.18
39-136	320	All	2304.00	5693.18
39-137	321	All	2304.00	5693.18
39-138	322	All	2304.00	5693.18
39-139	323	All	2304.00	5693.18
39-140	327	All	2304.00	5693.18
39-141	328	All	2304.00	5693.18
39-142	329	All	2304.00	5693.18
39-143	335	All	2304.00	5693.18
39-144	336	All	2304.00	5693.18
39-145	337	All	2304.00	5693.18
39-146	338	All	2304.00	5693.18
39-147	339	All	2304.00	5693.18
39-148	340	All	2304.00	5693.18
39-149	362	All	2304.00	5693.18
39-150	363	All	2304.00	5693.18
39-151	364	All	2304.00	5693.18
39-152	365	All	2304.00	5693.18
39-153	366	All	2304.00	5693.18
39-154	367	All	2304.00	5693.18
39-155	368	All	2304.00	5693.18
39-156	369	All	2304.00	5693.18
39-157	370	All	2304.00	5693.18
39-158	371	All	2304.00	5693.18
39-159	372	All	2304.00	5693.18
39-160	373	All	2304.00	5693.18
39-161	380	All	2304.00	5693.18
39-162	384	All	2304.00	5693.18
39-163	408	All	2304.00	5693.18
39-164	409	All	2304.00	5693.18
39-165	410	All	2304.00	5693.18
39-166	411	All	2304.00	5693.18
39-167	412	All	2304.00	5693.18
39-168	413	All	2304.00	5693.18
39-169	414	All	2304.00	5693.18
39-170	415	All	2304.00	5693.18
39-171	416	All	2304.00	5693.18
39-172	417	All	2304.00	5693.18
39-173	453	All	2304.00	5693.18
39-174	454	All	2304.00	5693.18
39-175	455	All	2304.00	5693.18
39-176	456	All	2304.00	5693.18

1/ That portion seaward of the three geographical mile line.

OCS OFFICIAL PROTRACTION DIAGRAM, NO 6-2, MIDDLETON ISLAND
(Approved October 31, 1974)

Tract No.	Block	Description	Hectares	Acreage
39-177	104	All	2304.00	5693.18
39-178	105	All	2304.00	5693.18
39-179	106	All	2304.00	5693.18
39-180	107	All	2304.00	5693.18
39-181	108	All	2304.00	5693.18
39-182	147	All	2304.00	5693.18
39-183	148	All	2304.00	5693.18
39-184	149	All	2304.00	5693.18
39-185	150	All	2304.00	5693.18
39-186	151	All	2304.00	5693.18
39-187	152	All	2304.00	5693.18
39-188	153	All	2304.00	5693.18
39-189	154	All	2304.00	5693.18
39-190	192	All	2304.00	5693.18
39-191	193	All	2304.00	5693.18
39-192	194	All	2304.00	5693.18
39-193	211	All	2304.00	5693.18
39-194	212	All	182.55	451.08
39-195	255	All	2304.00	5693.18
39-196	256	All	286.87	708.86
39-197	296	All	2304.00	5693.18
39-198	297	All	2304.00	5693.18
39-199	298	All	2304.00	5693.18
39-200	299	All	2304.00	5693.18
39-201	300	All	391.15	966.53
39-202	340	All	2304.00	5693.18
39-203	342	All	2304.00	5693.18
39-204	343	All	2304.00	5693.18
39-205	344	All	495.38	1224.08

13. Lease Terms and Stipulations. Leases issued as a result of this sale will be on Form 3300-1 (February 1971) which is available from the Manager, Alaska Outer Continental Shelf Office, at the address stated in paragraph 2. However, the following language will be excluded from section 3(a)(1), paragraph 3, sentence 2 of Form 3300-1: ". . .and gas used for purposes of production from the operations upon the leased area or unavoidably lost. . . .," and one or more of the following stipulations will be included in each lease:

Stipulation No. 1. (To be included in all leases resulting from this sale.)

(a) If the Supervisor, having reason to believe that a site, structure, or object of historical or archaeological significance, hereinafter referred to as "cultural resource," may exist in the lease area, shall, within one year from the effective date of this lease, give the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall immediately upon receipt of such notice comply with the following requirements: Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter referred to as "operation," the lessee shall conduct geophysical

surveys to determine the potential existence of any cultural resource that may be affected by such operation. All data produced by such geophysical surveys shall be examined by a qualified marine archaeologist or archaeological surveyor to determine if anomalies are present which suggest the existence of a cultural resource that may be adversely affected by any lease operation. If such anomalies exist, the lessee shall: (1) locate the site of such operation so as not to adversely affect the anomaly identified; or (2) establish, to the satisfaction of the Supervisor, on the basis of further archaeological investigation conducted by a qualified marine archaeological surveyor using such survey equipment and techniques as deemed necessary by the Supervisor either that such operation will not adversely affect the anomaly identified or that the potential cultural resource suggested by the occurrence of the anomaly does not exist.

Upon completion of any geophysical or other survey conducted for archaeological purposes, the lessee shall forward a report prepared by the archaeological surveyor to the Supervisor for his review. Should the Supervisor determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to

warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the Supervisor has given directions as to its disposition. 2/

The lessee agrees that, if any site, structure, or object of historical or archaeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the Supervisor, and make every reasonable effort to preserve and protect the cultural resource from damage until the Supervisor has given directions as to its disposition.

(b) Structures for drilling or production, including pipelines, shall be kept to the minimum necessary for proper exploration, development, and production and to the greatest extent consistent therewith, shall be placed so as not to interfere with other significant uses of the Outer Continental Shelf including commercial fishing and marine mammals and bird rookeries. To this end, no structure for drilling or production, including pipelines, may

2/ Cultural resources will be handled according to Procedures outlined in the Code of Federal Regulations, 36 CFR Part 800.

be placed on the Outer Continental Shelf until the Supervisor has found that the structure is necessary for the proper exploration, development, and production of the lease area and that no reasonable alternative placement would cause less interference with other significant uses of the Outer Continental Shelf including commercial fishing and marine mammals and bird rookeries. The lessee's exploratory and development plans, filed under 30 CFR 250.34, shall identify the anticipated placement and grouping of necessary structures including pipelines, showing how such placement and grouping will have the minimum practicable effect on the other significant uses of the Outer Continental Shelf, including commercial fishing and marine mammals and bird rookeries.

(c) The lessee shall have the pollution containment and removal equipment available as required by the Supervisor and shall at the request of the Supervisor demonstrate the capability of such equipment prior to drilling.

After notification by the Operator to the Supervisor of a significant oil spill as defined by the Supervisor or an oil spill of any size or quantity which cannot be immediately controlled, the Operator shall immediately deploy the appropriate

equipment to the site of the oil spill, unless, because of weather and attendant safety of personnel, the Supervisor shall modify this requirement.

(d) The exploration and development plan required by 30 CFR 250.34 must include a detailed description of materials and energy to be introduced into the marine environment and may be required to include site-specific biological surveys and monitoring programs to insure that operations on any lease will have minimum adverse effects to biotic communities, commercial fishing, recreation, and other significant uses of the Outer Continental Shelf. The lessee shall conduct or bear the cost of conducting the required surveys and monitoring. No permit to conduct operations will be approved until the above conditions have been met.

Stipulation No. 2. (To be included in leases resulting from this sale for tracts 39-1, 39-2, 39-3, 39-4, 39-5, 39-6, 39-11, 39-12, 39-13, 39-14, 39-15, 39-16, 39-33, 39-34, 39-35, 39-36, 39-58, 39-59, 39-60, 39-84, and 39-85.)

No production platforms or wellheads will be placed within four (4) nautical miles of the coastline (mean lower low water line) between the west block line of block 3 and the east

block line of block 169, Icy Bay Protraction Diagram NO 7-1.

Stipulation No. 3 (To be included in all leases resulting from this sale for tracts 39-17, 39-105, 39-132, 39-149, 39-198, 39-203, 39-204.)

All of this tract may be subject to mass movement (slumping) of sediments. Emplacement of platforms or sea floor wellheads for production or storage of oil or gas will not be allowed within the area of mass movement which may necessitate development of oil or gas reservoirs from platforms located off this tract and outside of the area of potential mass movement of sediments.

Stipulation No. 4 (To be included in leases resulting from this sale for tracts 39-18, 39-39, 39-40, 39-41, 39-64, 39-65, 39-78, 39-79, 39-80, 39-81, 39-91, 39-103, 39-104, 39-106, 39-121, 39-130, 39-131, 39-133, 39-134, 39-135, 39-146, 39-147, 39-148, 39-150, 39-151, 39-163, 39-164, 39-173, 39-197, 39-199, 39-200, 39-202, 39-205.)

Portions of this tract may be subject to mass movement (slumping) of sediment. Emplacement of platforms or sea floor wellheads for the production or storage of oil or gas will not be allowed on those portions of the tract which may be subject to mass movement

of sediments unless or until the lessee has demonstrated to the Supervisor's satisfaction that the potential for mass movement of sediments does not exist or that structures can be safely designed to withstand such mass movement at the proposed location of the structure.

Stipulation No. 5 (To be included in all leases resulting from this sale).

To assist coastal communities in planning for the impact of activities during exploration under this lease, the lessee shall submit, for review and comment, to the Governor of the State of Alaska and to local jurisdictions that will be directly affected by those activities a "Notice of Support Activity for the Exploration Program" (called hereafter in this stipulation "Notice"). The lessee shall not be required to include privileged information in the Notice. A lessee shall have discretion whether to submit a separate Notice in connection with each Exploration Plan submitted under 30 CFR 250.34 on a lease or to submit a Notice in connection with two or more Plans on one or more leases. The Notice shall not be subject to approval or disapproval by the Supervisor, but the Supervisor, in acting on an Exploration Plan, will take into account the comments of the State and local communities.

A copy of the Notice shall be submitted to the Supervisor simultaneously with or prior to the Exploration Plan with a certification that it has already been submitted to the Governor of the State of Alaska and to the local jurisdictions that will be directly affected by activities under the Plan. If the lessee shall submit a Notice in connection with two or more Exploration Plans, he shall not be required to submit additional copies of the Notice, but may instead refer to that previous submission. Before the Supervisor approves or disapproves the Exploration Plan, he shall allow at least 30 days from the date of receipt of the certification for the Governor and local jurisdictions to submit comments on the Notice to him as well as to the lessee. Subsequent to the submission of the certification, significant changes in estimated support activities will be forwarded by the lessee, as an amendment to the Notice, to the Governor, local jurisdictions that will be directly affected by the program, and the Supervisor.

The Notice shall include with respect to the lessee and his contractors:

(1) A description of the facilities, including site and size, that may be constructed, leased, rented or otherwise procured in affected areas;

(2) The location and amount of acreage required within the State for facilities, including the need for storage of various supplies;

(3) An estimate of the frequency of boat and aircraft departures and arrivals, on a monthly basis, and the onshore location of terminals;

(4) The approximate number of persons who will be engaged in onshore support activities and transportation, the approximate number of local personnel who will be employed for or in support of the exploration program, and the approximate total number of persons who will be employed for the exploration program;

(5) The approximate addition to the population of the local jurisdiction because of the exploration program and the approximate number of persons needing housing and other facilities;

(6) An estimate of any significant quantity of major supplies and equipment to be procured within the State; and

(7) The onshore addresses of the lessee's operation offices and of the contractors' offices involved with the exploratory operation.

14. Restrictions on Leases. Some of the tracts offered for lease may fall in areas which may be included in fairways, precautionary zones, or traffic separation schemes. For the location of these existing or potential areas and for other restrictions which are or may be imposed by the Corp of Engineers, a bidder should consult the District Engineer, Anchorage District, U.S. Army Corps of Engineers.

15. OCS Orders.

Operations on all leases resulting from this sale will be conducted in accordance with the provisions of the Gulf of Alaska OCS Orders which have been issued effective March 1, 1976, and additional OCS Orders which will be issued covering development activities.

The OCS Orders issued effective March 1, 1976, include:

OCS Order No. 1 - Marking of Wells, Platforms, and Structures
OCS Order No. 2 - Drilling Procedures
OCS Order No. 3 - Plugging and Abandonment of Wells
OCS Order No. 4 - Suspension and Determination of Well Producibility
OCS Order No. 5 - Subsurface Safety Devices
OCS Order No. 7 - Pollution and Waste Disposal
OCS Order No. 12 - Public Inspection of Records

In addition to the above, OCS Orders will be issued which will provide requirements related to lease development. These Orders will include:

OCS Order No. 6 - Completion and Workover of Oil and Gas Wells
OCS Order No. 8 - Platforms and Structures
OCS Order No. 9 - Oil and Gas Pipelines

OCS Order No. 11 - Oil and Gas Production Rates, Prevention of Waste, and Protection of Correlative Rights

OCS Order No. 13 - Commingling and Measurement of Oil and Gas Production

OCS Order No. 14 - Diligence Requirements

OCS Order No. 15 - Submittal of Information for Plans of Development

OCS Order No. 8 will provide requirements for the installation and operation of production platforms. In addition to provisions for safety and pollution control equipment and procedures, design criteria will be set forth based on the environmental conditions expected for the Gulf of Alaska area. This will include wind, wave, current, and other environmental loading forces and the response spectrum for stabilized ground acceleration, plastic straining, and vibration resulting from seismic actvities. The design, construction, and installation of all structures necessary for lease operation within the sale area will be verified by a third party, approved by the Geological Survey, to insure that 1) the structure has been designed for safe installation and operation according to applicable site-specific criteria, 2) consideration has been given to the maximum environmental forces which could contribute to structure damage, and 3) the construction methods are in accordance with the approved design specifications.

The Departments of the Interior and Transportation are entering into a memorandum-of-understanding concerning the design, installation, operation, and maintenance of offshore pipelines. Consistent with this and in accordance with existing and future regulations issued by the Department of Transportation, OCS

Order No. 9 will provide requirements for pipelines intended for lease operations.

16. Suggested Bid Form. It is suggested that bidders submit their bids to the Manager, Alaska Outer Continental Shelf Office, in the following form:

Oil and Gas Bid

The following bid is submitted for an oil and gas lease on the tract of the Outer Continental Shelf specified below:

Tract No.	Total Amount Bid	Amount Per Hectare	Amount of Cash Bonus Submitted with Bid
_____	_____	_____	_____

Proportionate Interest of Company Submitting Bids

Qualification File No._____ _____% _____
Company

_____
Address

_____
Signature
(Please type signer's name under signature)

17. Required Joint Bidder's Statement

In the case of joint bids, each joint bidder must execute the following statement before a notary public.

Joint Bidder's Statement

I hereby certify that_____(entity submitting bid) is not disqualified from joint bidding under 43 CFR 3302.3-4(c).

_____
Signature
(Please type signer's name under signature)

Sworn to and subscribed before me this _____day of_____19____

_____
NOTARY PUBLIC

State of_____

(County of_____

* * * * * * *

GEORGE L. TURCOTT,
Acting Director,
Bureau of Land Management.

Approved: March 8, 1976.

STANLEY D. DOREMUS,
Acting Assistant
Secretary of the Interior.

[FR Doc.76-6940 Filed 3-11-76;8:45 am]

federal register

FRIDAY, MARCH 12, 1976

PART V:

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders, 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Arizona:	
AZ76–5007; AZ76–5008; AZ 76–5009.	Jan. 23, 1976.
Colorado:	
CO75–5061	May 23, 1975.
Georgia:	
GA75–1039	Apr. 11, 1975.
Illinois:	
IL76–2016	Feb. 27, 1976.
Kentucky:	
AR–4023	Sept. 26, 1974.
KY75–1100	Sept. 26, 1975.
Nevada:	
NV76–5002; NV76–5003	Jan. 16, 1976.
Pennsylvania:	
PA75–3027	Mar. 28, 1975.
PA75–3058; PA75–3059	July 3, 1975.
PA75–3071; PA75–3072; PA 75–3073; PA75–3074; PA 75–3075; PA75–3076; PA 75–3080; PA75–3081.	Aug. 22, 1975.
PA75–3093	Sept. 26, 1975.
PA75–3103; PA75–3104	Oct. 3, 1975.
PA75–3112	Dec. 5, 1975.
PA76–3145; PA76–3146; PA 76–3147.	Feb. 27, 1976.
South Carolina:	
SC75–1031	Mar. 14, 1975.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decision being superseded.

Georgia:	
GA75–1005 (GA76–1039)	Jan. 17, 1975.
Illinois:	
IL75–2036 (IL76–5022)	Feb. 7, 1975.
Indiana:	
IN75–2036 (IL76–5022)	Do.
Kentucky:	
IL75–2036 (IL76–5022)	Feb. 7, 1975.
KY75–1102 (KY76–1038)	Oct. 17, 1975.
Michigan:	
MI75–2103 (MI76–2031); MI75–2104 (MI76–2032)	Aug. 22, 1975.
Missouri:	
IL75–2036 (IL76–5022)	Feb. 7, 1975.
New York:	
NY76–3137 and NY76–3139 (NY76–3149).	Jan. 23, 1976.
Ohio:	
IL75–2036 (IL76–5022)	Feb. 7, 1975.
West Virginia:	
IL75–2036 (IL76–5022)	Feb. 7, 1976.

Signed at Washington, D.C. this 5th day of March 1976.

RAY J. DOLAN,
Assistant Administrator
Wage and Hour Division.

DECISION #AZ76-5007 - Mod. #2
(41 FR 3568 - January 23, 1976)
Statewide, Arizona

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers: (Phoenix Area)					
Bricklayers; Manhole Builders; Stonemasons:					
Zone A	$10.05	.65	.90		.06
Zone B	10.55	.65	.90		.06
Zone C	11.56	.65	.90		.06
Zone D	12.06	.65	.90		.06
Zone E	12.56	.65	.90		.06
Zone F	13.07	.65	.90		.06
Glaziers: (Statewide except the Northern and Central parts of Apache, Coconino, Mohave and Navajo and the Northern half of Yavapai County)	9.42	.70	.30		.01
Painters: (Tucson and Yuma Areas):					
Zone A					
Brush	8.13	.57	.35		.04
Spray	8.63	.57	.35		.04
Steel and Bridge, brush	9.13	.57	.35		.04
Steel and Bridge, spray	9.63	.57	.35		.04
Zone B					
Brush	8.88	.57	.35		.04
Spray	9.38	.57	.35		.04
Steel and Bridge, brush	9.88	.57	.35		.04
Steel and Bridge, spray	10.38	.57	.35		.04
Zone C					
Brush	9.38	.57	.35		.04
Spray	9.88	.57	.35		.04
Steel and Bridge, brush	10.38	.57	.35		.04
Steel and Bridge, spray	10.88	.57	.35		.04
Zone D					
Brush	10.13	.57	.35		.04
Spray	10.63	.57	.35		.04
Steel and Bridge, brush	11.13	.57	.35		.04
Steel and Bridge, spray	11.63	.57	.35		.04

DECISION #AZ76-5007 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sheet Metal Workers: (Zone Bases - from the Administration Building or City Hall in Flagstaff, Kingman, Phoenix, Prescott, and Yuma)					
Zone I (0-25 miles excluding Luke and Williams AFB)	$10.13	.60	1.00		.07
Zone II (25-50 miles inincluding Luke and Williams AFB)	10.78	.60	1.00		.07
Zone III (50 miles and over)	12.63	.60	1.00		.07
Soft Floor Layers: (Phoenix Area)					
Zone A	8.81	.49	.12		.12
Zone B	9.81	.49	.12		.12
Zone C	10.81	.49	.12		.12

DECISION #AZ76-5008 - Mod. #1
(41 FR 3577-January 23, 1976)
Maricopa County, Arizona

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers:					
Bricklayers; Stonemasons:					
Zone A	$ 10.05	.65	.90		.06
Zone B	10.55	.65	.90		.06
Zone C	11.56	.65	.90		.06
Zone D	12.06	.65	.90		.06
Zone E	12.56	.65	.90		.06
Zone F	13.07	.65	.90		.06
Glaziers	9.42	.70	.30		.01
Sheet Metal Workers:					
Zone I (0-25 miles excluding Luke and Williams AFB)	10.13	.60	1.00		.07
Zone II (25-50 miles including Luke & Williams AFB)	10.78	.60	1.00		.07
Zone III (50 miles and over)	12.63	.60	1.00		.07
Soft Floor Layers:					
Zone A	8.81	.49	.12		.12
Zone B	9.81	.49	.12		.12
Zone C	10.81	.49	.12		.12

DECISION #AZ76-5009 - Mod. #1
(41 FR 3583 - January 23, 1976)
Pima County, Arizona

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters, Brush:					
Zone A	$8.31	.57	.35		.04
Zone B	8.88	.57	.35		.04
Zone C	9.38	.57	.35		.04
Zone D	10.13	.57	.35		.04
Painters, Structural Steel, Brush:					
Zone A	9.13	.57	.35		.04
Zone B	9.88	.57	.35		.04
Zone C	10.38	.57	.35		.04
Zone D	11.13	.57	.35		.04

DECISION NO. CO75-5061 - Mod. #1
(40 FR 22744 - May 23, 1975)
Adams, Arapahoe, Denver, and Jefferson Counties, Colorado

Add:

Insulation Installers	$5.15				

DECISION # GA75-1039 - Mod. # 3
(40 FR-16471 - April 11, 1975)
Chattahoochee and Muscogee Counties, Georgia

Change:

Sheet Metal Workers	6.09				

DECISION #IL76-2016 - Mod. #1
(41 FR 8647 - February 27, 1976)
Henry, Knox, Mercer & Rock Island Counties, Illinois

CHANGE:
Power Equipment Operators

ILL-15-PEO-1-2-3

POWER EQUIPMENT OPERATORS: ROCK ISLAND, MERCER & WESTERN ½ OF HENRY COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 9.45	.40	.50		.08
CLASS 2	9.45	.40	.50		.08
CLASS 3	8.05	.40	.50		.08
CLASS 4	8.05	.40	.50		.08
CLASS 5	7.00	.40	.50		.08

CLASS 1 - Crane, shovel, clamshell, dragline, backhoe, derrick, tower crane, cableway, concrete spreader (servicing two pavers), asphalt spreader, asphalt mixer plant engineer, dipper operator, dipper dredge craneman, dual purpose truck (boom or winch), leverman or engineman (Hydraulic dredge), mechanic, paving mixer with tower attached (two operators required), pile driver, boom tractor, stationary, portable or floating mixing plant, trenching machine, cleaning and priming machine, endloader (one half cubic yard or over, on basement excavation work), backfiller (throw bucket), locomotive engineer, Qualified welder, tow or push boat concrete paver, seaman Trav-L- Plant or similar machines, CMI autograder or similar machine, slip form paver, caisson augering machine, mucking, asphalt heater-planer unit hydraulic cranes, Mine hoists

CLASS 2 - Athey, Barber-Green, euclid or hasis loader, asphalt pug mill, fireman and drier, concrete pump, concrete spreader (servicing one paver), bulldozer, endloader (other than mentioned above), forklift, elevating grader, group equipment greaser, letourneapull and similar machine, DW-10, straddle carrier, hyster winch and similar machines, motor patrol, power blade push cat, tractor pulling elevating grader or power blade, tractor operating scoop or scraper, tractor with power attachment, roller on asphalt or blacktop, single drum hoist, Jaeger mix and place machine, pipe bending machine, welding machines (3or4), fuller kenyon cement pump or similar machines, automatic cement and gravel batch plants (one stop set-up), Seaman pulvi-mixer or similar machines, propelled sheep foot roller or compactor (used in conjunction with a grading spread), asphalt spreader screed operator apsco spreader or similar machine, slusher, forklift (over 6,000 lb. cap. or working at heights above 28 ft.) conveyors

DECISION NO IL76-2016 (CONT'D)

POWER EQUIPMENT OPERATORS: (CONT'D)

CLASS 3 - Asphalt booster, fireman and pump operator at asphalt plant, compressor (500 cu. ft. and over), concrete finishing machine, form grader with roller on earth, mixers (3 bag to 16E), power operated bull float, tractor without power attachment, Dope pot (agitating motor), Dope chop machine, distributor (back end), Flexplane or similar machines, portable machine fireman, Hydrohammer, power winch on paving work, self-propelled roller or compactor (other than provided for above), pump operator crusher operator, trench machine (40 H. P. and under), power sub grader (on forms), or similar machines, Forklift (6000 or less cap.) Gypsum pump, conveyor over 20 H. P.

CLASS 4 - Air compressor (275 c.f.m. or over) driver on truck crane or similar machines, light plant, mixers (1 or 2 bags), power batching machine (cement auger or conveyor), boiler (engineer or fireman, water pumps, welding machine, mechanical broom, automatic cement and gravel batch plants (two or three stop set-up), small backhoes or endloaders0 self-propelled curing machine

CLASS 5 - Oiler, mechanic's helper, water pump (pumping water to paver), mechanical heater (other than steam boiler) belt machine, small putboard motor boat

DECISION # AR-4023 - Mod. #3
(39 FR-32449 - September 6, 1974)
Warren County, Kentucky

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Boilermakers	10.05	.60	1.00		.02
Bricklayers & Stonemasons	8.14				
Cement masons	8.00		.20		.01
Electricians	9.10		1%		½ of 1%
Elevator constructors	10.29	.495	.32	4%+a+b	.02
Elevator constructors' helpers	7.20	.495	.32	4%+a+b	.02
Elevator constructors' helpers (prob.)	5.145				
Plasterers	8.00		.20		.01
Plumbers	10.27	.36	.75	.77	.07
Sheet metal workers	11.36	.60+c	.60		.07
Sprinkler fitters	10.55	.50	.80		
Steamfitters	10.44	.50	.60	.60	.08

FOOTNOTES:

a. Six paid holidays

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Employees contributes 3% of gross income to Stabilization Agreement of Sheet Metal Industry fund.

DECISION # KY75-1100 - Mod. #1
(40 FR-44454 - September 26, 1975)
Boyd County, Kentucky

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers	10.80	.35	.35		.03
Boilermakers - Blacksmith	10.25	.60	.80		.02
Roofers	9.75		.40		
Sheet Metal Workers	9.88	.45	.40		.05
Truck Drivers:					
Group 1	7.91	a	b	.80	
Group 2	8.01	a	b	.80	
Group 3	8.16	a	b	.80	
Group 4	8.21	a	b	.80	
Group 5	8.26	a	b	.80	
Group 6	8.31	a	b	.80	
Group 7	8.56	a	b	.80	

FOOTNOTES:

a. $58.50 per month for employees employed over 30 days or more.

b. $34.67 per month for employees employed over 30 days or more.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. NV76-5002 - Mod. #2					
(41 FR 2580 - January 16, 1976)					
Statewide (excluding the Nevada Test Site and Tonopah Test Range), Nevada					
Change:					
Carpenters:					
Clark, Esmeralda and Lincoln Counties, and Nye County South of Hwy. #6 including the City of Tonopah:					
Carpenters	$ 9.46	.55	.90	$ 1.00	.10
Floorlayers; Patent Scaffold Erectors; Power Saw Operator	9.61	.55	.90	1.00	.10
Piledrivermen	9.66	.55	.90	1.00	.10
Millwrights	9.86	.55	.90	1.00	.10
Soft Floor Layers					
Clark, Esmeralda, Lincoln and S. 1/2 of Nye County	11.72	.40			
DECISION NO. NV76-5003 - Mod. #2					
(41 FR 2591 - January 16, 1976)					
Clark (excluding the Nevada Test Site), Nevada					
Change:					
Carpenters:					
Carpenters	$ 9.46	.55	.90	$ 1.00	.10
Floorlayers; Patent Scaffold Erectors; Power Saw Operator	9.61	.55	.90	1.00	.10
Piledrivermen	9.66	.55	.90	1.00	.10
Millwrights	9.86	.55	.90	1.00	.10
Soft Floor Layers	11.72	.40			

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #PA-75-3027 - Mod. # 6 (40 FR 14268 - March 28, 1975) Cumberland, Dauphin, Perry, Junita, New Cumberland Depot in York County, Pennsylvania					
Change:					
Asbestos Workers	$9.31	.52	.50		.01
Decision #PA-75-3053 - Mod. #5 (40 FR 22782 - May 23, 1975) Lebanon County, Pennsylvania					
Change:					
Asbestos Workers	9.31	.52	.50		.01
Decision #PA-75-3058 - Mod. #6 (40 FR 28358 - July 3, 1975) Elk County, Pennsylvania					
Change:					
Asbestos Workers	10.51	.60	.70		
Decision #PA-75-3059 - Mod. #7 (40 FR 28361 - July 3, 1975) Cambria County, Pennsylvania					
Change:					
Asbestos Workers	10.51	.60	.70		
Electricians	10.60	.35	1%+.20	.60	.05
Line Construction:					
Linemen	11.32	.30	1%		3/8%
Winch truck operator	7.92	.30	1%		3/8%
Groundman	6.79	.30	1%		3/8%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #PA-75-3071 - Mod. #2 (40 FR 36936 - August 22, 1975) Allegheny County, Pennsylvania					
Change:					
Asbestos Workers	$10.51	.60	.70		
Electricians	10.60	.35	1%+.20	.60	.05
Line Construction:					
Lineman, Cable Splicers	11.32	.30	1%		3/8%
Groundman	6.79	.30	1%		3/8%
Winch truck operator	7.92	.30	1%		3/8%
Sprinkler Fitters	10.055	.50	.80		.04
Decision #PA-75-3072 - Mod. #5 (40 FR 36940 - August 22, 1975) Bedford County, Pennsylvania					
Change:					
Asbestos Workers	10.51	.60	.70		
Electricians	10.60	.35	1%+.20	.60	.05
Line Construction:					
Lineman	11.32	.30	1%		3/8%
Groundman	6.79	.30	1%		3/8%
Winch truck operator	7.92	.30	1%		3/8%
Decision #PA-75-3073 - Mod. # 3 (40 FR 36943 - August 22, 1975) Armstrong County, Pennsylvania					
Change:					
Asbestos Workers	10.51	.60	.70		
Electricians	10.60	.35	1%+.20	.60	.05
Line Construction:					
Linemen	11.32	.30	1%		3/8%
Winch truck operator	7.92	.30	1%		3/8%
Groundman	6.79	.30	1%		3/8%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA75-3074 - Mod. #4 (40 FR 36946 - August 22, 1975) Beaver County, Pennsylvania					
Change:					
Asbestos Workers	$10.51	.60	.70		
Electricians	10.10	8%	1%+.19	1.00	1½%
Line Construction:					
Linemen	11.32	.30	1%		3/8%
Winch Truck Op.	7.92	.30	1%		3/8%
Groundman	6.79	.30	1%		3/8%
Add:					
Plumbers & Steamfitters	10.34	4%	4%		.05
DECISION #PA75-3075 - Mod. #6 (40 FR 36949 - August 22, 1975) Indiana County, Pennsylvania					
Change:					
Asbestos Workers	10.51	.60	.70		
Electricians	10.60	.35	1%+.20	.60	.05
Line Construction:					
Linemen & Cable Splicer	11.32	.30	1%		3/8%
Groundman	6.79	.30	1%		3/8%
Winch Truck Op.	7.92	.30	1%		3/8%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA75-3076 - Mod. #3 (40 FR 36953 - August 22, 1975) Westmoreland County, Pennsylvania					
Change:					
Asbestos Workers	$10.51	.60	.70		
Electricians	10.60	.35	1%+.20	.60	.05
Line Construction:					
Lineman & Cable Splicers	11.32	.30	1%		3/8%
Groundman	6.79	.30	1%		3/8%
Winch Truck Op.	7.92	.30	1%		3/8%
DECISION #PA75-3080 - Mod. #3 (40 FR 36963 - August 22, 1975) Butler & Fayette Counties, Pennsylvania					
Change:					
Electricians:					
Fayette County	10.60	.35	1%+.20	.60	.05
Line Construction:					
Linemen	11.32	.30	1%		3/8%
Groundman	6.79	.30	1%		3/8%
Winch Truck Operator	7.92	.30	1%		3/8%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA75-3081 - Mod. #3 (40 FR 36973 - August 22, 1975) Washington County, Pennsylvania					
Change:					
Asbestos Workers	$10.51	.60	.70		
Electricians	10.60	.35	1%+.20	.60	.05
Line Construction:					
Linemen & Cable Splicers	11.32	.30	1%		3/8%
Winch Truck Operator	7.92	.30	1%		3/8%
Groundman	6.79	.30	1%		3/8%
DECISION #PA75-3093 - Mod. #3 (40 FR 44462 - September 26, 1975) Cameron, Clarion, Clearfield, & Jefferson Counties, Pennsylvania					
Change:					
Asbestos Workers	10.51	.60	.70		
Electricians:					
Remaining Counties	10.60	.35	1%+.20	.60	.05
Line Construction:					
Remaining Counties					
Linemen	11.32	.30	1%		3/8%
Groundman	6.79	.30	1%		3/8%
Winch Truck Operator	7.92	.30	1%		3/8%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA75-3103 - Mod. #3 (40 FR 45996 - October 3, 1975) Schuylkill County, Pennsylvania					
Change:					
Asbestos Workers	$ 9.31	.52	.50		.01
DECISION #PA75-3104 - Mod. #3 (40 FR 45998 - October 3, 1975) Lehigh County, Pennsylvania					
Change:					
Asbestos Workers	9.31	.52	.50		.01
DECISION #PA75-3112 - Mod. #3 (40 FR 57136 - December 5, 1975) Lancaster County, Pennsylvania					
Change:					
Asbestos Workers	9.31	.52	.50		.01

MODIFICATIONS P. 15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA-76-3145 - Mod. # 1 (41 FR 8740 - February 27, 1976) Butler, Cambria, Erie, Fayette, Mercer, Washington, Westmoreland, Lawrence & Somerset Counties, Pennsylvania					
Add:					
Power Equipment Operators					
Class I: Dozer (D-6 and D-7 or similar)					
DECISION #PA-76-3146 - Mod. #1 (41 FR 8743 - February 27, 1976) Allegheny and Beaver Counties, Pennsylvania					
Add:					
Electricians					
Allegheny County	$10.60	.35	1%+.20	.60	.05
Beaver County	10.10	8%	1%+.19	1.00	1½%
Line Construction:					
Linemen	11.32	.30	1%		3/8%
Groundman	6.79	.30	1%		3/8%
Winch Truck Operators	7.92	.30	1%		3/8%
Power Equipment Operators:					
Class I: Dozer (D-6 and D-7 or similar)					

MODIFICATIONS P. 16

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA-76-3147 - Mod. #1 (41 FR 8746 - February 27, 1976) Armstrong, Blair, Cameron, Centre, Clarion, Clearfield, Crawford, Forest, Greene, Indiana, McKean, Venango & Warren Counties, Pennsylvania					
Change:					
Power Equipment Operators:					
Cameron, Clarion & Forest Counties:					
Class I	$ 9.14	.50	.60		.09
Class II	8.86	.50	.60		.09
Class III	6.52	.50	.60		.09
Class IV	6.03	.50	.60		.09
Class V	5.92	.50	.60		.09
Remaining Counties:					
Armstrong, Blair, Centre, Crawford, Greene, Indiana, McKean, Venango and Warren					
Class I	9.43	.50	.60		.09
Class II	9.17	.50	.60		.09
Class III	6.81	.50	.60		.09
Class IV	6.36	.50	.60		.09
Class V	6.21	.50	.60		.09
Add:					
Power Equipment Operators: (All Counties)					
Class I: Dozer (D-6 and D-7 or similar)					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA76-3148 - Mod. #1 (41 FR 9751 - February 27, 1976) Bedford, Jefferson, Clinton, Elk, Franklin, Fulton, Huntingdon Mifflin & Potter Counties, Pennsylvania					
Change:					
Power Equipment Operators:					
Jefferson County					
Class I	$ 9.43	.50	.60		.09
Class II	9.17	.50	.60		.09
Class III	6.81	.50	.60		.09
Class IV	6.36	.50	.60		.09
Class V	6.21	.50	.60		.09
Add:					
Power Equipment Operators: (all Counties)					
Class I: Dozer (D-6 and D-7 or similar)					
DECISION # SC75-1031 - Mod. # 2 (40 FR-12058 - March 14, 1975) Statewide, South Carolina					
Add:					
Striping Machine Operator	3.50				

STATE: Georgia COUNTY: Richmond
DECISION NUMBER: GA76-1039 DATE: Date of Publication
Supersedeas Decision No.: GA75-1005 dated January 17, 1975 in 40 FR-3091
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	8.05	.35			.02
Bricklayers	7.20				
Carpenters:					
Carpenters	7.35				.01
Millwrights	7.65				.01
Cement masons	6.80				
Electricians	7.96	.30	1%+.20		½ of 1%
Elevator Constructors	7.06	.395	.26	2%+a+b	.005
Elevator Constructors' helpers	4.94	.395	.26	2%+a+b	.005
Elevator Constructors' helpers (prob.)	3.53				
Glaziers	5.80	.30	.15		
Ironworkers:					
Structural, Ornamental & Reinforcing	8.35	.45	.60		.03
Laborers:					
Unskilled	3.55	.15			
Air tool operator (jackhammer, vibrator)	3.70	.15			
Mason tenders	3.70	.15			
Mortar maixers	3.70	.15			
Pipelayers (concrete, clay)	3.70	.15			
Plasterers' tenders	3.70	.15			
Lathers	3.00				
Painters:					
Brush & roller	6.60	.30			
Steel & spray	7.60	.30			
Piledrivermen	7.65				.01
Plasterers	7.20				
Plumbers & steamfitters	8.73	.35	.30		
Sheet metal workers	7.14				.04
Soft floor layers	6.05				.01
Sprinkler fitters	8.75	.50	.70		.08
Stonemasons	7.20				
Terrazzo workersq	7.20				
Tile setters	7.20				
Truck drivers	3.70				

Welders - rate for craft.

GA76-1039 - (Cont'd)

BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP I	7.98	.45	.40		.02
GROUP II	7.13	.45	.40		.02
GROUP III	6.62	.45	.40		.02
GROUP IV	4.89	.45	.40		.02

GROUP I: Cranes, derricks, draglines, sidebooms, cherry pickers, mechanics, Piledrivers, crawlers, backhoe, (3/4 cy. & up), concrete pumps, clam shell, drill operators, concrete mixers plant locomotive, two drum hoist, shovels, generators, (250 kw & up), and hydraulic cranes over 10 tons.

GROUP II: Bulldozers, hydraulic boom truck 10 tons and under, scrapers, end-loaders, fork tractors, one drum hoist, air compressors 600 FM & over, motor graders, tuggers, rollers, plain tractors, firemen, rubber tired backhoe less than 3/4 cy. , push dozer, trenching machine.

GROUP III: Oiler, pump operator (over 4" dia.), small backhoe, air comressors under 600 CFM

GROUP IV: Mechanics helpers, serving welding machines, pumps up to 4" in Dia.

PAID HOLIDAYS:
A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

SUPERSEDEAS DECISION

STATES: Illinois, Indiana, Kentucky, Missouri, Ohio and West Virginia.
DECISION NUMBER: IL76-5022 DATE: Date of Publication
Supersedes Decision No. IL75-2036 dated February 7, 1975 in 40 FR 6023
DESCRIPTION OF WORK: Dredging on the Illinois River between Miles 0.0 and 80.0; the Ohio River between Miles 950.0 and 122.0; the Upper Mississippi River between Miles 0.0 and 195.0; and the Kaskaskia River from the mouth to Fayetteville, Illinois.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA I					
Within the geographical jurisdiction of the St. Louis District, Corps of Engineers.					
Leverman; Engineer; Mechanic; and Boatman	$ 9.56	.46	$ 1.00		
Oiler; Helper	8.39	.46	1.00		
AREA II					
Within the geographical jurisdiction of the Louisville District, Corps of Engineers.					
Leverman; Engineer; Mechanic and Boatman	9.19	.46	1.00		
Oiler; Helper	7.06	.46	1.00		
AREA III					
Within the geographical jurisdiction of the Huntington District, Corps of Engineers.					
Leverman; Engineer; Mechanic and Boatman	8.70	.46	1.00		
Oiler; Helper	6.44	.46	1.00		

SUPSERSEDEAS DECISION

STATE: Kentucky COUNTIES: *See below
DECISION NUMBER: KY76-1038 DATE: Date of Publication
Supersedes Decision No.: KY75-1102 dated October 17, 1975 in 40 FR - 48863
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories.)

*Counties: Hardin, Jefferson, & Meade

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	9.71	.35	.40		
Boilermakers - Blacksmith	10.05	.60	1.00		.02
Bricklayers:					
Bricklayers & concrete block layers	9.43	.40	.40		
Caulkers	9.43	.40	.40		
Cleaners	9.43	.40	.40		
Pointers	9.43	.40	.40		
Stone masons	9.43	.40	.40		
Carpenters:					
Carpenters	9.25	.30	.30		
Carpenters when work in excess of 30' to 100' above ground or a solid floor on scaffold skip hoist, tower or slip form	9.50	.30	.30		
Carpenters, when working in excess of 100' above ground or a solid floor on scaffold, skip hoist, tower or slip form	9.75	.30	.30		
Carpenters, when working on suspended or swinging scaffold	9.50	.30	.30		
Cement masons	8.78	.60	.30		
Electricians, linemen and hole digger:					
Zone 1 (within 36 miles radius of 3rd & Broadway Lousiville)	11.38	.29	1%+40		¼ of 1%
Zone 2 (over 36 miles raduis)	11.78	.29	1%+40		¼ of 1%
Elevator constructors	10.29	.495	.32	1%+a&b	.02
Elevator constructors' helpers	7.20	.495	.32	1%+a&b	.02
Elevator constructors' helpers (prob.)	5.145				
Glaziers	8.50	.35	.35		
Ironworkers:					
Conveyormen, machinery movers	9.95	.65	.70		.05
Structural, ornamental & reinforcing	9.95	.65	.70		.05
Riggers, fence erectors, sheeters	9.95	.65	.70		.05
Lathers	9.54		.20		.01
Leadburners	8.25	.30		c	.01
Marble, tile & terrazzo workers	8.80	.40	.40		
Millwrights	10.20	.30	.30		.02

KY76-1038 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr
Painters:					
Zone 1 - 35 mile radius from Jefferson Co. Courthouse, Louisville, Ky					
New Construction:					
Basic	7.82	.25	.20		.03
Special	8.17	.25	.20		.03
Spray	8.39	.25	.20		.03
Old Construction:					
Basic	7.48	.25	.20		.03
Special	7.83	.25	.20		.03
Spray	7.93	.25	.201		.03
Zone 2 - Over 35 mile radius from Jefferson Co., Courthouse, Lousiville. Ky.					
New Construction:					
Basic	8.17	.25	.20		.03
Special	8.52	.25	.20		.03
Spray	8.62	.25	.20		.03
Old Construction:					
Basic	7.83	.25	.20		.03
Special	8.18	.25	.20		.03
Spray	8.38	.25	.20		.03
Work on bridges (over navigable water) $2.00 per hour premium all zones					
Piledrivermen	9.25	.30	.30		
Plasterers	9.35				
Plumbers:					
Zone 1					
Jefferson & Warren Counties	10.27	.36	.75	.77	.07
Zone 2					
Outside Jefferson & Warren Counties 35-mile radius of Jefferson & Warren Counties Courthouse and entire Ft Knox Reservation.	10.72	.36	.75	.77	.07
Zone 3					
Beyond 35-mile radius of Jefferson & Warren Counties Courthouses	10.97	.36	.75	.77	.07
Roofers:					
Roofers	7.00	.50	.20		
Slate, tile and precast concrete slab	7.40	.50	.20		
Helpers	4.80	.50	.20		

KY76-1038 - (Cond't)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sheet metal workers:					
Zone 1					
Jefferson County	10.61	.60+d	.60		.07
Zone 2					
Hardin & Meade Counties including Ft. Knox Reservation	11.36	.60+d	.60		.07
Soft floor layers	9.25	.30	.30		
Sprinkler fitters	10.55	.50	.80		.08
Steamfitters:					
Zone 1					
Jefferson & Warren Counties	10.44	.50	.60	.60	.08
Zone 2					
Outside Jefferson County to 35-mile radius of Jefferson & Warren Counties Courthouses and all of Ft. Knox	10.99	.50	.60	.60	.08
Zone 3					
Beyond 35-mile radius of Jefferson & Warren Counties Courthouses	11.14	.50	.60	.60	.08

FOOTNOTES:

a. Six paid holidays: A through F

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employer who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Nine paid holidays: A through F, plus Washington's Birthday, Christmas Eve nad Good Friday providing employee has worked 45 full days during the 120 calendar days prior to the holidays and the regular scheduled work days immedicately preceding and following the holidays.

d. Employor contributes 3% of gross income to Stabilization Agreement of Sheet Metal Industry Fund.

PAID HOLIDAYS:
A-New Year's Day, B-Memorial Day, C-Independence Day,
D-Labor Day, E-Thanksgiving Day, F-Christmas Day.

KY76-1038 - (Cond't)

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	6.75	.30	.30		.02
GROUP II	6.95	.30	.30		.02
GROUP III	7.10	.30	.30		.02
GROUP IV	7.25	.30	.30		.02
GROUP V	7.95	.30	.30		.02

GROUP I:
Laborers, general, mobile, sweeper

GROUP II:
Power driven Georgia buggy, chain saw, vibrator operator, mesh handler, power tools (air diesel, electric, gasoline), wagon drill, pipelayer, wall man, chip & bush hammer, concrete saw, gasoline tamper machine, walk behind trenching machine, burner man, joint maker, asphalt raker.

GROUP III:
Air track driller, mason tender, side rail setter (metal), stackman

GROUP IV:
Powder introflax burning rod, gunnite nozzle man operator, sewer, tunnel laborers (free air), sand hog or mucker (free air).

GROUP V:
Holeman driller piers, augured caissons, sand miner (tunnel free air), caisson workers

KY76-1038 - (Cond't).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS A	9.20	.30	.30		.05
CLASS B	7.06	.30	.30		.05
CLASS C	6.08	.30	.30		.05

CLASS A:

Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, boatype machine, hoisting engine (2 or more drums) locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift, (regardless of lift height), all types of boom cats, core drill, tug tow or push boat, concrete paver, Gradeall, hoist, hyster, pumperete, Koss carrier, side boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hy crane, backfiller, gurries, sub-grader

CLASS B:

All air compressors (600 cu. ft. per min. or greater capacity), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp. and over) bull float, finish machine, outboard motor boat, flexoplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, Whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (one drum or buck hoist), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor

CLASS C:

Bituminous distributor, cement gun, conveyor, mud jackm joint machine, roller (earth), tamping machine, tractors (under 50 hp.), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand oiler, hydraulic post driver, and drill helper

KY76-1038 - (Cond't)

TRUCK DRIVERS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	7.15	a	a	b	
GROUP II	7.05	a	a	b	
GROUP III	6.98	a	a	b	
GROUP IV	6.87	a	a	b	
GROUP V	6.75	a	a	b	

GROUP I:

Winch trucks.A-Frame when used to transport building materials. Euclids and other heavy earth moving equipment, lowboy, fork lift trucks, when used inside warehouse of storage area

GROUP II:

Truck mechanics, concrete mixer trucks (all types, hauling only on the job site)

GROUP III:

Trucks over 3 tons, semi-trailer tandem axle or pole trailers and dumps, farm tractor when used to pull building material or equipment

GROUP IV:

Trucks 3 tons and under, mechanic helper

GROUP V:

Truck helper. warehousemen

FOOTNOTE:

a. Employer contributes $13.50 per week to Health & Welfare and $14.00 per week to Pension for each employee whose name appears on the payroll that week who has been employed a minimum of 20 work days within any 90 consecutive day period

b. Employee who have been regularly employed on a project by an employer for one year and who worked a minimum of 1200 hours during the year receive a vacation and pay for 40 hours. Employees who have been regularly employed on a project by an employer for one year, and who have worked a mimimum of 650 hours during the year receive a vacation and pay for 20 hours. Employees who have worked 1200 hours since their 2nd year of employment and have completed three years receive an additional week vacation (40 hours)

SUPERSEDEAS DECISION

STATE: Michigan
DECISION NO. MI76-2031
COUNTIES: See Below
DATE: Date of Publication
Supersedes Decision No. MI75-2103, dated August 22, 1975 in 40 FR 36928
DESCRIPTION OF WORK: Building (excluding single family homes and garden type apartments up to and including 4 stories) and Heavy (excluding Bridge, Airport and Sewer) Construction

COUNTIES: Alcona, Alpena, Charlevoix, Emmet, Grand Traverse, Leelanau, Mason, Montmorency, Muskegon Oceana, Oscoda and Presque Isle.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.01	.72	1.19		.02
BOILERMAKERS	10.07	.70	1.00	1.50	.01
BRICKLAYERS:					
Charlevoix & Emmet Counties					
Bricklayers; Stonemasons; Marble-Tile-Terrazzo Workers & Plasterers	8.95	.60			
Grand Traverse & Leelanau Counties:					
Bricklayers; Stonemasons; Marble Setters & Plasterers	8.54	.40	.25		
Mason County					
Bricklayers; Stonemasons; Marble-Tile Workers & Plasterers	8.45	.55	.25		
Muskegon & Oceana Counties					
Bricklayers & Stonemasons	8.845	.40	.60		
Marble Masons	7.65	.55	.50		
Terrazzo & Tile Workers	7.40	.55	.50		
Plasterers	8.83	.40	.25	.03	
Remaining Counties					
Bricklayers; Stonemasons & Plasterers	8.20	.40			
Tile Setters	7.35	.40			
CARPENTERS:					
Mason, Muskegon & Oceana Counties					
Carpenters	9.10	.50	.40		.01
Millwrights	10.05	.50	.40		.01
Piledrivers	9.50	.50	.40		.01
Remaining Counties					
Carpenters	8.01	.50	.40		.03
Millwrights	8.51	.50	.40		.03
Piledrivers	8.46	.50	.40		.03
CEMENT MASONS:					
Charlevoix & Emmet Counties	8.50	.60			
Grand Traverse & Leelanau Cos.	8.09	.40	.25		
Mason County	8.45	.55	.25		
Muskegon & Oceana Counties	7.50	.40	.25		.02
Remaining Counties	8.20	.40			

DECISION NO. MI76-2031

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Charlevoix & Emmet (except Wawatan township) Counties and Grant, Freesoil, and Meade townships in Mason County	$ 9.40	.40	1%+.15		½%
Muskegon, Oceana and the remainder of Mason Counties	9.26	.40	1%+.25		
Remaining Counties & Wawatan Township in Emmet County:					
Electrical Contractors $13,000 and below	8.40	.40	1%+.15		1/10%
Electrical Contracts in excess of $13,000	9.90	.40	1%+.15		1/10%
ELEVATOR CONSTRUCTORS:					
Alcona, Alpena, Montmorency, Oscoda and Presque Isle:					
Elevator Constructor	9.735	.445	.29	3%+a	.02
Elevator Constructor Helper	70%JR	.445	.29	3%+a	.02
Elevator Constructor Helper (prob.)	50%JR				
GLAZIERS:					
Charlevoix, Emmet, Grand Traverse Leelanau, Mason, Muskegon & Oceana Counties	7.20	.30	.20		
IRONWORKERS:					
Alcona, Alpena, Montmorency, Oscoda and Presque Isle Counties:					
Structural and Ornamental	9.75	8%	14%	17%	.07
Reinforcing	9.0625	.85	15%	15%	.03
Fence Erectors	8.75	8%	14%	17%	.07
Remaining Counties	9.85	.50	.75		.03
LATHERS	8.25	.64	.10	.50	.01
PAINTERS:					
Alcona and Oscoda Counties					
Brush	8.15	.42	.40		
Spray	9.00	.42	.40		
Grand Traverse and Leeanau Counties and that portion of Charlevoix County lying south of and straight line drawn from Charlevoix (city) to Elmira					
Brush	8.03	.42			.02
Spray; Tapers	7.63	.42			.02
Mason County	7.25				

DECISION NO MI76-2031

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D)					
Muskegon and Oceana Counties					
Brush; Tapers	$ 7.20				
Paper hangers	7.45				
Spray & Sandblast	7.70				
PLUMBERS & STEAMFITTERS:					
Alcona and Oscoda Counties	8.79	.50	.55	1.00	
Alpena, Montmorency & Presque Isle Counties	10.05	.35	.35		
Mason, Muskegon & Oceana Counties:					
Composition	8.35			.25	
Slate and Tile	8.60			.25	
Remaining Counties	7.85				
SHEET METAL WORKERS:					
Charlevoix, Emmet, Grand Traverse and Leelanau Counties	9.64	.40	.33	.95	.05
Mason,Muskegon & Oceana Counties	7.90	.52	.40	.67	
Remaining Counties	9.69	.40	.75		
SPRINKLER FITTERS	10.55	.50	.80		.08
TRUCK DRIVERS:					
Alcona, Alpena, Monmorency, Oscoda & Preque Isle Counties					
Regular Truck Driver	6.52	b20.00	b22.00	.26	
8 cu. yds. and over	6.62	b20.00	b22.00	.26	
Euclid	6.82	b20.00	b22.00	.26	
Charlevoix, Emmet, Grand Traverse and Leelanau Counties					
Regular Truck Driver	6.70	19.00b	13.00b	c	
8 cu. yds. and over	6.80	19.00b	13.00b	c	

Decision NO MI76-2031

Welders receive rate prescribed for craft to which welding is incidental.

FOOTNOTES:

a. Employer contributes 2% of regularly hourly rate to vacation pay credit for employee who has worked in business less than 5 years; 4% contribution for more than 5 years

b. Per week; Per employee

c. Paid vacation computed at a 40 hour week at straight time as follows: one year or more - one week; three years or more - two weeks; eight years or more - three weeks; and 7 Paid Holidays provided employee has been in service of employer 20 days or more and worked the full scheduled day prior to and after the holiday - New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the Friday after, and Christmas Day.

DECISION NO. MI76-2031

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LABORERS:					
Mason County					
Group 1	$ 6.06	.40	.30		.04
Group 2	6.21	.40	.30		.04
Group 3	6.51	.40	.30		.04
Group 4	6.31	.40	.30		.04
Group 5	6.46	.40	.30		.04
Group 6	6.41	.40	.30		.04
Muskegon and Oceana Counties					
Group 1	6.71	.40	.30		.04
Group 2	6.86	.40	.30		.04
Group 3	6.96	.40	.30		.04
Group 4	6.83	.40	.30		.04
Group 5	6.93	.40	.30		.04
Group 6	7.21	.40	.30		.04
Group 7	7.03	.40	.30		.04
Remaining Counties					
Group 1	5.95	.40	.30		.04
Group 2	6.10	.40	.30		.04
Group 3	6.55	.40	.30		.04

LABORERS

Mason County

Group 1: Building and Heavy Construction Laborers

Group 2: Plaster and Mason Tenders; Mortar Mixers; Material Mixers; All Power Tools; Vibrator; Chainsawers; Nozzleman; Green Cut Concrete work

Group 3: Jakchammer and Acetylene and Propane Trock; Windlass and Tugger Operators; Swing Scaffold; Chimneys; Tower, Crane Scaffold Laborer

Group 4: Work on scaffold 30' in height or more

Group 5: Plasterers tenders - Machine pumped

Group 6: Pipe or Crock Layers

Muskegon and Oceana Counties

Group 1: Building and Heavy Construction Laborers

Group 2: Plasterer tender; Material Mixers; Operators of Portable Mixers; Air, Electric or Gasoline Tools; Motor Driver Buggies; Swing Scaffold

Group 3: Jackhammer Operator

Group 4: Signalmen

Group 5: Windlass Operator

Group 6: Top men on chimneys or towers over 30' in height

Group 7: Crock or Pipe Layers; caisson work

Remaining Counties

Group 1: Building and Heavy Construction Laborers

Group 2: Mortar Mixers; Material Mixers (hand or machine); Vibrator Operators; Operators of Concrete Mixers; Chipping Hammers; Concrete Breakers (90 lb. hammer or less); Tamping Machine (air, gas or electric); Sand blasters; Operator or Motor Driven Buggies; Plaster Mixer; Plasterers Tenders; Layer of non-metalic pipe

Group 3: Cement Gun Nozzleman; Blasters; Rock Drillers & Buster Operators

DECISION NO MI76-2031

LC-ZONE II

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION: ZONE II					
Lineman; Heavy Equipment operator	$ 8.75	.35	1%	a	2%
Cable Splicer	9.11	.35	1%	a	2%
Combination Digger operator; Tractor operator Groundman:					
1st 6 Months	6.36	.35	1%	a	2%
Over 6 Months	6.86	.35	1%	a	2%
Light Equipment Operator Groundman; Distribution Line Truck Driver Operator:					
1st 6 Months	5.54	.35	1%	a	2%
Over 6 Months	6.03	.35	1%	a	2%
Combination Winch Truck Driver Groundman:					
1st 6 Months	5.05	.35	1%	a	2%
Over 6 Months	5.76	.35	1%	a	2%
Combination Truck Driver Groundman	4.88	.35	1%	a	2%

FOOTNOTE:

a. 7 paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day

DECISION NO MI76-2031

MICH-3-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.05	.55	.75	10%	.05
CLASS B	10.80	.55	.75	10%	.05
CLASS C	10.55	.55	.75	10%	.05
CLASS D	10.20	.55	.75	10%	.05
CLASS E	10.00	.55	.75	10%	.05
CLASS F	8.95	.55	.75	10%	.05
CLASS G	8.25	.55	.75	10%	

CLASS A - Crane with main boom and jib 220' or longer
CLASS B - Crane with main boom and jib 140' or longer, tower cranes, gantry cranes, whirley dreeick
CLASS C - Regular equipment operator,cranes, stiff leg derrick, scraper, dozer, grader, fron end loader, hoist, job mechanic and head grease man
CLASS D - Air tugger (single Drum), Material Hoist, Fork Truck, Boom truck (non-swinging), boiler opr; sweeping machine, winch truck, bob cat and similar type equipment
CLASS E - Pump G" or over, well points, freeze systems
CLASS F - Air compressor, welder, generators, pumps under 6" & grease man
CLASS G - Oiler, fireman & heater operator

DECISION NO MI76-2031

MICH-2-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION ALCONA, ALPENA, MONTMORENCY, OSCODA & PRESQUE ISLE COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	.05
CLASS F	8.65	.55	.75	10%	

CLASS A - Engineer when operation combination of boom & jib 220' or longer
CLASS B - Engineer when operating combination of boom & jib 140' or longer Tower crane & derrick operator (where operators work station is 501 or more above first sub level
CLASS C - Crane operator & job mechanic
CLASS D - Hoisting operator
CLASS E - Compressor (or welder) operator
CLASS F - Oiler or fireman

MICH-6-PEO-SE

POWER EQUIPMENT OEPRATORS: STEEL ERECTION REMAINING COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.40	.55	.75	10%	.05
CLASS B	11.15	.55	.75	10%	.05
CLASS C	10.90	.55	.75	10%	.05
CLASS D	10.55	.55	.75	10%	.05
CLASS E	9.30	.55	.75	10%	.05
CLASS F	8.25	.55	.75	10%	

CLASS A - Crane operator w/main boom & jib 220' or longer
CLASS B - Crane operator w/main boom & jib 140' or longer; power cranes; gantry crane; whirley derrick
CLASS C - Regular equipment operator; crane; dozer; loader; hoist, straddle wagon, Job mechanic
CLASS D - Air tugger (sing drum); material hoist, pump 6' or over
CLASS E - Air compressor, welder, generators-conveyors
CLASS F - Oiler & Fireman

DECISION NO MI76-2031 MICH -9-PEO-U

POWER EQUIPMENT OPERATORS UNDERGROUND CONSTRUCTION ZONE 2	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 7.89	.60	.85	10%	.05
CLASS II	7.63	.60	.85	10%	.05
CLASS III	7.17	.60	.85	10%	.05
CLASS IV	6.95	.60	.85	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cpa.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or lerger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant operator (concrete), backfiller tamper, well drilling rig, slip form paver slope paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power swing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ dy or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck-mounted - includes compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" cischarge if used 3 hours or more a day gas or diesel powered - excluding submerisble pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H. p. or over)

STATE: Michigan COUNTIES: See Below
DECISION NO. MI76-2032 DATE: Date of Publication
Supersedes Decision No. MI75-2104, dated August 22, 1975 in 40 FR 36932
DESCRIPTION OF WORK: Building (excluding single family homes and garden type apartments up to and including four stories) and Heavy (excluding Bridge, Airport and Sewer) Construction

COUNTIES: Alger, Baraga, Chippewa, Gogebic, Houghton, Keweenaw, Mackinac, Marquette & Ontonagon

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Chippewa & Mackinac Counties	$ 9.01	.72	1.19		.02
Gogebic and Ontonagon Counties	10.00	.30	.25		
Remaining Counties	9.86	.45	.50	.15	.03
BOILERMAKERS	10.07	.70	1.00	1.50	.01
BRICKLAYERS:					
Alger & Marquette Counties					
Bricklayers & Stonemasons	8.53	.45	.35	.50	.01
Plasterers	8.48	.45	.35	.50	.01
Marble-Tile-Terrazzo workers	8.28	.45	.35	.50	.01
Chippewa & Mackinac Counties					
Bricklayers & Stonemasons	9.04	.45	.30		
Plasterers	8.89	.45	.30		
Tile & Terrazzo Workers	8.84	.45	.30		
Remaining Counties:					
Bricklayers; Stonemasons; Plasterers; Marble-Tile & Terrazzo workers	8.85	.45	.50		
CARPENTERS:					
Carpenters & Soft Floor Layers	8.29	.50	.40		.01
Millwrights	8.79	.50	.40		.01
Piledrivermen	8.49	.50	.40		.01
CEMENT MASONS:					
Alger and Marquette Counties	8.03	.45	.35	.50	.01
Chippewa and Mackinac Counties	8.47	.45	.30		
Remaining Counties	8.35	.45	.50		
ELECTRICIANS:					
Alger and Marquette Counties					
Electrical contracts over $25,000	9.00	.30	1%		1%
Electrical contracts $25,000 or less	9.05	.30	1%		1%
Chippewa and Mackinac Counties	9.23	.40	1%		1%
Gogebic County					
Electrical contracts $7,000 & over	9.50	4%	1%	11%	3%
Electrical contracts less than $7,000 except industrial	8.075	4%	1%	11%	3%
Remaining Counties					
Electrical contracts $30,000 and over	9.30	.40	1%		1%
Electrical contracts up to $30,000	7.50	.40	1%		1%

DECISION NO MI76-2032

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Elevator Constructor	$ 8.53	.445	.29	3%+a	.02
Elevator Constructor - Helper	5.96	.445	.29	3%+a	.02
Elevator Constructor - Helper (Prob.)	4.265				
IRONWORKERS	8.39	.25	1.00	1.31	.05
LATHERS	8.25	.64	.10	.50	.01
PAINTERS:					
Alger and Marquette Counties:					
Brush	8.00				
Bridges; Water Tanks; Radio & TV	9.25				
Commerical-Industrial & Sign Painter	6.95			1.00	
Taper-Hand;Spray;Sandblasting	7.45			1.00	
Taper-Machine	7.55			1.00	
Steel	9.45			1.00	
Baraga, Houghton, Keweenaw and the northern portion of Ontonagon County					
Brush; Paperhangers; Tapers	7.25				
Spray; Sandblasting	7.80				
Gegobic County and the remainder of Cntonagon County					
Brush; Paperhangers	6.00				
Spray	6.50				
PLUMBERS	8.58	.45	.50	1.00	.02
ROOFERS	8.45		.50		
SHEET METAL WORKERS	8.52	.50	.40	1.00	.02
SPRINKLER FITTERS	10.55	.50	.80		.08
TRUCK DRIVERS:					
Truck Driver	7.02	19.00b	12.00b		
Heavy Duty; Double Axle and semi	7.15	19.00b	12.00b		
Euclid	7.38	19.00b	12.00b		

DECISION NO MI76-2032

Welders receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

a. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years; 4% contribution for more than 5 years

b. Per week, Per employee

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	[illegible]
Class A	$ 6.65	.40	.30		.04
Class B	6.75	.40	.30		.04
Class C	7.05	.40	.30		.04
Class D	7.20	.40	.30		.04

LABORERS

CLASS A: General Construction Laborers

CLASS B: Chipping Hammers; Concrete Mixers; Green Cutting (air, electric or gas); Material Mixers (hand or machine; Motor driven buggies; Mortar Mixers; Sand Blasters; Tamping Machines; Vibrator Operator; Laborers with concrete mixer to pour, including pour from trucks

CLASS C: Blasters; Buster Operators; Cement Gun Nozzleman; Drillers; Layers of all non-metallic pipe; Mixers

CLASS D: Underground Work, Tunnels and Shafts - muckers, ciasson workers, miners, drillers, blasters.

DECISION NO MI76-2032

LINE CONSTRUCTION:
ZONE II

LC-ZONE II

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Lineman; Heavy Equipment operator	$ 8.75	.35	1%	a	1%
Cable Splicer	9.11	.35	1%	a	1%
Combination Digger operator; Tractor operator Groundman:					
1st 6 Months	6.36	.35	1%	a	1%
Over 6 Months	6.86	.35	1%	a	1%
Light Equipment Operator Groundman; Distribution Line Truck Driver Operator:					
1st 6 Months	5.54	.35	1%	a	1%
Over 6 Months	6.03	.35	1%	a	1%
Combination Winch Truck Driver Groundman:					
1st 6 Months	5.05	.35	1%	a	1%
Over 6 Months	5.76	.35	1%	a	1%
Combination Truck Driver Groundman	4.88	.35	1%	a	1%

FOOTNOTE:

a. 7 paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day

DECISION NO MI76-2032

MICH-7-PEO-1-2-SE-U

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY & UNDERGROUND CONSTRUCTION	Basic Hourly Rate	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$ 7.95	.55	.75	10%	.05
CLASS B	7.40	.55	.75	10%	.05
CLASS C	6.87	.55	.75	10%	.05
CLASS D	6.49	.55	.75	10%	

CLASS A - Regular equipment operator, crane, dozer, front end loader, job mechanic
CLASS B - Air track drill, boom truck, concrete mixers, fork truck, material hoist & tugger, pumps 6" or over, pumpcrete, belt crete, squeeze crete, sweeping machine trencher, winches, well points and freeze systems
CLASS C - Air compressor, conveyor, concrete saw, farm tractor (without attachments) generator, guard post driver, mulching pumps under 6". welders
CLASS D - Oiler, fireman, heater operator

POWER EQUIPMENT OPERATORS: STEEL ERECTION					
CLASS 1 - Operator	8.17	.55	.75	10%	.05
CLASS 2 - Compressor & welder	7.35	.55	.75	10%	.05
CLASS 3 - Oiler & Fireman	6.60	.55	.75	10%	

SUPERSEDEAS DECISION

STATE: New York
COUNTY: Nassau & Suffolk
DECISION NO.: NY76-3149
DATE: Date of Publication
Supersedes Decision Nos. NY76-3137, dated January 23, 1976 in 41 FR 3677 and NY76-3139, dated January 23, 1976 in 41 FR 3689.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$10.00	.60	1.63	1.20	
Boilermakers	10.57	5%	15%	7%	.02
Bricklayers: Suffolk County					
Center Moriches on the south shore and following Chichester Avenue, north of Walding River and areas east thereof including the off shore islands:					
Bricklayers, cement masons, and plasterers	9.40	.40	3.00	.30	
Remainder of County:					
Bricklayers	11.10	.78	2.92		
Cement Masons	9.35	1.005	1.505	1.00	.01
Plasterers	8.70	1.00	.20	1.30	.01
Bricklayers: Nassau County					
Bricklayers	11.10	.78	2.92		
Cement Masons	9.35	1.005	1.505	1.00	.01
Plasterers	8.70	1.00	.20	1.30	.01
Carpenters, Building, Nassau Co.:					
Carpenters, soft floorlayers, dock builders, and piledrivermen	10.39	1.10	1.68	.60	.02
Remainder of County:					
Carpenters, soft floor layers and piledrivermen	9.15	1.30	1.24		.11
Carpenters, Heavy:					
Carpenters, dock and wharf carpenters, piledrivermen	10.39	1.10	1.68	.60	.02
Carpenters: Suffolk County:					
Fishers Island; Building carpenters & soft floor layers	9.26	.70	.40		
Remainder of County: Building carpenters, soft floor layers, piledrivermen, timbermen, wharf & dock builders	9.78	1.08	1.46	.90	.11
Carpenters, Heavy:					
Carpenters, dock and wharf carpenters, piledrivermen	9.78	1.08	1.46	.90	.11

DECISION NO. NY76-3149

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electricians & Linemen	$11.40	7%+.35	9%+.045	5%	5/8%
Elevator Constructors	9.52	.445	.29+b	c+d	.02
Elevator Constructors Helpers	7.14	.445	.29+b	c+d	.02
Elevator Constructors Helpers (prob.)	4.76				
Elevator Constructors Repair	7.90	.445	.29+b	c+d	.02
Elevator Constructors Repair Helpers	5.92	.445	.29+b	c+d	.02
Elevator Constructors Modernization	8.75	.445	.29+b	c+d	.02
Elevator Constructors Modernization Helpers	6.56	.075	.26+b	c+d	.02
Glaziers	9.10	.66	1.66	.365	.03
Ironworkers, Structural	10.90	1.10	2.45	1.35+j	.06
Ironworkers, Ornamental Finisher	9.59	.86	2.35	.78	.03
Ironworkers, Reinforcing	9.10	.785	1.765	.75	.01
Laborers, Building:					
Laborers, Mason Tenders, and Mortar Mixers	8.25	.89	.93	.74	
Plasterers Helpers	9.45	1.40		1.00	
Lathers, Metal	9.10	.785	1.763	.75	.01
Lead Burners	9.25	.35		e	.01
Marble Carvers	7.95	.78	.94	o	
Marble Cutters & Setters	7.80	.78	.94	o	
Marble Sawers, Rubbers, and Polishers	7.57	.76	.87	o	
Marble Helpers, Crane Operators & Derrickmen	7.33	.74	.88	o	
Millwrights	10.39	1.10	1.68	.60	.02
Painters, Suffolk County:					
Brush	7.65	2.25	.60	.50	.10
Structural Steel & Spray	10.59	2.25	.60	.50	.10

DECISION NO. NY76-3149

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters, Nassau County:					
Inwood, Lawrence, Cedarhurst, Woodmers, Hewlett, Hewlett Bay, Hewlett Neck, Hewlett Park, East Rockaway, part of Oceanside, part of Lynbrook, part of Rockville Center, Atlantic Beach, Long Beach, Lindo Beach, Point Lookout, Gibson and part of Valley Stream:					
Painter	$ 8.50	.63	.55+f	.25	
Spray & Scaffold	10.32	.63	.55+f	.25	
Fire Escape	9.71	.63	.55+f	.25	
West of Port Washington Blvd. and north of Powerhouse Road on the shore and west of Long Beach Road and South of Sunrise Highway on the South Shore:					
Structural Steel	7.50	8%	11%		
Structural Steel, Spray	8.50	8%	11%		
Remainder of County:					
Painters	8.05	.78	1.50	.50	
Plumbers, Nassau County:	10.25	.75	1.63	1.03	.20
Plumbers, Suffolk County:	10.00	.70	1.87	1.30	.16
Lathers Nail-on, Suffolk County:	11.35	.94	.20		
Riggers, Nassau County:	11.05	.74	.77		
Roofers:					
Composition, Damp, and Waterproofing	8.90	.66	1.98	1.20	.01
Slate and Tile	10.60	.55	1.00	1.50	
Slate and Tile Helpers	5.13	8%	.50	5%	
Sheet Metal Workers:					
Fishers Island, Suffolk County	9.30	.50	.51		.05
Remainder of Suffolk County and all of Nassau County	10.45	.56	1.67	1.06	.08
Steamfitters and Sprinkler Fitters	8.655	7%+1.90	13%	10%	.05
Stone Derrickmen and Riggers	10.55	.74	.77		.01

DECISION NO. NY76-3149

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Stonemasons	$10.25	.50	1.00		
Terrazzo Workers	9.10	1.09	1.50		
Tile Setters	8.50	.75	2.15		
Tile Setters' Helpers	7.90	.50	1.27		
Truck Drivers:					
Ready-mix concrete, sand gravel & asphalt, bulk cement	8.52	.8425	1.9525	g+h	
Euclid and Tournapulls Operators	8.575	.8425	1.9525	g+h	
Tuck Pointers:					
Tuckpointers & waterproofers	8.72	.70	1.44	.50	.015
Steam Cleaners	8.97	.70	1.44	.50	.015
Sandblasters	9.72	.70	1.44	.50	.015

DECISION NO. NY76-3149

BUILDING, HEAVY & HIGHWAY CONSTRUCTION

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes $1.29 per hour to an Annuity Fund.

b. Employer contributes $8.00 per day to Annuity Fund.

c. Holidays: A through F; Lincoln's Birthday, Washington's Birthday; Columbus Day; Armistice Day & Election Day.

d. Employer contributes 6.4% of basic hourly rate for 5 years or more of service or 4.2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

e. Holidays: A through F; Washington's Birthday, Xmas Eve and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

f. Employer contributes $3.50 per day to Annuity Fund.

g. Holidays: A through F, Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day, Veteran's Day, (providing employee works two days in the calendar week in which the holiday falls and shape each remaining workday during such calendar week.)

h. For each 15 days worked within the contract year an employee will receive one day's vacation with pay, with a maximum vacation of three weeks per year.

i. Employer contributes $4.80 per day to Annuity Fund.

j. Paid Holiday: New Year's Day & Xmas Day providing the employee works the preceding and following the holiday.

k. Employer contributes $28.86 per month to Health & Welfare.

m. Employer contributes $29.13 per month to Pension Fund.

n. Holidays: A through F; Lincoln's Birthday; Washington's Birthday; Good Friday; Columbus Day; Armistice Day; Election Day.

o. Paid Holiday: St. Patricks Day.

DECISION NO. NY76-3149

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LABORERS:					
Concrete and curb form setters, Asphalt rakers	$7.50	10%	13%	.75+a	
Asphalt workers and roller boys, Asphalt top shovelers and smoothers, Asphalt tampers	7.30	10%	13%	.75+a	
Jackhammers, and drill men, Hoppermen, Carpenters' tenders, Pipe jointers and setters, Concrete laborers (structures), Stone spreading laborers, Trackmen, Grading and excavating laborers, Yard laborers, Puddlers on concrete pavement, Laborers (other than above) on concrete pavement, Landscape laborers, Asphalt plant (batcher and hopper men)	6.90	10%	13%	.75+a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Holidays: A through F, Columbus Day, Lincoln's Birthday, Washington's Birthday, Veterans' Day; Election Day, provided employee works or shapes up the scheduled day before and the schedule day after the holiday.

DECISION NO. NY76-3149 N.Y.-5-PEO-1- A 1 of 2

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Asphalt spreader	$10.63	6%	1.05	a+b	.15
Backhoe, dragline, gradall, piledriver, shovel	10.905	6%	1.05	a+b	.15
Batching plant (on site of Job), power winch (used for stone or steel), power winch truck mounted (used for stone or steel), pump (concrete)	10.805	6%	1.05	a+b	.15
Bending machine, generator (small), vibrator (1 to 5), dinky locomotive	9.455	6%	1.05	a+b	.15
Boiler, bulldozer, compressor (on crane) compressor (pilework), compressor (stone setting), concrete breaker, conveyor, generator (pilework), loading machine (front end), maintenance engineer, mechanical compactors (machine drawn), powerhouse, power winch truck mounted (used for other than steel or stone), pulvi-mixer, power winch (used for other than stone or steel), pump (double action disphragm), pump (gypsum), pump (hydraulic pump (jet), pump (single action - 1 to 3), pump (well point), welding and burning, welding machine (pilework)	10.455	6%	1.05	a+b	.15
Boom truck, crane (crawler or truck), conveyor-muiti, plant engineer, stone spreader (self-propelled)	10.655	6%	1.05	a+b	.15
Compressor, compressor (2 or more in battery), generator, mulch machine, pin puller, portable heaters, pump (4 inch or over), track tamper (2 engineers each), welding machine	10.205	6%	1.05	a+b	.15
Crane and boom truck (setting structural or stone)	11.03	6%	1.05	a+b	.15
Bulldozer (used for excavation), fireman, loading machine, powerboom, scoop (carry-all scrapper), vac-all	10.08	6%	1.05	a+b	.15
CMI or maxim spreader, concrete spreader, derrick, sideboom tractor	11.005	6%	1.05	a+b	.15
Compressor (structural steel)	10.605	6%	1.05	a+b	.15
Concrete saw or cutter, mixer (with skip) mixer (2 small, with or without skip), pump (up to 3 inches), tractor-caterpiller or wheel	9.705	6%	1.05	a+b	.15

DECISION NO. NY76-3149 N.Y.-5-PEO-1 - A 2 of 2

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS (CONT'D):					
Crane with clam shell bucket	$10.905	6%	1.05	a+b	.15
Crane, crawler or truck:					
Boom lengths of 100' (including jib) but less than 150'	11.155	6%	1.05	a+b	.15
Boom lengths of 150' (including jib) but less than 250'	11.405	6%	1.05	a+b	.15
Boom lengths of 250' (including jib) but less than 350'	11.655	6%	1.05	a+b	.15
Boom lengths of 350'	12.155	6%	1.05	a+b	.15
Curb machine (asphalt or concrete), curing machine, pump (submersible), tower crane maintenance man	10.40	6%	1.05	a+b	.15
Dredge	10.78	6%	1.05	a+b	.15
Elevator, forklift, hoist (1 drum)	10.83	6%	1.05	a+b	.15
Forklift (walk-behind, power operated)	10.62	6%	1.05	a+b	.15
Grader	10.23	6%	1.05	a+b	.15
Hoist (2 and drum)	10.97	6%	1.05	a+b	.15
Hoist (multiple platform)	13.50	6%	1.05	a+b	.15
Mechanical compactors (hand operated), trench machine (hand)	9.08	6%	1.05	a+b	.15
Hoist tandem platform	11.88	6%	1.05	a+b	.15
Hydra-hammer, ridge cutter	9.62	6%	1.05	a+b	.15
Lead engineer	12.105	6%	1.05	a+b	.15
Loading machine (with capacity of 10 yds or over	10.33	6%	1.05	a+b	.15
Oiler, stump chipper	9.105	6%	1.05	a+b	.15
Power buggies	9.33	6%	1.05	a+b	.15
Roller, trench machine	10.705	6%	1.05	a+b	.15
Scoop, carry-all, scraper in tandem	11.08	6%	1.0	a+b	.15
Sideboom tractor (used in tank work)	11.165	6%	1.0	a+b	.15
Striping machine	10.13	6%	1.0	a+b	.15
Tank work	10.93	6%	1.0	a+b	.15
Tower crane (engineer)	11.46	6%	1.05	a+b	.15
Tower crane (oiler)	8.955	6%	1.05	a+b	.15
Welding machine, structural steel	10.68	6%	1.05	a+b	.15

PAID HOLIDAY:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holdays: A through F; Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day and Veterans' Day.
b. Basic hourly rate includes $1.00 Vacation fund.

DECISION NO. NY76-3149

NY-6-PEO-2-3-A 1 of 2

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Asphalt spreader, boom truck, boring machine (other than post holes), CMI or maxim spreader, crane (crawler or truck), conveyor (multi), plant engineer, concrete spreader, sideboom tractor, stone spreader, (self-propelled), cherry picker	$10.93	6%	1.25	a+b	.15
Backhoe, crane (stone setting), crane (structural steel), dragline, gradall, piledriver, road paver, shovel	11.30	6%	1.25	a+b	.15
Batching plant (on site of job), crane (on barge), derrick, sideboom tractor (used in tank work), tank work	11.155	6%	1.25	a+b	.15
Bending machine, mechanical compactors (hand operated), pump (centrifugal, up to 3 inches), trench machine (hand)	8.68	6%	1.25	a+b	.15
Boiler	10.43	6%	1.25	a+b	.15
Boring machine (post holes)	10.87	6%	1.25	a+b	.15
Bulldozer, concrete finishing machine, conveyor, curb machine (asphalt or concrete), curing machine, dinky locomotive, fireman, forklift, hoist (1 drum), loading machine, maintenance engineer, pulvi-mixer, pump (4 inches or over), pump (hydraulic), pump (jet) pump (submersible), pump (well point), roller (5 ton and over), scoop (carry-all, scraper), maintenance man (tower crane), vac-all, welding and burning	10.12	6%	1.25	a+b	.15
Compressor (on crane), generator (pile work), welding machine (pile work), power winch (used for other than stone or structural steel), power house, loading machine (front end), compressor (pile work), power winch (truck mounted, used for other than stone or steel), hoist (2 drum)	10.655	6%	1.25	a+b	.15
Compressor (2 or more in battery)	10.35	6%	1.25	a+b	.15
Compressor (stone setting), compressor (structural steel), welding machine (structural steel)	10.815	6%	1.25	a+b	.15
Compressor, mulch machine, pin puller, pump (double action diaphragm), pump (gypsum), pump (single action 1 to 3), striping machine, welding machine	9.745	6%	1.25	a+b	.15

DECISION NO. NY76-3149

NY-6-PEO-2-3-A 2 of 2

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS (Cont'd.):					
Concrete breaker, concrete saw or cutter, forklift (walk-behind, power operated), hydra hammer, mixer (with skip) mixer (2 small with or without skips), mixer (2 bag or over with or without skip), power buggies, power grinders, ridge cutter	$ 9.03	6%	1.25	a+b	.15
Dredge	10.765	6%	1.25	a+b	.15
Generator	10.04	6%	1.25	a+b	.15
Generator (small)	8.715	6%	1.25	a+b	.15
Grader	10.335	6%	1.25	a+b	.15
Hoist (3 drum), power winch (truck mounted, used for stone or steel), power winch (used for stone setting and structural steel), trench machine	11.145	6%	1.25	a+b	.15
Lead engineer	13.03	6%	1.25	a+b	.15
Mechanic	8.735	6%	1.25	a+b	.15
Mechanic helper	8.395	6%	1.25	a+b	.15
Mechanical compactors (machine drawn), roller (over 5 tons)	10.47	6%	1.25	a+b	.15
Oiler, root cutter, stump chipper, tower crane (oiler), track tamper (2 engineers, each)	8.70	6%	1.25	a+b	.15
Portable heaters	10.295	6%	1.25	a+b	.15
Powerbroom	9.175	6%	1.25	a+b	.15
Pump (concrete)	10.39	6%	1.25	a+b	.15
Scoop (carry-all, scraper in tandem), tower crane (engineer)	11.555	6%	1.25	a+b	.15
Tractor (caterpilla or wheel)	8.505	6%	1.25	a+b	

FOOTNOTES:

a. Paid Holidays: New Year's Day; Lincoln's Birthday; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Election Day; Veterans' Day; Thanksgiving Day and Christmas Day. Provided employee is employed the day before and after the holiday

b. Basic hourly rate includes $1.00 vacation fund.

[FR Doc.76-6774 Filed 3-11-76;8:45 am]

federal register

FRIDAY, MARCH 12, 1976

PART VI:

OFFICE OF MANAGEMENT AND BUDGET

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RESCISSIONS AND DEFERRALS

Cumulative Report—March 1976

OFFICE OF MANAGEMENT AND BUDGET

RESCISSIONS AND DEFERRALS—MARCH 1976

Cumulative Report

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (P.L. 93–344). Section 1014(e) provides for a monthly report listing all current year budget authority with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of March 1, 1976, of the 44 rescissions and 103 deferrals contained in the first eleven special messages transmitted to the Congress for fiscal year 1976. These messages were transmitted to the Congress on July 1 and 25, September 10 and 24, October 3 and 20, November 18, December 1, 1975, January 6 and 23, and February 6, 1976.

Rescissions (Table A and Attachment A). Seventeen rescissions totaling $973.1 million in budget authority are presently pending before the Congress. Table A summarizes the status of rescissions proposed by the President as of March 1, 1976. Attachment A shows the history and status of each rescission proposed during the first eight months of fiscal year 1976.

Deferrals (Table B and Attachment B). As of March 1, 1976, $3,508.3 million in 1976 budget authority was being deferred from obligation and another $96.5 million in 1976 obligations was being deferred from expenditure. Table B summarizes the status of deferrals reported by the President. Attachment B shows the history and status of each deferral proposed during the first eight months of fiscal year 1976.

Information from Special Messages. The eleven special messages containing information on each of the rescissions and deferrals covered by the cumulative report are contained in the Federal Registers of:

Wednesday, July 9, 1975 (Vol. 40, No. 132, Part V).
Wednesday, July 30, 1975 (Vol. 40, No. 147, Part II).
Monday, September 15, 1975 (Vol. 40, No. 179, Part V).
Monday, September 29, 1975 (Vol. 40, No. 189, Part V).
Wednesday, October 8, 1975 (Vol. 40, No. 196, Part VII).
Thursday, October 23, 1975 (Vol. 40, No. 206, Part III).
Thursday, November 20, 1975 (Vol. 40, No. 225, Part VI).
Thursday, December 4, 1975 (Vol. 40, No. 234, Part II).
Friday, January 9, 1976 (Vol. 41, No. 6, Part V).
Wednesday, January 28, 1976 (Vol. 41, No. 19, Part V).
Wednesday, February 11, 1976 (Vol. 41, No. 29, Part VII).

JAMES T. LYNN, *Director.*

Table A

STATUS OF 1976 RESCISSION PROPOSALS

	Amount* (in millions of dollars)
Rescissions proposed by the President.....	3,328.7
Accepted by the Congress:	
Helium fund (R76-6).....	-47.5
Access highways to public recreation areas on certain lakes (R76-2) 1/.....	-15.0
Subtotal, rescissions accepted by the Congress.....	(-62.5)
Rescissions rejected by the Congress.....	-2,293.1
Rescissions pending before the Congress:.....	973.1
Special Message #9 (transmitted Jan. 6, 1976).....	(60.7)
Special Message #10 (transmitted Jan. 23, 1976).....	(910.5) 2/
Special Message #11 (transmitted Feb. 6, 1976).....	(2.0)

* Detail does not add to total due to rounding.

1/ The Department of Transportation and Related Agencies Appropriations Act (P.L. 94-134) rescinded $25 million under this head and appropriated $10 million under a separate section of Federal-Aid Highway Amendments of 1974 (23 U.S.C. 101).

2/ Excludes amounts from supplementary rescission reports that revised amounts in special messages numbered 1-8. These revised amounts have been released.

Table B

STATUS OF 1976 DEFERRALS

	Amount* (in millions of dollars)
Deferrals proposed by the President	6,178.4
Routine Executive releases (-$2,094.1M) and adjustments (-$244.8M) 1/ through March 1, 1976	-2,338.9
Overturned by the Congress 2/	
Agriculture:	
Agricultural Research Service	
Construction (D76-68) (overturned Dec. 4, 1975)	-7.6
Animal and Plant Health Inspection Service	
Construction-Fleming Key animal import center (D76-69) (overturned Dec. 10, 1975)	-6.3
Agricultural Stabilization and Conservation Service	
Agriculture conservation program (D76-70) (overturned Dec. 19, 1975)	-90.0
Farmers Home Administration	
Rural water and waste disposal grants (D76-72) (overturned Dec. 19, 1975)	-50.0
Soil Conservation Service	
Watershed and flood prevention (D76-73) (overturned Dec. 19, 1975)	-22.5
Resource conservation and development (D76-74) (overturned Dec. 19, 1975)	-5.0
Interior:	
Bureau of Reclamation	
Construction and rehabilitation (D76-13) (overturned Dec. 4, 1975)	-1.0
EPA: (all overturned Dec. 19, 1975)	
Research and Development	
Air research (D76-79)	-2.0
Water research (D76-80)	-4.6
Abatement and Control	
Air control agency grants (D76-81)	-3.8
Water quality control agency grants (D76-82)	-10.0
Clean lakes grants (D76-83)	-15.0
Other Independent Agencies:	
Community Services Administration	
Emergency energy conservation (D76-49) (overturned Nov. 3, 1975)	-16.5
Total, deferrals overturned by the Congress 2/	(-234.2)
Currently before the Congress	3,605.3 3/

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* Detail does not add to total due to rounding.

1/ Adjustments include, for example, termination of Agriculture and Health, Education, and Welfare deferrals under the continuing resolution upon approval of associated appropriation acts. An amount equal to $778.1 million included in the "Adjustments" column of Attachment B to this report represents superseded deferrals. This amount is not included in the "adjustments" entry above because these adjustments are included in calculating the amount shown on the line "Deferrals proposed by the President."

2/ Does not include $10 million in funds reported as deferred by the General Accounting Office and overturned by the Congress on July 10, 1975.

3/ Includes $96.5 million of outlays in two Treasury deferrals--D76-25 and D76-67.

ATTACHMENT A

STATUS OF RESCISSIONS

FISCAL YEAR 1976
(Amounts in thousands of dollars)

As of March 1, 1976

Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Department of Agriculture							
Agriculture Research Service:							
Construction	R76-15	[225]	12-01-75			225	02-24-76
Agriculture Stabilization and Conservation Service:							
Water Bank Act Program	R76-16	[12,500]	12-01-75			12,500 1/	02-24-76
Forestry Incentives Program	R76-17	[18,750]	12-01-75				
	R76-17A	[18,750]	01-23-76			18,750 2/	02-24-76
Farmers Home Administration:							
Rural Water and Waste Disposal Grants	R76-18	[150,000]	12-01-75			150,000 3/	02-24-76
Rural Development Grants	R76-19	[12,344]	12-01-75				
	R76-19A	[12,344]	01-23-76			12,344 4/	02-24-76
Rural Housing for Domestic farm labor	R76-20	[9,375]	12-01-75			9,375 5/	02-24-76
Mutual and self-help housing	R76-21	[12,287]	12-01-75			12,287 6/	02-24-76
Self-help housing land development fund	R76-22	[1,498]	12-01-75			1,498	02-24-76
Rural housing insurance fund	R76-23	[10,000]	12-01-75			10,000	02-24-76
	R76-29	500,000	01-23-76				

Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Rural community fire protection grants	R76-24	[4,375]	12-01-75			4,375 7/	02-24-76
Agriculture Marketing Service:							
Payments to States and possessions	R76-25	[2,000]	12-01-75			2,000 8/	02-24-76
Food and Nutrition Service:							
Special milk program	R76-30	40,000	01-23-76				
Forest Service:							
Forest Roads and Trails	R76-4	[25,723]	07-25-75			25,723	10-07-75
Department of Commerce							
Economic Development Administration:							
Economic development assistance programs	R76-31	4,000	01-23-76				
Department of Defense-Civil							
Corps of Engineers-Civil:							
Construction, general	R76-32	3,600	01-23-76				
Department of Health, Education, and Welfare							
Health Services Administration:							
Health Services	R76-33	127,804	01-23-76				
Indian health service	R76-34	5,294	01-23-76				
Center for Disease Control:							
Preventive health services	R76-35	7,690	01-23-76				
Alcohol, Drug Abuse and Mental Health Administration:							
Alcohol, drug abuse and mental health	R76-36	56,500	01-23-76				
Health Resources Administration:							
Health resources	R76-37	69,000	01-23-76				

Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Office of Education:							
Elementary and secondary education	R76-9	[220,404]	11-18-75				
	R76-9A	[210,404]	01-23-76			210,404 9/	02-20-76
Indian education	R76-38	15,000	01-23-76				
School assistance in federally affected areas	R76-10	[220,968]	11-18-75				
	R76-10A	[243,773]	01-23-76			243,773 10/	02-20-76
Education for the Handicapped	R76-11	[36,375]	11-18-75			36,375 11/	02-20-76
Occupational, vocational, and adult education	R76-12	[14,241]	11-18-75			14,241 12/	02-20-76
Higher education	R76-13	[768,140]	11-18-75			768,140	02-20-76
Library resources	R76-14	[28,975]	11-18-75			28,975 13/	02-20-76
Assistant Secretary for Human Development:							
Child Development and Head Start	R76-5	[7,000]	07-25-75			7,000	10-24-75
Grants for the developmentally disabled	R76-39	2,000	01-23-76				
Department of Housing and Urban Development							
Housing Production and Mortgage Credit:							
State Housing Finance and Development Agencies	R76-26	[600,000] 14/	12-01-75			600,000	02-24-76
Community Planning and Development:							
Rehabilitation loan fund	R76-28	[60,670]	01-06-76				
	R76-28A	62,670	02-06-76				

Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Department of the Interior							
Bureau of Land Management:							
Public lands development roads and trails	R76-40	8,800 15/	01-23-76				
National Park Service:							
Road construction	R76-41	58,500 16/	01-23-76				
Bureau of Mines:							
Helium Fund	R76-6	[47,500]	07-25-75	47,500	10-13-75 17/		
Department of State							
Mutual educational and cultural exchange activities	R76-42	8,000	01-23-76				
Department of Transportation							
Federal Highway Administration:							
National Scenic and Recreational Highway	R76-1	[90,000]	07-01-75	18/	18/		
Access Highways to Public Recreation Areas on Lakes	R76-2	[25,000]	07-01-75	25,000 19/	11-24-75 19/	19/	11-24-75
Department of the Treasury							
Office of the Secretary:							
Construction, Federal Law Enforcement Training Center	R76-3	[8,665]	07-01-75			8,665	09-23-75
Other Independent Agencies							
Community Services Administration:							
Economic Opportunity Program:							
Research and Demonstration	R76-7	[2,500] 20/	07-25-75				
Community and Economic Development	R76-8	[7,500] 20/	07-25-75				
Community services program	R76-43	2,500 21/	01-23-76				
Consumer Product Safety Commission:							
Salaries and expenses	R76-27	[5,225]	12-01-75				
	R76-27A	[6,431]	01-23-76			6,431 22/	02-24-76

Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Selective Service System:							
Salaries and expenses	R76-44	1,775	01-23-76				
TOTAL		973,133		62,500		2,183,081	

1/ $2.5 million of this amount is appropriated for the transition quarter and will be available on July 1, 1976.
2/ $3,750 thousand of this amount is appropriated for the transition quarter and will be available on July 1, 1976.
3/ $25 million of this amount is appropriated for the transition quarter and will be available on July 1, 1976.
4/ $2,969 thousand of this amount is appropriated for the transition quarter and will be available on July 1, 1976.
5/ $1,875 thousand of this amount is appropriated for the transition quarter and will be available on July 1, 1976.
6/ $2,250 thousand of this amount is appropriated for the transition quarter and will be available on July 1, 1976.
7/ $875 thousand of this amount is appropriated for the transition quarter and will be available on July 1, 1976.
8/ $400 thousand of this amount is appropriated for the transition quarter and will be available on July 1, 1976.
9/ $161,634 thousand of this amount becomes available on July 1, 1976, by the terms of P.L. 94-94 and will be apportioned on that date.
10/ $194,265 thousand of this amount was proposed for rescission without being withheld.
11/ $35 million of this amount becomes available for obligation on July 1, 1976, by the terms of P.L. 94-94 and will be apportioned on that date.
12/ $4 million of this amount becomes available for obligation on July 1, 1976, by the terms of P.L. 94-94 and will be apportioned on that date.
13/ $10 million of this amount becomes available for obligation on July 1, 1976, by the terms of P.L. 94-94 and will be apportioned on that date.
14/ For 1976, $15 million in contract authority and $15 million to liquidate that contract authority.
15/ See deferral D76-12.
16/ See deferral D76-18.
17/ P.L. 94-111.
18/ See House Report No. 94-496. Deferral of the $90 million was reported to the Congress on September 24, 1975, in D76-55.
19/ P.L. 94-134, signed November 24, 1975, rescinds the $25 million in R76-2 and makes new appropriations of $10 million.
20/ These funds, provided in P.L. 94-32, lapsed on September 30, 1975. They were reappropriated in P.L. 94-206 which became law on January 28, 1976, and are available for obligation.
21/ Appropriated in P.L. 94-157.
22/ $1,206 thousand of this amount is appropriated for the transition quarter and will be available on July 1, 1976.

ATTACHMENT B

STATUS OF DEFERRALS

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: Department of Agriculture 1/

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 03-01-76
Agricultural Research Service									
Construction	D76-68		7,570	12-01-75					
				12-05-75		2/	-7,570 3/		0
Animal and Plant Inspection Service									
Construction	D76-69		6,314	12-01-75					
				12-15-75		4/	-6,314 5/		0
Foreign Agricultural Service									
Salaries and Expenses (Special Foreign Currency)	D76-1		2,232	07-01-75					2,232
Agricultural Stabilization and Conservation Service									
Commodity Credit Corporation Administrative Expenses	D76-71		2,787	12-01-75					
				12-18-75	-2,787				0
Agricultural Conservation Program	D76-28	[31,667]		07-25-75					
				09-10-75				-31,667 6/	
	D76-28A	[31,667]		09-10-75					
				10-03-75				-31,667 6/	
	D76-28B		63,333	10-03-75					
				10-21-75				-63,333 7/	0
	D76-70		90,000	12-01-75					
				12-24-75		-90,000 8/			0
Water Bank Act Program	D76-29	[536]		07-25-75					
				10-03-75				-536 6/	
	D76-29A		1,072	10-03-75					
				10-21-75				-1,072 7/	0

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	2 Amount Deferred as of 03-01-76
Forestry Incentives Program	D76-30	[3,750]		07-25-75 10-03-75				-3,750 6/	
	D76-30A		7,500	10-03-75 10-21-75				-7,500 7/	0
Farmers Home Administration									
Rural Water and Waste Disposal	D76-31	[37,500]		07-25-75 10-03-75				-37,500 6/	
	D76-31A		75,000	10-03-75 10-21-75				-75,000 7/	0
	D76-72		50,000	12-01-75 12-24-75		-50,000 9/			0
Rural Housing for Domestic Farm Labor Grants	D76-32	[1,250]		07-25-75 10-03-75				-1,250 6/	
	D76-32A		2,500	10-03-75 10-21-75				-2,500 7/	0
Mutual and Self-help Housing Grants	D76-33	[2,050]		07-25-75 10-03-75				-2,050 6/	
	D76-33A		3,300	10-03-75 10-21-75				-3,300 7/	0
Self-help Housing Land Development Fund	D76-34	[1,625]		07-25-75 10-03-75				-1,625 6/	
	D76-34A		1,625	10-03-75 10-21-75				-1,625 7/	0
Soil Conservation Service									
Watershed and flood prevention operations	D76-73		22,500	12-01-75 12-24-75		-22,500 10/			0
	D76-95		18,000	01-23-76					18,000
Resource conservation and development	D76-74		4,960	12-01-75 12-24-75		-4,960 11/			0

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-76
Agricultural Marketing Service									
Payments to States and Possessions	D76-35	[400]		07-25-75					
				10-03-75				-400 6/	
	D76-35A		800	10-03-75					
				10-21-75				-800 7/	0
Forest Service									
Youth Conservation Corps	D76-101		23,680	02-06-76					23,680
Forest Roads and Trails	D76-36		280,000	07-25-75					
				01-22-76	-1,343				278,657
Expenses, Brush Disposal	D76-37		27,113	07-25-75					
				01-22-76	-2,040				25,073
Licensee Programs	D76-38	[95]		07-25-75					
				02-06-76				-95 6/	
	D76-38A		153	02-06-76					153
TOTAL		110,540	690,439		-6,170	-167,460	-13,884	-265,670	347,795

1/ On July 10, 1975, the Senate passed an impoundment resolution requiring release of Youth Conservation Corps funds reported two days earlier by the General Accounting Office as being deferred ($10 million). Funds were released on July 16, 1975.
2/ Impoundment resolution H. Res. 910 passed the House on December 19, 1975, expressing disapproval of this deferral. The funds were released on December 5, 1975, following Senate passage of S. Res. 313.
3/ Impoundment resolution S. Res. 313 passed the Senate on December 4, 1975, rejecting this deferral.
4/ Impoundment resolution H. Res. 911 passed the House on December 19, 1975, expressing disapproval of this deferral. The funds were released on December 15, 1975.
5/ Impoundment resolution, S. Res. 324, passed the Senate on December 10, 1975, rejecting this deferral.
6/ Subsequently incorporated in a supplementary report.
7/ Enactment of P.L. 94-122 (October 21, 1975) ended deferrals of funds provided by the continuing resolution.
8/ Impoundment resolution H. Res. 912 passed the House on December 19, 1975, rejecting this deferral.
9/ Impoundment resolution H. Res. 914 passed the House on December 19, 1975, rejecting this deferral.
10/ Impoundment resolution H. Res. 915 passed the House on December 19, 1975, rejecting this deferral.
11/ Impoundment resolution H. Res. 916 passed the House on December 19, 1975, rejecting this deferral.

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: Department of Commerce

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-76
National Oceanic and Atmospheric Administration									
Fisheries Loan Fund	D76-2		7,252	07-01-75					
				11-14-75				-769 1/	
				02-25-76				-1,489 2/	4,994
Promote and Develop Fishery Products	D76-3		1,355	07-01-75					
				12-30-75	-377			-173 1/	
				02-25-76				+516 3/	1,321
Fishermen's Guaranty Fund	D76-75		152	12-01-75					
				02-25-76	-102				50
Office of the Assistant Secretary for Science and Technology									
Scientific and Technical research and services	D76-76		1,187	12-01-75					1,187
TOTAL			9,946		-479			-1,915	7,552

1/ Reflects a revised unobligated balance brought forward from FY 1975.
2/ Reflects a reduction in estimated loan repayments.
3/ Reflects higher estimates of gross receipts from customers duties on imported fishery products.

STATUS OF DEFERRALS

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: Department of Defense, Military

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 03-01-76
Shipbuilding and Conversion, Navy	D76-4		1,793,590	07-01-75					
				09-09-75	-1,793,590				0
Military Construction, All Services	D76-5	[233,630]		07-01-75					
				06-27-75	-1,582				
				07-29-75	-1,752				
				08-25-75	-15,046				
				09-04-75	-5,515				
				10-06-75				245	
				10-15-75	-34,524				
				10-24-75	-16,415				
				11-03-75	-5				
				11-03-75				3,399	
				12-04-75	-32,798				
				12-09-75	-31,256				
				01-06-76				-98,381 1/	
	D76-86		596,074	01-06-76					
				02-03-76	-4,766				
				02-13-76	-18,609				
				02-17-76	-11,248				561,451
TOTAL		233,630	2,389,664		-1,967,106			-94,737	561,451

1/ Subsequently incorporated in D76-86.

STATUS OF DEFERRALS

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: Department of Defense, Civil

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-76
Corps of Engineers-Civil Revolving fund	D76-96		700	01-23-76					700
Canal Zone Government Capital Outlays	D76-87		155	01-06-76					155
Wildlife Conservation Military Reservations	D76-6		432	07-01-75					
				09-19-75				-13 1/2/	
				09-24-75				-31 1/	388
TOTAL			1,287					-44	1,243

1/ Reflects the actual unobligated balance carried forward July 1, which is a lesser amount than previously estimated.
2/ Reflects a decrease in anticipated receipts for the year.

STATUS OF DEFERRALS

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: Department of Health, Education, and Welfare

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-76
Health Services Administration									
Health Services	D76-57	[1,082]		10-20-75 01-06-76				-1,082 1/	0
	D76-57A		1,623	01-06-76 01-28-76				-1,623 2/	0
Indian Health Facilities	D76-39		1,000	07-25-75					1,000
	D76-97		13,908	01-06-76					13,908
National Institutes of Health									
National Cancer Institute	D76-58	[7,000]		10-20-75 01-06-76				-7,000 1/	0
	D76-58A		7,000	01-06-76 01-28-76				-7,000 2/	0
National Heart and Lung Institute	D76-59	[2,700]		10-20-75 01-06-76				-2,700 1/	0
	D76-59A		12,700	01-06-76 01-28-76				-12,700 2/	0
National Institutes of Dental Research	D76-60	[518]		10-20-75 01-06-76				-518 1/	0
	D76-60A		518	01-06-76 01-28-76				-518 2/	0

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-76
National Institute of Arthritis, Metabolism, and Digestive Diseases	D76-88		2,752	01-06-76					
				01-28-76				-2,752 2/	0
National Institute of Neurological and Communicative Disorders and Stroke	D76-61	[682]		10-20-75					
				01-06-76				-682 1/	0
	D76-61A		682	01-06-76					
				01-28-76				-682 2/	0
National Institutes of General Medical Sciences	D76-62	[2,318]		10-20-75					
				01-06-76				-2,318 1/	0
	D76-62A		5,812	01-06-76					
				01-28-76				-5,812 2/	0
National Institute of Child Health and Human Development	D76-63	[1,234]		10-20-75					
				01-06-76				-1,234 1/	0
	D76-63A		1,234	01-06-76					
				01-28-76				-1,234 2/	0
Division of Research Resources	D76-89		42,896	01-06-76					
				01-28-76				-42,896 2/	0
Buildings and Facilities	D76-7		2,164	07-01-75					
				09-22-75	-2,164				0
Office of the Director	D76-64	[572]		10-20-75					
				01-06-76				-572 1/	0
	D76-64A		884	01-06-76					
				01-28-76				-884 2/	0

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-76
Alcohol, Drug Abuse and Mental Health Administration									
Alcohol, Drug Abuse, and Mental Health	D76-40	[3,409]		07-25-75 10-03-75				-3,409 1/	0
	D76-40A	[2,426]		10-03-75 10-20-75				-2,426 1/	0
	D76-40B	[2,753]		10-20-75 01-06-76				-2,753 1/	0
	D76-40C		4,910	01-06-76 01-28-76				-4,910 2/	0
Health Resources Administration									
Health Resources	D76-41		22,000	07-25-75 07-25-75	-22,000				0
Office of the Assistant Secretary for Health									
Assistant Secretary for Health	D76-65	[753]		11-18-75 01-06-76				-753 1/	0
	D76-65A		773	01-06-76 01-28-76				-773 2/	0
Scientific Activities Overseas (Special Foreign Currency)	D76-8		3,652	07-01-75					3,652
Office of Education									
Elementary and Secondary Education	D76-51		8,000	09-10-75 10-10-75	-8,000				0
	D76-52		2,968	09-10-75 02-20-76	-2,968				0
School Assistance in Federally Affected Areas	D76-42		68,350	07-25-75 09-10-75				-68,350 3/	0
Higher Education	D76-9		49,040	07-01-75					49,040
Higher Education	D76-43		9,500	07-25-75 09-10-75				-9,500 3/	0
Library Resources	D76-44		10,437	07-25-75 09-10-75				-10,437 3/	0

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	Releases Resulting From Subsequent Actions Taken by: House	Releases Resulting From Subsequent Actions Taken by: Senate	Adjustments	10 Amount Deferred as of 03-01-76
Social and Rehabilitative Service									
Public Assistance									
Child Welfare Services	D76-45	[1,000]		07-25-75					
				10-03-75				-1,000 1/	0
	D76-45A	[2,000]		10-03-75					
				01-06-76				-2,000 1/	0
	D76-45B		3,000	01-06-76					
				01-28-76				-3,000 2/	0
Social Security Administration									
Limitation on Construction	D76-54		14,910	09-24-75					14,910
Special Institutions									
Howard University	D76-10	[8,174]		07-01-75					
				11-18-75				-8,174 1/	0
	D76-10A		12,225	11-18-75					12,225
Assistant Secretary for Human Development									
Research and Training Activities Overseas (Special Foreign Currency)	D76-11	[7,307]		07-01-75					
				07-25-75				-7,307 1/	0
	D76-11A	[8,307]		07-25-75					
				07-15-75	-3,665				
				11-06-75	-390			-4,252 1/	0
	D76-11B		4,252	12-01-75					
				11-24-75	-558				3,694
TOTAL		52,235	307,190		-39,745			-221,251	98,429

1/ Subsequently incorporated in a supplementary report.
2/ Enactment of P.L. 94-206 (January 28, 1976) ended deferral of these funds provided by the Continuing Resolution.
3/ Enactment of P.L. 94-94 (September 10, 1975) ended deferral of these funds provided by the Continuing Resolution.

STATUS OF DEFERRALS

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: Department of the Interior

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-76
Bureau of Land Management									
Public Lands Development Roads and Trails	D76-12	[25,847]		07-01-75 01-20-76 02-06-76	-947			-8,800 1/ -16,100 2/	
	D76-12A		16,100	02-06-76					16,100
Oregon and California grant lands	D76-102		3,016	02-06-76					3,016
Bureau of Reclamation									
Construction and Rehabilitation	D76-13	[1,030]		07-01-75 07-25-75				-1,030 2/	0
	D76-13A		1,030	07-25-75 12-08-75			-1,030 3/		0
Upper Colorado River Storage Project	D76-14		1,150	07-01-75 01-19-76	-1,150				0
Bureau of Outdoor Recreation									
Land and Water Conservation Fund	D76-15		30,000	07-01-75					30,000
Fish and Wildlife Service									
Federal Aid in Fish Restoration and Management	D76-16		6,330	07-01-75 01-22-76	-1,212				5,118
Federal Aid in Wildlife Restoration	D76-17		21,470	07-01-75 01-22-76	-7,270				14,200
National Park Service									
Road Construction	D76-18		238,092	07-01-75 12-15-75 01-20-76	-1,000 -34,034			-58,500 4/	144,558

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-76
Geological Survey									
Payment from Proceeds, Sale of Water	D76-19		29	07-01-75					29
Bureau of Mines									
Drainage of Anthracite Mines	D76-46		3,375	07-25-75					3,375
Bureau of Indian Affairs									
Construction	D76-103		10,881	02-06-76					10,881
Road Construction	D76-20	[68,470]		07-01-75 02-06-76				-68,470 2/	0
	D76-20A		69,339	02-06-76					69,339
TOTAL		95,347	400,812		-45,613		-1,030	-152,900	296,616

1/ See rescission R76-40.
2/ Subsequently incorporated in a supplementary report.
3/ Impoundment resolution, S. Res. 226, passed by the Senate on December 4, 1975, rejecting this deferral.
4/ See rescission R76-41.

STATUS OF DEFERRALS

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: Department of Justice

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-76
Law Enforcement Assistance Administration									
Salaries and expenses	D76-98		15,000	01-23-76					15,000
TOTAL			15,000						15,000

STATUS OF DEFERRALS

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: Department of Labor

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-76
Employment and Training Administration									
Advances to the unemployment trust fund and other funds	D76-99		1,800,000	01-23-76					1,800,000
Departmental Management									
Working Capital Fund	D76-77		977	12-01-75 12-08-75	-977				0
Pension Benefit Guaranty Corporation									
Pension Guaranty Fund	D76-78		[1,431]*	12-01-75					[1,431]*
TOTAL			1,800,977		-977				1,800,000

* Annexed Budget item. Not included in totals. This deferral will not affect budgetary outlays because PBGC is an off-budget agency. However, it will result in reducing Treasury financing needs by $1,431 thousand for FY 1976.

STATUS OF DEFERRALS

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: Department of State

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-76
Acquisition, operation and maintenance of buildings abroad (special foreign currency)	D76-90		2,275	01-06-76					2,275
International Center, Washington, D.C.	D76-66		2,572	11-18-75					2,572
Refugee and Migration Affairs									
Special Assistance to refugees from Cambodia and Vietnam	D76-85	[28,493]		12-01-75 01-23-76				-28,493 1/	0
	D76-85A		28,493	01-23-76					28,493
TOTAL		28,493	33,340					-28,493	33,340

1/ Subsequently incorporated in a supplementary report.

STATUS OF DEFERRALS

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: Department of Transportation

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-76
Coast Guard									
Acquisition, Construction and Improvements	D76-21	[707]		07-01-75 01-06-76				-707 1/	0
	D76-91		1,061	01-06-76					1,061
Federal Aviation Administration									
Construction, National Capitol Airports	D76-92		8,679	01-06-76					8,679
Civil Supersonic Aircraft Development Termination	D76-22	[7,686]		07-01-75 11-24-75 01-06-76				-6,000 2/ -1,686 3/	0
	D76-93		2,179	01-06-76					2,179
Facilities and Equipment (Airport and Airway Trust Fund)	D76-23		75,824	07-01-75					75,824
Federal Highway Administration									
National Scenic and Recreational Highway	D76-55		90,000	09-24-75					90,000
TOTAL		8,393	177,743					-8,393	177,743

1/ Subsequently incorporated in D76-91.
2/ P.L. 94-134, signed November 24, 1975, transferred $6 million from "Civil supersonic aircraft development termination" to FAA "Operations."
3/ Subsequently incorporated in D76-93.

STATUS OF DEFERRALS

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: Department of the Treasury

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-76
Office of the Secretary									
State and Local Government Fiscal Assistance Trust Fund	D76-24		93,420	07-01-75					
				07-31-75	-246				
				08-11-75	-18				
				10-01-75	-3,145				
				11-01-75	-41				
				12-01-75	-164				
				01-01-76	-84				
				03-01-76	-5				89,717
State and Local Government Fiscal Assistance Trust Fund	D76-25	[38,391] 1/		07-01-75					
				09-10-75				-38,391 1/2/	
	D76-25A	[57,587] 1/		09-10-75					
				10-20-75				-57,587 1/2/	
	D76-25B	[75,856] 1/		10-20-75					
				11-18-75				-75,856 1/2/	
	D76-25C	[75,856] 1/		11-18-75					
				01-23-76				-75,856 1/2/	
	D76-25D		95,017 1/	01-23-76					95,017 1/
	D76-67		11,833 1/	11-18-75					
				12-01-75	-9,409 1/				
				01-01-76	-693 1/				
				02-01-76	-203 1/				1,528 1/
Loans to the District of Columbia for Capital Outlay	D76-53		39,370	09-10-75					39,370
TOTAL			132,790 BA		-3,703 BA				129,087 BA
		247,690	106,850 O		-10,305 O			-247,690	96,545 O

1/ Outlays only.
2/ Subsequently incorporated in a supplementary report.

STATUS OF DEFERRALS

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: Environmental Protection Agency

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-76
Research and Development	D76-79		2,000	12-01-75					
				12-22-75		-2,000 1/			0
	D76-80		4,600	12-01-75					
				12-22-75		-4,600 2/			0
Abatement and Control	D76-47		4,000	07-25-75					
				07-23-75	-4,000				0
	D76-81		3,750	12-01-75					
				12-22-75		-3,750 3/			0
	D76-82		10,000	12-01-75					
				12-22-75		-10,000 4/			0
	D76-83		15,000	12-01-75					
				12-22-75		-15,000 5/			0
TOTAL			39,350		-4,000	-35,350			0

1/ Impoundment resolution H. Res. 920 passed the House on December 19, 1975, rejecting this deferral.
2/ Impoundment resolution H. Res. 921 passed the House on December 19, 1975, rejecting this deferral.
3/ Impoundment resolution H. Res. 922 passed the House on December 19, 1975, rejecting this deferral.
4/ Impoundment resolution H. Res. 923 passed the House on December 19, 1975, rejecting this deferral.
5/ Impoundment resolution H. Res. 924 passed the House on December 19, 1975, rejecting this deferral.

STATUS OF DEFERRALS

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: General Services Administration

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-76
Rare Silver Dollar Program	D76-48	[1,790]		07-25-75 02-06-76				-1,790 1/	
	D76-48A		1,850	02-06-76					1,850
TOTAL		1,790	1,850					-1,790	1,850

1/ Subsequently incorporated in a supplementary report.

STATUS OF DEFERRALS

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: National Aeronautics and Space Administration

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-76
Research and Program Management	D76-84		2,900	12-01-75					2,900
TOTAL			2,900						2,900

STATUS OF DEFERRALS

FISCAL YEAR 1976
(Amounts in thousands of dollars)

Agency: Other Independent Agencies

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-76
Community Services Administration									
Economic Opportunity Program									
Emergency Energy Conservation Services	D76-49		16,500	07-25-75					
				10-03-75			-16,500 1/		0
Community and Economic Development	D76-50		14,500	07-25-75					
				07-24-75	-14,500				0
Foreign Claims Settlement Commission									
Payment of Vietnam Prisoner of War Claims	D76-26		11,081	07-01-75					11,081
American Revolution Bicentennial Administration	D76-27		1,000	07-01-75					1,000
Interstate Commerce Commission									
Payment for directed rail services	D76-94		13,700	01-06-76					13,700
National Science Foundation									
Salaries and expenses	D76-100		10,000	01-23-76					10,000
National Commission on Productivity and Work Quality	D76-56		1,500	09-24-75					
				10-01-75	-600				
				12-09-75	-900				0
TOTAL			68,281		-16,000		-16,500		35,781
TOTAL, ALL DEFERRALS		530,428BA 247,690O	6,071,569BA 106,850O		-2,083,793 -10,305	-202,810	-31,414	-775,193BA -247,690O	3,508,787BA 96,545O

1/ Impoundment resolution S. Res. 267 passed the Senate October 3, 1975, rejecting this deferral.

[FR Doc.76-7298 Filed 3-10-76;3:42 pm]

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