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federal register

WEDNESDAY, NOVEMBER 30, 1977

highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations are being accepted for the free Wednesday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L St. N.W., Washington, D.C. in Room 9409, from 9 to 11:30 a.m.

Each session includes a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

FOR RESERVATIONS call: Martin V. Franks, 202–523–3517.

OUT OF TOWN WORKSHOPS PREVIOUSLY ANNOUNCED

Philadelphia, Pennsylvania, 12–12 and 12–13–77
(Details: Federal Register of November 15, 1977)
For reservations call: Joann Freedman, Area Code 215–597–9613

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
	CSC			CSC
	LABOR			LABOR
	HEW/ADAMHA			HEW/ADAMHA
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	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

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

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

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

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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.

[7535–01]

Title 12—Banks and Banking

CHAPTER XII—NATIONAL CREDIT UNION ADMINISTRATION

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

Share Accounts and Share Certificate Accounts

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: This rule implements the provisions of the April 19, 1977, amendments to the Federal Credit Union Act (Pub. L. 95–22, 91 Stat. 49) which authorize Federal credit unions to establish share accounts at varying rates and share certificate accounts at varying rates and maturities.

EFFECTIVE DATE: December 30, 1977.

ADDRESS: National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

J. Leonard Skiles, Deputy General Counsel, at the above address, telephone 202–632–4870.

SUPPLEMENTARY INFORMATION: On July 19, 1977, the Administration published a proposed rule (42 FR 37002) to implement the provisions of the Federal Credit Union Act, as amended by Pub. L. 95–22, pertaining to the issuance of share accounts at varying rates and share certificate accounts at varying rates and maturities. 12 U.S.C.A. 1757 (6), 1761b, 1762, and 1763. In addition, a previously proposed rule published on December 17, 1976 (41 FR 55199), pertaining to the issuance of share certificate accounts was withdrawn. Public comment was invited, to be received on or before September 20, 1977. Upon review of these comments and after a thorough reconsideration of the proposed rule by the Administration, various changes, as set forth below, have been made.

The major changes to the proposed rule reflect the regulatory philosophy that each Federal credit union should be given the opportunity to develop a system of share accounts and share certificate accounts tailored to its own needs and that of its members, with a minimum of regulatory interference. However, the Administration, by instituting these changes, is not abandoning the concept around which both the first and second proposals were drafted. That is, the authority to offer share accounts at varying rates and share certificate accounts at varying rates and maturities must be implemented in such a manner that will benefit to the greatest extent possible the entire membership. Emphasis must be placed on providing the approximately 77 percent of credit union members, who have accounts averaging less than $1,000, the benefits of flexible savings programs. The Administration will consider controls similar to those set forth in the proposed rule if it determines that Federal credit unions have not afforded the opportunity for all credit union members to participate in the flexible savings programs provided by this section. In addition, other changes have been made to reflect the basic structure of Federal credit unions and to answer certain questions raised by public comment on the proposed rule.

Analysis of Changes

1. *$500 Minimum Requirements.* Many commenters objected to the provisions which would require minimum balance, split-rate, and share certificate accounts to be offered with the minimum amount requirements beginning at $500 or less. The objections varied widely. Some commenters felt that all minimums should be raised; some stated that at least one type of account, preferrably the certificate account, should begin with a higher minimum requirement; one credit union trade association expressed the opinion that the stated minimums worked a competitive disadvantage against credit unions since other financial institutions had higher minimums, while one association representing other financial institutions felt that the minimum requirements were too liberal and should, instead, be similar to those imposed under Regulation Q. Lastly, some commenters indicated that the $500 minimums would only result in a shift of present share account capital into higher paying accounts. Recognizing the different individual needs expressed by these comments, and in keeping with the previously expressed regulatory philosophy, the Administration has decided to eliminate the $500 or less minimum amount requirement for minimum balance and split-rate accounts, and to modify the restriction on share certificate accounts by merely permitting share certificates to be issued in amounts not less than $500. In addition, the prohibition against requiring a minimum amount to be maintained in one acocunt in order for the holder to qualify for another type of account, set forth in paragraph (b) (1) (ii) of the proposed rule, has been eliminated because its purpose was to prevent the circumvention of the prescribed $500 or less minimum amount requirements. Likewise, the second sentence of subsection (c) is eliminated.

There were a few commenters, primarily representatives of financial institutions other than credit unions, who objected to the previously imposed minimum requirements as not providing sufficient guidance to the credit union management and as providing Federal credit unions with an unfair competitive edge over other financial institutions. These commenters suggested that the Administration impose rate controls based upon minimum amount and maturity requirements similar to those imposed by Regulation Q under Pub. L. 89–597. Although Federal credit unions are not subject to Regulation Q, the Administration recognizes that some guidance as to rate structure would be helpful, but that mandatory regulations would defeat the purpose of permitting Federal credit unions to establish flexible savings programs tailored to their individual needs and those of their members. Therefore, as concerns share certificate accounts, the Administration recommends consideration of the following suggested rate structure.

Minimum Amount	Term	Rate not to exceed the lesser of—
$500	90 day or more but less than 1 yr.	6 pct or 0.75 pct over the regular rate.
500	1 yr or more but less than 30 mo.	6.5 pct or 1.25 pct over the regular rate.
500	30 mo or more but less than 4 yr.	6.75 pct or 1.5 pct over the regular rate.
1,000	4 yr or more but less than 6 yr.	7.5 pct or 2.25 pct over the regular rate.
1,000	6 yr	7.75 pct or 2.5 pct over the regular rate.

2. *Dividend Rate Specified But Not Guaranteed.* A large number of commenters objected to the provision which prohibited Federal credit unions from guaranteeing a dividend rate and the provision requiring the advertising and disclosure of this limitation. A majority of these commenters requested the authority to guarantee rates on share certificate accounts only, while a few wanted that authority to extend to all accounts. The arguments presented in support of the authority to absolutely guarantee dividend rates varied. First, some commenters noted that Federal credit unions presently guarantee the rates to be paid on noninsured Certificates of Indebtedness (CI's). However, this argument fails to recognize the basic distinction between share accounts and CI's, namely, that share accounts are dividend earning equity instruments while CI's are interest

bearing debt instruments. Pub. L. 95–22 did not modify this long standing and yet undisputed principle. This basic distinction is equally applicable in response to those commenters who argued that banks and other financial institutions guarantee interest rates. This distinction between share and debt instruments, and the effect of an absolute guarantee on share type accounts, have found long support in Federal case law. In *Intermountain Building & Loan Assn.* v. *Gallegos*, 78 F. 2d 972 (9th Cir., 1935) cert. denied 296 U.S. 639, a Federal appeals court ruled that an absolute guarantee, by a mutual building and loan association, to pay a certain sum on the maturity of an "Installment Savings Certificate" created a debtor-creditor relation between the Association and the holders of the certificate. The court went on to state that the holders of these certificates could not be considered to be stockholders in the association, nor preferred shareholders. Rather, the court held that these guaranteed certificate holders were creditors of the association. Applying the principles of the Intermountain case (which has been cited favorably as recently as 1964, *See; Elliot* v. *FHLBB*, 233 F. Supp. 578, 595 (S.D. Cal. 1964), rev'd on other grounds, 386 F. 2d 42 (9th Cir., 1967)) to the present situation, it is clear that an absolute guarantee of dividends on share certificate accounts would change the holders of these accounts from member/shareholders to creditors, and would transform the certificate from an insurable account issued pursuant to section 107(6) of the Act (12 U.S.C. 1757 (6)) to an uninsured debt instrument issued as part of the credit union's borrowings under section 107(9) of the Act (12 U.S.C. 1757(9)).

Commenters also claim the proposed rule places Federal credit unions at a competitive disadvantage with those institutions. Factors weighing against the conclusiveness of the competitive disadvantage argument are (1) any competitive disadvantage to Federal credit unions would be lessened by the fact that the interest rate guaranteed by other financial institutions is limited by Regulation Q according to amounts and maturity requirements, while Federal credit unions are free to establish their own rate structure up to the ceiling set forth in the Federal Credit Union Bylaws, and (2) the impressive rate of growth in share accounts in recent years (20.5% during 1976), in spite of the fact that Federal credit unions have neither guaranteed nor specified dividend rates in the past. A third argument presented in favor of the guaranteed rate is that Congress intended to permit Federal credit unions to "guarantee" dividend rates by stating in the legislative history to Pub. L. 95–22 (See: H.R. Rep. No. 95–23, 95th Cong., 1st Sess. 17 (1977)) that Federal credit unions could "specify" a dividend rate in advance. After reviewing the legal distinctions between "specify" and "guarantee" and the accepted principles of statutory interpretation, as may be applied to this issue, this Administration does not concur that Congress intended that result. The need for clarity in the expression of Congressional intent is especially strong in this instance because Federal credit unions have traditionally not guaranteed nor even specified the expected dividend rates to be paid on shares. However, the amendments to the Federal Credit Union Act set forth in Pub. L. 95–22 have changed some of the basic concepts of the share account. In particular, Congress has, by authorizing the issuance of shares at varying rates, replaced the concept of pure mutuality (that is, an equal portion of the dividends for each share) with the concept of limited preferences (namely, that some types of shares will be preferred over others in the amount of dividends that these types of shares will earn). This in turn, has created a need to give Federal credit union members reasonable assurance that the stated or specified preference will be honored, especially since these shareholders will be contracting to forego certain rights (such as withdrawal or amount limitations) in order to receive such preferences.

The Administration's staff, after further review of the legal issues, has determined that there is a method by which a Federal credit union can give its members a greater assurance than provided under the proposed rule while maintaining the equity nature of the share account. It is a basic principle of corporate law that a corporation has the authority to contract to pay dividends on its shares of stock at a stated rate. This does not constitute an absolute guarantee to pay dividends at the contracted rate, but rather is a promise to pay dividends at that rate only if there are sufficient earnings available for that period. This is in contrast to the absolute guarantee generally associated with the payment of interest on debt securities or bank deposits. Therefore, using this principle of corporate law as the basis, the Administration is authorizing Federal credit unions to exercise their authority pursuant to section 107(1) (12 U.S.C. 1757(1)) to contract for the payment of dividends at a specified rate, and to pay dividends at the contracted rate, but only in the event there are sufficient earnings available for the period. Any agreement in which a dividend rate is specified or contracted for must contain a provision indicating that the rate will be paid only if there are sufficient earnings available, and may not indicate that dividends at that rate are guaranteed. Any indication that the rate advertised is perceived as a guaranteed rate may be considered a deceptive or unsound practice. Instead, a Federal credit union, in advertising a specified or contracted rate, should include the statement that "Federal regulations prohibit payment of dividends in excess of available earnings."

3. *Dividends Not to Exceed 2½ percent Above the Regular Share Account Rate.* A large number of commenters objected to the provision prohibiting the payment of dividends in excess of 2½ percent above the rate paid on regular share accounts. The basic objection was that the prohibition, in effect, mandated a 5¼ percent rate on regular share accounts for those Federal credit unions that wished to pay the maximum 7¾ percent rate on long term share certificate accounts. Some commenters expressed the fear that if Congress, in considering NOW account and share draft legislation, were to fix the rate for share draft accounts below 5¼ percent (as Congress is presently considering), and if share drafts are considered to be regular share accounts (as indicated in the preamble to the proposed rule, 42 FR 37002), that this would effectively lower the maximum rate that could paid on share certificate accounts. Lastly, a few commenters noted that in order to compete for long term share certificate accounts the differential requirement would cause some Federal credit unions to pay higher rates on regular share accounts than would be necessary to retain these holdings. Recognizing these problems, the Administration has decided to eliminate the prohibition against paying dividends in excess of 2½ percent above the rate paid on regular share accounts.

4. *Maximum Dividend Rate.* In the preamble to the proposed rule (42 FR 37002), the Administration announced that, upon finalization of the regulation a Standard Bylaw amendment would be issued authorizing Federal credit unions to pay a maximum dividend rate on share certificate accounts of 7¾ percent. The proposed rule, while making reference to the fact that the maximum dividend rates are set forth in the Federal Credit Union Bylaws, did not state, in percentage amount, the maximum authorized rate. This may have created some confusion because the proposed rule did not mention the 7¾ percent maximum rate for share certificate accounts nor did either the preamble or proposed rule mention the 7 percent maximum rate for share accounts. Therefore, in order to clarify this matter and to make information concerning maximum rates more accessible to the public, the Administration has decided to state the maximum rates in the regulation itself. By including these maximum rates in the regulation, the Administration does not intend that these maximums apply automatically nor does the Administration intend to require all Federal credit unions to adopt these maximum rates. Rather, those Federal credit unions that desire the authority to pay dividends at a maximum rate of 7 percent on share accounts and 7¾ percent on share certificate accounts must follow the formal procedures for amending their Bylaws. Where a Federal credit union's Bylaws presently authorize a 7 percent maximum rate on share accounts, that Federal credit union, if it so desires, need only adopt an amendment authorizing the maximum rate for its share certificate accounts. Where a Federal credit union's Bylaws presently authorize less than the maximum rate for share accounts, the management does not desire the authority to pay dividends up to the maximum set forth in the reg-

ulation, no Bylaw amendment is required. However, if a Federal credit union wants to offer share certificate accounts, it must adopt a Bylaw amendment stating the maximum rate for such accounts, up to the maximum permitted by the regulation.

In authorizing Federal credit unions to pay a maximum dividend rate of 7¾ percent on share certificate accounts, the Administration expects Federal credit unions to take into consideration the following two points concerning the impact of exercising this authority. First, the Administration expects that Federal credit unions will use this authority to reduced their reliance upon uninsured Certificates of Indebtedness (CI's), which represent funds borrowed by the credit union, issued to members and, instead, use the expanded authority to attract members into investing in insured share certificate accounts. Second, the Administration expects that Federal credit unions will be aware that offering the maximum dividend rate on share certificate accounts may not alone create a successful certificate program. Without a significant spread between the share account rate and the certificate rate, a Federal credit union cannot expect its members to agree to the maturity requirements and penalty provisions which certificate accounts carry, and, therefore, the credit union will not be able to attract the stable, long term capital that it may need. It is hoped that those Federal credit unions presently paying dividends on regular share accounts at or near the maximum rate will consider gradually adjusting the rate paid on those accounts so as to make the certificate rates more attractive and thus achieve a lengthened maturity structure and greater stability in their share programs.

5. *Dividend Periods and Payment of Dividends on Maturing Certificates.* A number of commenters objected to the prohibition against varying dividend periods for share accounts and share certificate accounts. Some commenters mistakenly believed that this prohibition would prevent Federal credit unions from paying dividends on share certificate accounts on maturity. Except for those credits unions that may establish daily dividend periods for share certificate accounts or only issue share certificates at the beginning of a dividend period, share certificates will mature between dividend periods. Thus, varying dividend periods would not alleviate the problem. In order to clarify the method by which certificates may be paid at maturity, the Administration has added a provision indicating that certificates maturing during a dividend period will be paid at the rate for such certificates as declared at the close of the dividend period prior to maturity, and that a Federal credit union shall set aside sufficient earnings to pay those accounts at maturity. In addition, the Administration has decided, in the interest of permitting Federal credit unions flexibility in the establishment of their account structure, to authorize varying dividend periods.

6. *Additional Revisions.* The following additional changes have been made to the proposed rule. First, paragraph (b)(1)(i) has been redrafted to more clearly indicate that the board of directors has the option to establish any one or all of the types of accounts listed in the definition section. Paragraph (b)(2) was similarly revised so as not to appear to mandate the issuance of all types of share accounts and share certificate accounts. Second, the qualifying period for share accounts has been extended to 6 years, so as to be more in line with accounts offered by other financial institutions. Also, corporate central Federal credit unions have been authorized to issue certificates with shorter qualifying periods, not less than 30 days, because these credit unions are designed to serve the liquidity management needs of other credit unions rather than the savings needs of individuals. Third, the renewal provision of paragraph (c)(2)(iv) has been revised to indicate that Federal credit unions have the option to either renew the certificate on maturity at the same terms and conditions or to make other provisions, such as placing the funds in a regular share account, as provided in the credit union's written agreement with the certificate holder. Also, language has been added to clarify that the required notice of renewal or expiration of the qualifying period may not be satisfied by giving such notification in the disclosures that must be made, pursuant to subsection (k), at the time of the issuance of the account. Fourth, the words "for the remaining balance" have been dropped from the provision in paragraph (c)(2)(v)(A)(2) authorizing the cancellation and reissuance of a certificate after the withdrawal of principal. It was felt that this language might create some confusion in that it could be interpreted to mean the reissued certificate would have to have a minimum balance requirement equal to the remaining balance. Rather, the intent is to have the account reissued with the same minimum requirement but with the principal amount equal to the remaining balance. Fifth, language concerning the imposing of penalties on the principal amount, stated in paragraph (c)(2)(v)(B), has been removed as redundant because it is repeated in the penalty provisions. Sixth, the penalty provision for share certificate accounts, paragraph (d)(3), has been revised so as to require the calculation of the penalty from the date of renewal. This conforms the penalty provision to those of other financial institutions. In addition, the language of the penalty provision applicable to share certificates has been revised so as to clarify the way in which the penalty is assessed. The revised provision now more clearly indicates that the penalty involves a two step process: first, a reduction of the certificate rate to at least the regular share account rate, and second, a forfeiture of all dividends on the amount withdrawn from issuance or renewal to the date of withdrawal, up to 90 days.

ADDITIONAL COMMENTS

The following is a summary of the more significant comments received by the Administration which have not been incorporated into the regulation.

1. *Transaction Accounts.* A number of commenters expressed the opinion that the proposed rule should have treated transaction accounts as a separate category and permit payment of dividends on such accounts at a lesser rate than the rate paid on regular share accounts. In the preamble to the proposed rule (42 FR 37002), the Administration noted that "[F]or the purpose of this proposed rule and thus for the purpose of determining dividend rates, any transaction account that may be authorized by law or regulation shall be treated as a regular share account." The purpose of this treatment of transaction accounts is to recognize that such accounts have traditionally been merely a means of remote access to a regular share account. While this Administration recognizes there are operational reasons that strongly support the establishment of a transaction account that may earn dividends at a rate less than that paid on regular share accounts, further consideration of the matter must await resolution of the final rule on Share Draft Accounts (See, 42 FR 11247). Until that time, current Administration guidelines remain in effect.

2. *Limiting Issuance of Certificate Accounts.* A few commenters expressed the opinion that Federal credit unions should be given the authority to limit the percentage of shares to be placed in various types of certificate accounts. Others suggested that the Administration set forth such a percentage limitation in the regulation. In response to these suggestions it should be noted that Section 113 of the Federal Credit Union Act (12 U.S.C. 1761b) expressly authorizes the board of directors, to "determine from time to time the maximum number of shares and share certificates and the classes of shares and share certificates that may be held * * *." Therefore, the board of directors could establish percentage limitations on the issuance of certificate accounts. The Administration, pursuant to the authority set forth in section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(b)) will consider establishing such limitations if it finds that Federal credit unions have overly burdened their account portfolios with higher rate certificates.

3. *Notice of Certificate Renewal or Expiration.* A number of commenters objected to the certificate renewal provision which requires the credit union to give the holder at least 10 days notice of the renewal or expiration of the certificate. The objections were based upon the belief that the requirement was too burdensome. However, the Administration believes that the interest of the consumer/member in maintaining control of his or her funds outweighs the burden of giving such notice. In addition, no evidence has been submitted indicating

the extent of this burden. Therefore, the Administration has decided to retain the notice requirement.

4. *Advertising and Disclosure Requirements.* A number of commenters expressed opinions concerning the advertising and disclosure requirements of the proposed rule. A majority objected to the requirement of a clear and conspicuous notice that the stated or advertised rate was not guaranteed. Other commenters felt that the provisions were too complex. The Administration, however, believes that the information required to be included in any advertisement, or to be disclosed upon issuance of an account, covers only those basic characteristics of these accounts necessary for the consumer/member to make an informed and intelligent decision as to how to invest his or her savings. However, in accordance with the Administration's determination that Federal credit unions can contract to pay a dividend rate on share accounts and share certificate accounts, the advertising and disclosure provisions have been revised. In place of a notice that the stated rate is not guaranteed, Federal credit unions are required to state the nature of the contract, namely, that the stated rate shall not be paid if available earnings are not sufficient. This notice requirement may be met by the statement that "Federal regulations prohibit payment of dividends in excess of available earnings." This change should not be taken as an authorization to advertise that stated dividends are guaranteed.

5. *Authority for Types of Accounts.* Only one commenter questioned the authority of the Administration to establish the different types of accounts and challenged only one particular type of account. That commenter stated "The split rate account * * * is an improper * * * interpretation of the authority to receive payments on shares issued at varying rates. It is improper because it ignores the more explicit instructions of 12 U.S.C. 1763." The explicit instructions referred to are that dividends may be paid "at different rates on different types of shares * * *." The commenter did not explain how the concept of the split rate account violates the principle. The Administration believes that the split rate account conforms to the requirements of 12 U.S.C. 1763 because it is a different type of share account, one whose dividends vary in accordance with the number of shares accumulated. The Administration, therefore, believes that the amendments to the Federal Credit Union Act set forth in Pub. L. 95-22 do authorize this type of share account, as well as the other share accounts and share certificate accounts.

Accordingly, 12 CFR Part 701 is amended by adding a new section to read as follows.

LAWRENCE CONNELL, JR.,
Administrator.

NOVEMBER 22, 1977.

§ 701.35 Share Accounts and Share Certificate Accounts.

(a) *Definitions*—As used in this section:

(1) Share Account means: (i) Regular Share Account—an account which does not require the holder to maintain a minimum balance greater than the par value of a share or to give notice of intent to withdraw, except as may be imposed in accordance with the Federal Credit Union Bylaws:

(ii) Notice Account—an account which, in addition to any notice which may be imposed pursuant to the Federal Credit Union Bylaws, requires the holder to give written notice of the intent to withdraw;

(iii) Minimum Balance Account—an account which requires the holder to maintain a specified balance in the account for at least an entire dividend period; and

(iv) Split-rate Account—an account which earns dividends at a different rate on the portion of the balance above a certain minimum requirement.

(2) Share Certificate Account means an account that will earn dividends at a particular rate if held to maturity, and on which a penalty shall be assessed for the withdrawal of all or any portion of the principal amount prior to maturity.

(b) *Issuance of Share Accounts and Share Certificate Accounts*—(1). The board of directors, by resolution, may establish:

(i) Regular share accounts, notice accounts, minimum balance accounts, split rate accounts, or any of those types of share accounts at varying dividend rates, and share certificate accounts at varying dividend rates and maturities, in conformance with this section;

(ii) Additional terms and conditions concerning the issuance and maintenance of share accounts and share certificate accounts not inconsistent with the requirements of this section; and

(iii) Penalties, in addition to those required by this section, to be imposed for failure to comply with any minimum balance, notice, or time requirement, or any additional terms and conditions.

(2) Share accounts and share certificate accounts which are offered shall be made available to all members. No officer, director, member of the credit or supervisory committees, employee, or other official appointed or elected, shall be the holder of a share account or a share certificate account that receives a dividend rate higher than that paid on a regular share account unless the members of the credit union are given an equal opportunity to become holders of those types of accounts.

(3) Share accounts and share certificate accounts shall be subject to any notice which may be imposed pursuant to the Federal Credit Union Bylaws.

(c) *Limitations on Share Accounts and Share Certificate Accounts*—In addition to the general provisions of this section, the terms and conditions established by the board of directors concerning the issuance and maintenance of share accounts and share certificate accounts shall take into account the requirements set forth below.

(1) Share Accounts: (i) Notice accounts shall require a minimum of 90 days written notice of intent to withdraw except, however, the board of directors may provide that the written notice requirement for all similar type notice accounts may be waived at the end of a dividend period, but only if the funds withdrawn pursuant to this waiver have remained in the account for at least the required notice period;

(ii) Minimum balance accounts must be maintained at or above the minimum balance established for an entire dividend period; and

(iii) Split-rate accounts shall have one or more minimum balance requirements.

(2) Share Certificate Accounts: (i) In determining the dividend rate to be paid, different qualifying periods and minimum amount requirements shall be taken into account;

(ii) Qualifying periods shall not be less than 90 days nor more than 6 years, except, however, public unit accounts may be issued with qualifying periods of not less than 30 days nor more than 6 years. Corporate central Federal credit unions, as defined in Part 704 of the Rules and Regulations (12 CFR Part 704), may issue share certificate accounts with qualifying periods of not less than 30 days nor more than 6 years;

(iii) The lowest minimum amount requirement shall be $500 or more;

(iv) Upon maturity, share certificate accounts may be automatically renewed at the same terms and conditions as initially issued, or as may be otherwise provided for in accordance with a written agreement between the holder and the credit union. Notice of any such renewal, changes in the terms and conditions, or expiration of the qualifying period (in addition to the disclosure requirements set forth in subsection (k)) shall be provided at least 10 days prior to the expiration of the qualifying period; and

(v) (A) In case of early withdrawal of the principal amount which reduces the balance below the minimum amount requirement, the account shall be canceled and a penalty pursuant to subsection (d) of this section shall be imposed upon the entire amount evidenced by the share certificate account. If the minimum amount requirement continues to be met, a penalty pursuant to subsection (d) of this section shall be imposed upon the amount withdrawn (and not upon the remaining balance) and either

(*1*) An appropriate notation may be made on the account indicating the amount and date of the withdrawal and the remaining balance, or

(2) The account may be canceled and a new account issued.

(B) A share certificate account holder may withdraw any and all dividends previously paid on the share certificate account without incurring a penalty.

(d) *Penalty Provisions*—(1) Penalties imposed shall be on the actual dividends earned, and shall not be imposed on the principal amount held in a share account or share certificate account. In assessing any applicable penalty, however, the amount of the penalty may be deducted from the principal amount if the dividends upon which the penalty is assessed have been previously withdrawn.

(2) The board of directors may establish a penalty to be imposed for failure to comply with any balance or notice requirement of a share account other than a regular share account. If a penalty is imposed, the penalty shall require that the dividend rate paid on the remaining balance in the share account be reduced to at least the rate paid on regular share accounts for the same period.

(3) The board of directors shall establish a penalty to be imposed on the withdrawal of funds from a share certificate account before maturity. The penalty shall require:

(i) A reduction in the dividend rate to an amount not in excess of the rate paid on regular share accounts from the date of issuance or, if the share certificate account has been renewed, from the date of renewal, on the amount withdrawn; and

(ii) A forfeiture in an amount at least equal to the lesser of

(A) All dividends for 90 days on the amount withdrawn, or

(B) All dividends on the amount withdrawn since the date of issuance or renewal.

(e) *Exceptions to the Penalties*—Penalties shall not be applied if:

(1) The withdrawal is made subsequent to the death of any owner of the share account or share certificate account or is made pursuant to Article III, section 5(e) of the Federal Credit Union Bylaws;

(2) The share account or share certificate account is part of a pension plan which qualifies or qualified for specific tax treatment under sections 401(d) or 408 of the Internal Revenue Code and withdrawal is made to effect distribution of the funds evidenced by such account following the participant's death or disability or upon attaining not less than 59½ years of age; or

(3) Such withdrawal is made as a result of the voluntary or involuntary liquidation of the Federal credit union issuing the account.

(f) *Rate Specified or Contracted For In Advance*—(1) A Federal credit union may specify or contract for the dividend rate expected to be paid on share accounts and share certificate accounts. Any such agreement shall provide that dividends will be paid at the specified or contracted rate only in the event there are sufficient earnings available for that dividend period. Federal credit unions shall not pay dividends in excess of available earnings, except as may be authorized in writing by the Administrator.

(2) If specified or contracted for, the dividend rate shall:

(i) For regular share accounts, be expressed as a single dividend rate; and

(ii) For the remaining types of share accounts and share certificate accounts, be expressed as

(A) A percentage, or part thereof, above or below the dividend rate declared for regular share accounts, or

(B) A single dividend rate.

(g) *Maximum Dividend Rate*—A federal credit union shall not pay dividends at a rate which would exceed the maximum rate set forth in the Bylaws. The maximum rate shall not exceed 7 percent for share accounts and 7¾ percent for share certificate accounts.

(h) *Dividend Periods*—The board of directors may vary dividend periods for share accounts and share ceritficate accounts. Share certificate accounts which mature between dividend periods shall be entitled to dividends at the rate declared for that type of certificate at the close of the last dividend period before maturity. The board of directors shall set aside sufficient earnings and shall pay those share certificate accounts at maturity.

(i) *Dividends Calculated on Par Value or Dollar Amount*—A Federal credit union may calculate dividends to be paid on share accounts and share certificate accounts either upon the par value of shares or upon the actual value held in the share accounts and share certificate accounts.

(j) *Advertising*—In addition to the advertising requirements established in Part 740 of the Rules and Regulations (12 CFR Part 740) and elsewhere in this section, the following rules shall apply to every advertisement, announcement, or solicitation relating to share accounts and share certificate accounts.

(1) Where a dividend rate is specified or contracted for:

(i) Any terms and conditions concerning required minimum balance, notice, or time period necessary to earn the dividend at the rate shall be stated;

(ii) A clear and conspicuous notice shall be included indicating that the specified or contracted rate shall not be paid if available earnings are insufficient. Such notice may state "Federal regulations prohibit payment of dividends in excess of available earnings"; and

(iii) The basis upon which dividends are calculated.

(2) Where a penalty will be imposed for failure to comply with any term or condition, a clear and conspicuous notice shall be included. Such notice may state "A substantial penalty is required for failure to comply with these requirements."

(3) Where a percentage yield achieved by compounding dividends during one year is stated, the annual rate of dividends without the effect of compounding shall be stated with equal prominence, together with a reference to the basis of compounding and the basis for calculating dividends (either on par value or actual value). The percentage yield based on the effect of grace periods shall not be stated.

(k) *Disclosures*—(1) At the time that a Federal credit union issues any share account or share certificate account, the holder of the account shall be provided, to the extent applicable, with a written statement setting forth the following:

(i) Any minimum balance, notice requirement, or time requirement which must be met for the share account or share certificate account to earn dividends at a particular rate, and any additional terms and conditions;

(ii) The basis of compounding, the basis upon which dividends will be paid and the effect of withdrawal prior to the close of a dividend period;

(iii) That Federal regulations prohibit payment of dividends in excess of available earnings;

(iv) Any penalty imposed for the failure to comply with any balance, notice, or time requirement, or any additional terms and conditions;

(v) The terms and conditions upon which the funds in the share account or share certificate account may be withdrawn without penalty;

(vi) Any provisions relating to automatic renewal of share certificate accounts;

(vii) The disposition of a share certificate account if it is not renewed; and

(viii) Membership in the Federal credit union will terminate upon maturity of a share certificate account, unless renewed, if the holder does not have, establish, or otherwise make provision for a share account or share certificate account in addition to the share certificate account which is maturing.

(2) A Federal credit union need not provide a written disclosure statement in connection with the renewal of an existing account. Notice must be sent to affected account holders of any change in any provision required to be disclosed.

(3) A copy of a standard disclosure statement for each class or type of account offered by a Federal credit union shall be provided upon request. If accounts other than regular share accounts are offered, a listing of the accounts available shall be prominently displayed in the Federal credit union's offices and shall indicate that a copy of a standard disclosure statement for each class or type of account is available upon request.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).)

[FR Doc.77-34214 Filed 11-29-77;8:45 am]

[3510-24]

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 305—PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAM

Technical Amendment

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: This amendment corrects a reference in EDA's regulations to the statutory prohibition on the use of EDA assistance for relocation purposes. Presently, this regulation refers to an incorrect section of EDA's authorizing legislation for the ban on relocation assistance. As amended, this regulation contains a correct reference while the substantive effect of the regulation remains unchanged.

DATES: Effective date: November 23, 1977.

Comments by December 30, 1977.

ADDRESSES: Send comments to: Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

For information on this amendment only:

James F. Marten, U.S. Department of Commerce, Room 7009, Washington, D.C. 20230, 202-377-5441.

SUPPLEMENTARY INFORMATION: Because this amendment relates to the EDA grant and loan program, it is exempted from the procedures described in section 553 of the Administrative Procedure Act (5 U.S.C. 553). However, in the spirit of public policy set forth in that Act, interested persons may submit written suggestions regarding this amendment to the Assistant Secretary for Economic Development at the above address.

NOTE.—EDA has determined that this amendment does not constitute a major proposal requiring preparation of a Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Accordingly, 13 CFR § 305.43(a)(2)(ii) is revised to read as follows:

§ 305.43 Industrial parks and sites.

(a) * * *

(2) * * *

(ii) Evidence that such occupancy is not in violation of the relocation prohibition of section 202(b)(1) of the Public Works and Economic Development Act of 1965, as amended. (See § 309.3 of this chapter.)

* * * * *

(Section 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended).)

Dated: November 23, 1977.

ROBERT T. HALL,
Assistant Secretary for Economic Development.

[FR Doc.77-34346 Filed 11-29-77;8:45 am]

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 9094]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Gold Bullion International, Ltd., et al.

AGENCY: Federal Trade Commisison.

ACTION: Order to cease and desist.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires B. H. Mayer's Kunstprageanstalt of Pforzheim, West Germany, a manufacturer of imitation numismatic items, to cease manufacturing, distributing or importing into the United States imitation numismatic items which are not conspicuously and permanently marked "copy", as required by federal regulations.

DATES: Complaint issued January 17, 1977. Order issued November 1, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

Lewis H. Goldfarb, Acting Assistant Director, Special Statutes, Federal Trade Commission, 6th and Pennsylvania Ave., NW., Washington, D.C. 20580, 202-724-1181.

SUPPLEMENTARY INFORMATION: On Tuesday, September 27, 1977, there was published in the FEDERAL REGISTER 42 FR 49462 a proposed consent agreement with analysis In the Matter of Gold Bullion International, Ltd., a corporation, and H. Kenneth Costello, Walter N. Thompson, and William H. Bogart, individually and as officers of said corporation; and B. H. Mayer's Kunstprageanstalt, a corporation; and Bernhard H. Mayer, individually and as an officer of said corporations, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

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

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

[1] Copies of the Complaint, Decision and Order filed with the original document.

Subpart—Importing, Manufacturing, Selling or Transporting Merchandise: § 13.1061 Formal regulatory and/or statutory requirements; 13.1061-10 Hobby Protection Act. Subpart—Marking Improperly, Imitation Political and/or Numismatic Items: § 13.1168 Formal regulatory and/or statutory requirements; 13.1168-5 Hobby Protection Act. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements; 13.1852-50 Hobby Protection Act. Subpart—Offering Unfair, Improper and Deceptive Inducements to Purchase or Deal: § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46), Interprets or applies sec. 5, 38 Stat. 719, as amended; Sec. 2, 87 Stat. 686; (15 U.S.C. 2101, et seq.).)

CAROL M. THOMAS,
Secretary.

[FR Doc.77-34281 Filed 11-29-77;8:45 am]

[1505-01]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7514]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Definition of Qualified Export Receipts and Other Terms for Purposes of DISC

Correction

In FR Doc. 77-30244 appearing at page 55452 in the issue for Monday, October 17, 1977, make the following corrections:

(1) On page 55456, after the third line of paragraph (h) of § 1.993-1, insert the following lines: "* * * receipts from engineering services (as described in subparagraph (5) of this * * *".

(2) On page 55457, in the middle column, delete the line "§ 1.993-1(j)(2)", which appears between the paragraphs lettered "(2)" and "(3)",.

(3) On page 55459, first column, the section number (in bold face type) now reading "§ 1.993-1 * * *" should have read "§ 1.993-2". Also, the second line of paragraph (a)(5) of that section now reading "* * * § 1.993-3 (see paragraph (b) of this sec- * * *" should have read "* * * § 1.993-4 (see paragraph (f) of this sec- * * *".

(4) In § 1.993-3 on page 55461, the paragraph at the top of the middle column now designated as "(i)" of paragraph (a) should have been designated as paragraph "(7)".

(5) On page 55465, in § 1.993-4(a)(4), in the fourth line of the third column, "* * * owned of controlled * * *" should have read "* * * owned or controlled * * *".

(6) On page 55467, first column, in § 1.993-4(e)(6), after the seventh line add "* * * treaty to which the U.S. is a * * *".

(7) On the same page, second column, in § 1.993–5(a)(2), delete the second line which reads "* * * pany describe in paragraph (c) of this * * *". Also, in paragraph (b)(1)(ii) in the seventh line, "* * * § 1.993(g) * * *" should have read "* * * 1.993–1(g) * * *".

[1505–01]

Title 32—National Defense

CHAPTER VI—DEPARTMENT OF THE NAVY

PART 724—NAVAL DISCHARGE REVIEW BOARD

Amendments to Naval Discharge Review Board Regulations

Correction

In FR Doc. 77–33030 appearing at page 59074 in the issue for Tuesday, November 15, 1977, in the first line of paragraph (b)(5) of § 724.321, the word "naval" should have read "novel".

[6560–01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 800–5]

TOXIC SUBSTANCES CONTROL

Compensation for Public Participation in Rulemaking Under Section 6 of the Toxic Substances Control Act

AGENCY: Environmental Protection Agency.

ACTION: Temporary rules.

SUMMARY: Section 6(c)(4) of the Toxic Substances Control Act (TSCA) grants the Administrator of EPA authority to compensate persons for the costs of participation in proceedings to consider rules proposed under section 6 of that statute. It will be some time before a permanent program to carry out this provision can be established. Meanwhile, the Agency has decided to implement it on a pilot basis, and the interim rules set forth below are being issued for that purpose. This pilot program will provide experience on which a permanent program can be based. EPA is also deferring any further steps to establish an agencywide program of public participation funding (see 42 FR 1492) until the results of this pilot program have been fully evaluated.

DATES: These rules will apply to the rulemaking phasing out most PCB uses which is scheduled for proposal shortly. Comments are solicited and will be considered to the extent that time allows.

FOR FURTHER INFORMATION CONTACT:

William F. Pedersen, Jr., Office of General Counsel, Environmental Protection Agency, 401 "M" Street, SW., Washington, D.C. 20460, 202–755–0434

SUPPLEMENTARY INFORMATION:

I. The Language of the Statute

Section 6(c)(4) of TSCA states that EPA "may" "provide compensation for reasonable attorney's fees, expert witness fees, and other costs of participation in" a section 6(a) rulemaking if the Administrator determines:

(1) That the participant "represents an interest which would substantially contribute to a fair determination of the issues to be resolved in the proceeding," and

(2) Either: (a) That the economic interest of the participant is small in comparison to the costs to the participant of effective participation in the proceedings, or

(b) That the participant would not have the resources to participate adequately in the proceeding if the compensation were not granted.

The relevant statutory provisions are set out as Appendix A.

The use of the word "may" here indicates that granting compensation is discretionary with EPA. We do plan to establish a permanent compensation program in the future, unless experience with this pilot program indicates otherwise.

II. Relationship to EPA's Prior Proposal

In taking this step, we are also deferring any action to establish a general EPA program of funding public participation in regulatory proceedings where explicit statutory authority is lacking. On January 7, 1977, former Administrator Train published an Advance Notice of Proposed Rulemaking suggesting such a program. 42 FR 1492.

A limited pilot program will supply experience as to the actual merits and disadvantages of a public funding program in practice. EPA can then rely on this experience both in establishing a permanent program under section 6 of TSCA, and in deciding what other action might be appropriate where regulatory proceedings under other EPA statutes are involved. Other approaches to implementing section 6(c)(4) of TSCA will of course be considered as options before a permanent program is established.

III. The Structure of the Pilot Program

The rules governing this program for the PCB ban rulemaking are as follows: [1]

1. A preliminary application for compensation for participation in the PCB ban regulations rulemaking may be filed at any time within thirty days after the publication of the Notice of Proposed Rulemaking. The total sum budgeted for such compensation is $20,000. This does not mean EPA is committed to disbursing that much money in these proceedings regardless of the type of the applications presented.

2. Each preliminary application shall contain: a. A brief statement of the nature and extent of the applicant's planned participation in the rulemaking. This should describe in some detail the nature of the presentation contemplated, the points to be made, what backup work will be done, and the qualifications of the persons involved. All forms of participation contemplated by the statute are potentially eligible for compensation. This does not include the cost of preparing applications for compensation themselves.

b. The nature of the interest to be represented by the applicant, together with a statement as to why the presentation to be made can be expected to contribute to a fair resolution of the issues involved.

c. Reasons for concluding that the interest to be represented by the applicant would not be adequately represented if the applicant does not participate in the rulemaking.

d. A statement showing why the financial requirements for eligibility set forth in the statute have been met. It will be helpful if, in cases where eligibility is asserted on grounds of a small financial interest, rather than total inability to participate if compensation is not granted, the application also sets forth what other planned activities of the applicant will have to be curtailed if compensation is not granted. Such statements as to curtailment should be supported by a budget statement showing projected income and planned expenditures for the fiscal year(s) in question.

e. A statement whether or not the applicant is a person who would be regulated by the proposed rule, or represents persons who would be so regulated.[2]

f. An itemized draft statement of anticipated expenses, indicating at a minimum:

i. Salary expenses. The salary, expressed as both an annual and an hourly rate, of each person for whose work compensation is rerequested shall be given, together with the number of hours estimated to be worked by that person, and the relevant totals. Those portions of compensation claims which request reimbursement for salaries in excess of what the U.S. Government pays persons of comparable qualifications and experience will receive a subordinate priority when available funds are being disbursed. Accordingly, applications should list and justify the extent to which sal-

[1] Detailed criteria for judging the worth of contributions to the rulemaking are not set forth. We know too little at present about how this program will work to justify departing from a case-by-case approach.

[2] Inclusion of this provision is necessary because section 6(c)(4)(B) provides that the aggregate amount of compensation paid in a given fiscal year under section 6(c)(4) to participants in rulemakings who would be regulated by the proposed rule, or represent persons who would be regulated, may not exceed a quarter of the total amount disbursed under section 6(c)(4) in that fiscal year.

ary claims exceed this ceiling. In addition, applicants are informed that EPA's 1978 budget prohibits payment of compensation in excess of the maximum paid a GS–18.

ii. Other anticipated out-of-pocket expenses (travel, copying, etc.).

iii. An appropriate allocation of anticipated overhead expenses such as office office rent, accompanied by a showing that the allocation of expenses to this particular proceeding is not excessive. (We will follow the FTC practice of automatically allowing overhead claims up to 25 percent of salary claims for applicants who do not wish to try to justify a higher figure.) See Federal Trade Commission, Bureau of Consumer Protection "Applying for Reimbursement for FTC Rulemaking Participation" p. 12 (1977). Other expenses not listed may also be considered for compensation if adequately justified.

Preliminary applications should be addressed to:

Irwin L. Auerbach, Office of Toxic Substances (TS–788), Environmental Protection Agency, 401 "M" Street SW., Washington, D.C. 20460.

3. No later than three weeks before the scheduled start of the informal hearing, the Assistant Administrator for Toxic Substances shall rule on all preliminary requests for compensation received. The Assistant Administrator may at that time authorize immediate disbursement of up to half the total amount set aside for funding public participation in that rulemaking to approved applicants. Any such advance is made on condition that the work projected in the preliminary application will actually be done, and that a final application for compensation will be prepared and submitted as required by paragraph 4.

4. All final applications for compensation shall be filed within thirty days after reply comments are due. All those who have filed preliminary applications must also file final applications updating their preliminary applications. However, filing of a preliminary application for compensation is not a prerequisite to filing a final application.

Final applications shall set forth the information required by paragraph 2, except that actual expenses, not estimated expenses, shall be given, and the merits of the participation sought to be funded shall be set forth based on the actual rulemaking record rather than on expectations of what it is likely to contain. Claimed expenses shall be supported by appropriate receipts. Material from a preliminary application that does not need to be updated to meet these standards may be incorporated by reference. In addition, persons who have received funds under paragraph 3 must in their final application supply a complete accounting of the expenditure of funds so received supported by appropriate receipts. Final applications should also be addressed to Mr. Auerbach.

5. Within forty-five days after the deadline for receipt of final applications, the Assistant Administrator for Toxic Substances shall rule on them, and shall obligate up to all of the funds set aside for public compensation in this rulemaking that were not disbursed on the basis of preliminary applications. Disbursement will be made as soon as practicable thereafter.

These interim rules are issued under authority of section 6(c)(4) of the Toxic Substances Control Act, 15 U.S.C. 2605 (c)(4).

Dated: November 25, 1977.

DOUGLAS M. COSTLE,
Administrator.

APPENDIX A—TEXT OF THE "PUBLIC FUNDING" PROVISIONS OF TSCA, SECTION 6(c)(4)

(4)(A) The Administrator may, pursuant to rules prescribed by the Administrator, provide compensation for reasonable attorneys' fees, expert witness fees, and other costs of participating in a rulemaking proceeding for the promulgation of a rule under subsection (a) to any person:

(i) Who represents an interest which would substantially contribute to a fair determination of the issues to be resolved in the proceeding, and

(ii) If: (I) The economic interest of such person is small in comparison to the costs of effective participation in the proceeding by such person, or

(II) Such person demonstrates to the satisfaction of the Administrator that such person does not have sufficient resources adequately to participate in the proceeding without compensation under this subparagraph.

In determining for purposes of clause (i) if an interest will substantially contribute to a fair determination of the issues to be resolved in a proceeding, the Administrator shall take into account the number and complexity of such issues and the extent to which representation of such interest will contribute to widespread public participation in the proceeding and representation of a fair balance of interests for the resolution of such issues.

(B) In determining whether compensation should be provided to a person under subparagraph (A) and the amount of such compensation, the Administrator shall take into account the financial burden which will be incurred by such person in participating in the rulemaking proceeding. The Administrator shall take such action as may be necessary to ensure that the aggregate amount of compensation paid under this paragraph in any fiscal year to all persons who, in rulemaking proceedings in which they receive compensation, are persons who either:

(i) Would be regulated by the proposed rule, or

(ii) Represent persons who would be so regulated, may not exceed 25 per centum of the aggregate amount paid as compensation under this paragraph to all persons in such fiscal year.

(5) Paragraph (1), (2), (3), and (4) of this subsection apply to the promulgation of a rule repealing, or making as substantive amendment to, a rule promulgated under subsection (a).

[FR Doc.77–34347 Filed 11–29–77;8:45 am]

[1505–01]

PART 205—TRANSPORTATION EQUIPMENT NOISE EMISSION CONTROLS

Noise Emission Standards for Medium and Heavy Trucks; Motor Homes: Stay Pending Reconsideration

Correction

In FR Doc. 77–33643 appearing at page 59975 in the issue for Wednesday, November 23, 1977, in the last paragraph, the sixth line stating "* * * shall continue until February 21, 1978 * * *." should read "* * * shall continue until 90 days following publication of notice in the FEDERAL REGISTER * * *."

[6730–01]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND REGULATED ACTIVITIES

[Docket No. 76–40; General Order No. 38]

PART 531—PUBLISHING, FILING AND POSTING OF TARIFFS IN DOMESTIC OFFSHORE COMMERCE

Corrections

AGENCY: Federal Maritime Commission.

ACTION: Correction to final rule.

SUMMARY: This document corrects typographical and editorial errors appearing in General Order 38 Report served October 3, 1977 (42 FR 54810).

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, 1100 L Street, NW., Washington, D.C. 20573, 202–523–5725.

SUPPLEMENTARY INFORMATION: The Commission's final Order in Docket No. 76–40 as it appeared in 42 FR 54810, October 11, 1977 contained the following errors:

1. Page 54810, column 2, line 66: the citation "49 U.S.C. 36(c)" should read "49 U.S.C. 316(c)."

2. Page 54811, column 1, line 50: the word "modifications" should read "modification." [singular].

3. Page 54812, column 1, line 12: the word "unmistakenly" should read unmistakably."

4. Page 54813, column 2, final paragraph: the paragraph entitled "Authority" should read:

Sections 15, 16, 18(a), 21 and 43 of the Shipping Act, 1916 (46 U.S.C. 814–815, 817(a), 820, and 841a); Sections 2, 3 and 4 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 844–845a).

5. Page 54814, column 1, § 531.2(a)(1), line 4: the word "and" should be deleted and the word "or" substituted therefore.

6. Page 54814, column 3 § 531.3(a), line 3: a comma should be inserted following the words "and keep open to public inspection."

7. Page 54815, column 1, § 531.3(f): A comma and apostrophe were omitted. This provision should read:

Unless otherwise provided by the Commission, or the rules of this Part, all tariff matter tendered for filing (including the tariffs of carriers entering a trade for the first time), shall bear an effective date which permits at least 30 days' notice of the filing.

8. Page 54815, colume 3, § 531.3(p), line 5: the word "only" should be capitalized.

9. Page 54816, column 3, § 531.5(a)(6): the word "of" was omitted. This provision should read:

A description of each type of service offered, e.g., direct (no change of vessel), transshipment.

10. Page 54816, column 3, § 531.5(b)(1), lines 9 and 10: the word "number" should read "numbers" in both instances. [plural].

11. Page 54818, column 2, § 531.6(g), line 7: the word "else" should be omitted from this line.

12. Page 54819, column 2, § 531.8(c), line 9: the word "tariffs" should read "tariff." [singular].

13. Page 54819, column 2, § 531.9(c), line 14: the word "references" should read "reference." [singular].

14. Page 54819, column 3, § 531.10(b)(5), line 12: the word "a" should be deleted and the word "the" substituted therefore.

15. Page 54819, column 3, § 531.10(b)(5)(i), line 4: the word "the" should be deleted from this line.

16. Page 54819, column 3, § 531.10(d), line 3: the section reference "531.5(b)(5)" should read "531.5(b)(6)."

17. Page 54820, column 1, § 531.10(d)(2), line 5: the section reference "531.5(b)(5)(i) and (ii)" should read "531.5(b)(6)."

18. Page 54820, column 2, § 531.11(c), line 12: the section reference "531.5(b)(5)(i-iii)" should read "531.5(b)(6)."

19. Page 54821, column 1, § 531.14, line 8: the term "rules tariffs" should be enclosed by quotation marks.

20. Page 54821, column 1, § 531.16(a), line 5: to avoid a confusing juxtaposition of letters, the sentence beginning on this line should read:

A notice period is not required for tariff indices; they may take effect upon filing.

21. Page 54821, column 3, § 531.17(b)(1), line 7: an apostrophe should follow the word "days."

22. Page 54821, column 3, § 531.17(c)(1), line 2: an apostrophe should follow the word "days."

23. Page 54822, column 1, line 1: an apostrophe should follow the word "days."

24. Page 54822, column 2, § 531.19(d): the term "title page" should be capitalized.

25. Page 54823, column 2, § 531.19(e): the term "title page" should be capitalized.

Therefore, it is ordered, That General Order 38 (46 CFR Part 531) is corrected to read in accordance with the above.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-34287 Filed 11-29-77;8:45 am]

[1505-01]

[Docket No. 76-40; General Order No. 38]

PART 531—PUBLISHING, FILING AND POSTING OF TARIFFS IN DOMESTIC OFFSHORE COMMERCE

Correction

In FR Doc. 77-29591, appearing at page 54810, in the issue for Tuesday, October 11, 1977:

1. On page 54814, second column, in § 531.2(o) in the second line, after "public utility" delete "or public utility" and the second full paragraph marked "(p)", change to "(q)".

2. On page 54815 in § 531.3 (c)(2) and (c)(3), first column, first line, the word "evidence" should read "evidenced", and in the third line, insert "a" between "to tariff".

3. On page 54815, second column, subparagraphs "(A)" through "(F)" of paragraph (i) of § 531.3 should be numbered "(1)" through "(6)", and in the fourth line of paragraph (j), change "ty, provided that" to "ty; Provided, That".

4. On page 54817, in the seventh line of subparagraph (B) under § 531.5(b)(8)(xv), change *"Provided,* that" to *"Provided, however* That".

5. On page 54821, in the tenth line of paragraph (d) of § 531.14, the word "connetcion" should read "connection", and in the third column, in the first line of § 531.17(a)(2)(i), capitalize "pages" following the word "Title".

6. On page 54822, first column, paragraph (e)(2) of § 531.18, the eighth line, the word "postagt" should read "postage".

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURES

[Ex parte No. 290]

PART 1102—PROCEDURES GOVERNING RAIL CARRIER GENERAL INCREASE PROCEEDINGS

Procedures Governing Rail General Increase Proceedings; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Corrections to final rules.

SUMMARY: This document corrects two previously published documents regarding procedures governing rail general increase proceedings. One of the documents was published on March 22, 1976, and the other was published on October 3, 1977.

DATES: Nonapplicable.

FOR FURTHER INFORMATION CONTACT:

Mrs. Janice M. Rosenak, Deputy Director, Section of Rates, Interstate Commerce Commission, Washington, D.C. 20423, Phone No. 202-275-7693.

SUPPLEMENTARY INFORMATION: In review of the SPC Commodity Group Descriptions and STCC Codes which were published in Schedule B (Part II) on March 22, 1976, and in attachment I to Appendix II on October 3, 1977, certain technical errors were discovered. The following changes have been made to correct those errors in STCC Code numbers, commodity group, and to otherwise clarify what information is required.

In FR Doc. 76-7650, appearing at page 11824 in the issue for Tuesday, March 22, 1976 make the following changes:

1. On page 11829, in the first column under "SPC Group No. 23", delete "32 952 82". Also, change "32 052 91" to "32 952 91".

2. In the third column of the same page, add "39 Malt Liquors 20 821" in numerical sequence.

3. On page 11831 in the first column under "SPC Group No. 108", delete "34 992 15".

In FR Doc. 77-28735, appearing at page 53602 in the issue for Monday, October 3, 1977 make the following changes:

1. On page 53613, in the "Attachment to Appendix II", under the headings "SPC Commodity Group No.", "Descriptions", and "STCC Code Conversions 1975", add "120.1", "Wood scrap or waste", and "40 23" respectively under those headings.

2. Under "SPC Commodity Group No. 121 Paper Waste or scrap", change "40 214" to "40 241" and delete "40 23".

3. Under "SPC Commodity Group No. 123 Shipping containers or devices returned empty", change "42 1" to "42 1 (except 42 111 42)".

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

[FR Doc.77-34304 Filed 11-29-77;8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

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

PART 33—SPORT FISHING

National Wildlife Refuges in California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to fishing of certain National Wildlife Refuges in California is compatible with the objectives for which these areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. This document

establishes special regulations effective for the upcoming fishing season.

DATES: January 1, 1978, through December 31, 1978.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number listed below in the body of the special regulations.

FOR FURTHER INFORMATION CONTACT:

William D. Sweeney, Area Manager, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E–2740, Sacramento, Calif. 95825, telephone FTS–468–4664, Commercial 916–484–4664.

SUPPLEMENTARY INFORMATION: Fishing is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR Part 33, and the following Special Regulations. Portions of refuges which are open to fishing are designated by signs and/or delineated on maps available at refuge headquarters. No vehicle travel is permitted except on maintained roads and trails designated open to public use. Fishing shall be in accordance with all applicable State regulations subject to the following conditions:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Colusa National Wildlife Refuge, (Headquarters: Sacramento National Wildlife Refuge, Route 1, Box 311, Willows, Calif. 95988, (916) 934–4090).

Special Condition. The taking of frogs is permitted in the public fishing area. The refuge is closed to sport fishing and the taking of frogs during the migratory waterfowl hunting season. No campfires or firearms permitted.

Delevan National Wildlife Refuge, (Headquarters: Sacramento National Wildlife Refuge, Route 1, Box 311, Willows, Calif. 95988, (916) 934–4090).

Special Condition. The taking of frogs is permitted in the public fishing area. The refuge is closed to sport fishing and the taking of frogs during the migratory waterfowl hunting season. No campfires or firearms permitted.

Modoc National Wildlife Refuge, (Headquarters: Sheldon-Hart Mountain-Modoc National Wildlife Refuges, P.O. Box 111, Lakeview, Oreg. 97630 (503) 947–2366).

Special Conditions. (1) The refuge is closed to fishing during the waterfowl hunting season.

(2) The taking of frogs on refuge lands is prohibited.

Sacramento National Wildlife Refuge, Route 1, Box 311, Willows, Calif. 95988, (916) 934–4090.

Special Condition. The taking of frogs is permitted in the public fishing area. The refuge is closed to sport fishing and the taking of frogs during the migratory waterfowl hunting season. No campfires or firearms permitted.

Salton Sea National Wildlife Refuge, P.O. Box 247, Calipatria, Calif. 92233, (714) 348–2323.

Special Condition. Fishing is permitted only on that portion of the refuge which is inundated by the Salton Sea and other refuge lands posted with public fishing signs.

San Luis National Wildlife Refuge, P.O. Box 2176, Los Banos, Calif. 93635, (209) 826–3508.

Special Conditions. (1) Fishing permitted from sunrise to one hour after sunset.

(2) The refuge is closed to sport fishing during the migratory waterfowl hunting season.

(3) Use of boats is prohibited.

The provisions of these special regulations supplement the regulations which govern fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

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

The primary author of this document is Patrick L. O'Halloran, Sacramento Area Office, telephone FTS–468–4664, Commercial (916) 484–4664.

Dated November 22, 1977.

WILLIAM D. SWEENEY,
Area Manager, California-Nevada, Fish and Wildlife Service.

[FR Doc.77–34311 Filed 11–29–77;8:45 am]

[4310–55]

PART 33—SPORT FISHING

National Wildlife Refuges in Nevada

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to fishing of certain National Wildlife Refuges in Nevada is compatible with the objectives for which these areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming fishing season.

DATES: January 1, 1978, through December 31, 1978.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number listed below in the body of the special regulations.

FOR FURTHER INFORMATION CONTACT:

William D. Sweeney, Area Manager, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E–2740, Sacramento, Calif. 95825, telephone FTS–468–4664, Commercial 916–484–4664.

SUPPLEMENTARY INFORMATION: Fishing is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR Part 33, and the following Special Regulations. Portions of refuges which are open to fishing are designated by signs and/or delineated on maps available at refuge headquarters. No vehicle travel is permitted except on maintained roads and trails designated open to public use. Fishing shall be in accordance with all applicable State regulations subject to the following conditions:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Charles Sheldon Antelope Range, (Headquarters: P.O. Box 111, Lakeview, Oreg. 97630, (503) 947–2366).

Ruby Lake National Wildlife Refuge, (Ruby Valley, Nev. 89833, (702) 779–2237).

Stillwater National Wildlife Refuge (P.O. Box 592, Fallon, Nev. 89406, (702) 423–5128).

Special Conditions. Refuge closed to fishing during the migratory waterfowl hunting season.

The provisions of these special regulations supplement the regulations which govern fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

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

The primary author of this document is Patrick L. O'Halloran, Sacramento Area Office, Telephone FTS–468–4664, Commercial (916) 484–4664.

Dated: November 22, 1977.

WILLIAM D. SWEENEY,
Area Manager, California-Nevada Fish and Wildlife Service.

[FR Doc.77–34312 Filed 11–29–77;8:45 am]

[4310–55]

PART 33—SPORT FISHING

Opening of Ouray National Wildlife Refuge, Utah, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

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

DATE: January 1 through December 31, 1978, inclusive.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Ouray National Wildlife Refuge, 447 East Main Street, Suite 4, Vernal, Utah 84078, telephone 801–789–0351.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing on the Ouray National Wildlife Refuge, Utah, is permitted in the Green River only. The Green River comprises 360 acres within the refuge. Information may be obtained from the

refuge office and from the office of the Regional Director, U.S. Fish and Wildlife Service, 10597 West 6th Avenue, P.O. Box 25486, Denver, Colorado 80215. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

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

HERBERT G. TROESTER,
Refuge Manager, Ouray National Wildlife Refuge, Vernal, Utah.

NOVEMBER 21, 1977.

[FR Doc.77-34313 Filed 11-29-77;8:45 am]

[3510-12]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 611—FOREIGN FISHING

Bering Sea and Aleutian Islands Trawl and Herring Gillnet Fishery; Interim Amendments

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Interim amendment of regulations.

SUMMARY: This document amends the foreign fishing regulations by prohibiting foreign trawl fishing in certain areas of the Aleutian Islands and the Bering Sea during the month of December, 1977.

EFFECTIVE DATE: This amendment shall become effective on December 1, 1977, and shall terminate when the foreign fishing regulations for 1978 become effective.

FOR FURTHER INFORMATION CONTACT:

Mr. Henry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska, 99802, telephone 907-586-7221.

SUPPLEMENTARY INFORMATION: The foreign fishing regulations, which this document will amend, were published at 50 CFR Part 611 (42 FR 8813) on February 11, 1977 under authority of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq. as amended. These regulations contain the conditions and restrictions on the foreign fisheries conducted within the fishery conservation zone. Through an oversight, the closure announced by this amendment was overlooked in the initial publication and in subsequent amendments which have been made during the course of the year, even though it was intended from the outset that no foreign trawl fishing would be permitted in the identified areas during the month of December because of the known conservation risks to other species that such trawling would entail. That oversight is corrected by this amendment.

Formal notice of proposed rulemaking would be impractical, unnecessary, and contrary to the public interest. Accordingly, this amendment will become effective on December 1, 1977.

Signed in Washington, D.C., this 25th day of November, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

Section 611.92(d)(3) is hereby amended by inserting the words "and from December 1, 1977 to December 31, 1977, inclusive" in the second line following the words "to May 31, 1977," and before the words "in the".

Section 611.92(d)(4) is hereby amended by inserting the words "and from December 1, 1977 to December 31, 1977, inclusive" in the second line following the words "to May 31, 1977," and before the words "in the".

[FR Doc.77-34314 Filed 11-29-77;8:45 am]

[3410-02]

Title 7—Agriculture

CHAPTER 1—FEDERAL GRAIN INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

PART 26—GRAIN STANDARDS

Miscellaneous Amendments

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This rule requires that when an export shipment of U.S. grain is officially inspected during final loading at a U.S. port on the Great Lakes, the export inspection certificate will carry a qualifying statement alerting foreign buyers that the certificate may not represent the quality of the grain at the time of subsequent transfer through an export elevator at Canadian ports along the St. Lawrence Seaway.

EFFECTIVE DATE: April 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Clement F. Gross III, Regulations and Coordination Staff, Compliance Division, FGIS, Room 2304-A, Auditors Building, 201 14th Street, SW., Washington, D.C. 20250, 202-447-9134.

SUPPLEMENTARY INFORMATION: On February 12, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 6265) to amend §§ 26.6, 26.8, 26.9, 26.11, 26.36, 26.37, 26.46, 26.47, 26.50, 26.57, 26.70, 26.87, 26.96, 26.-26.47, 26.50, 26.57, 26.59, 26.70, 26.87, 26.96, 26.100, 26.101, and 26.110 of regulation (7 CFR Part 26) issued under authority of the U.S. Grain Standards Act (7 U.S.C. 71 et seq.).

Copies of the notice of proposed rulemaking were sent to official inspection personnel licensed under the Act and to members of the grain trade potentially affected by the proposed changes. Interested parties were given until February 19, 1976, the date of a scheduled public hearing on the proposed rulemaking, to submit written comments. In response to requests by a number of interested parties, the deadline and the public hearing were extended until March 4, 1976.

A total of 44 comments were received. Six commentators supported all amendments as proposed.

A notice of amendment to § 26.110 of the regulations (7 CFR 26.110) was published in the May 3, 1977, FEDERAL REGISTER (41 FR 18284), necessitated by a May 1, 1976, deadline regarding diverter-type samplers at export locations. However, due to continuing Congressional activity regarding the U.S. Grain Standards Act, a final decision on the remaining proposed amendments was postponed.

In order to better protect and promote the international commerce of U.S. grain, it is necessary to presently implement the proposed amendment to § 26.59(b) of the regulations (7 CFR 26.59(b)). The remaining proposed amendments will not be adopted at this time, but may be incorporated into new regulations to be subsequently issued implementing the statutary revisions in the U.S. Grain Standards Act of 1976 (90 Stat. 2867, 7 U.S.C. 71 et seq.) and amendments thereto (91 Stat. 1024).

Requirements for official certificates. The amendment to section 26.59(b) (25) and (26) of the regulations (7 CFR 26.(b) (26) and (26)) provides for a qualifying statement on all official inspection certificates issued on export grain at U.S. ports on the Great Lakes. The statement is intended to preclude misrepresentation of the quality of grain transshipped from U.S. Great Lake ports through Canadian elevators by use of U.S. official inspection certificates.

The original proposal published in the February 12, 1976, FEDERAL REGISTER called for the qualifying statement to read as follows:

This certificate shall not be used or deemed to represent the official inspection grade of the above-identified lot of grain if the grain is transshipped from Canadian ports.

Two commentors expressed no opposition to use of the qualifying statement on Lake port certificates. Two commentors opposed use of the statement in its entirety, as discriminatory against U.S. exporters who use Canadian facilities to transship grain. Four commentors objected to specific wording in the statement that appeared to prohibit use of Lake port certificates in marketing grain transshipped through Canadian export facilities, but suggested that a modification in wording would overcome their objections.

After review of the matter, the Federal Grain Inspection Service has determined that the qualifying statement as originally proposed will be modified to read:

This certificate shall not be deemed to represent the official grade of the above-identified lot of grain at the time of transshipment of the grain from Canadian ports.

As modified the statement simply informs foreign buyers of U.S. grain transshipped through Canada that an export inspection certificate issued at a U.S. port on the Great Lakes may not necessarily represent the quality of that grain after it has moved through transfer facilities in Canada. In this way, innocent or deliberate misuse of Lake port certificates to misrepresent the quality of U.S. grain will be prevented. Exporting firms that transship U.S. grain will continue to be able to obtain official U.S. export inspection certificates at the time of transshipment in Canada. Pursuant to a longstanding agreement with the Canadian government, FGIS stations employees in ports on the Canadian side of the St. Lawrence Seaway to provide official inspection services under the U.S. Grain Standards Act, on a request basis.

In revising § 26.59(b)(25) to provide for the qualifying statement, it is necessary to re-number the original § 26.59 (b)(25) as 26.59(b)(26). Both sections will become effective on April 1, 1978, the start of the shipping season on the Great Lakes. Setting the effective date as April 1, 1978, allows sufficient time to print new official inspection certificates with the qualifying statement added.

Accordingly, the Federal Grain Inspection Service concludes that § 26.59 (b)(25) will be amended, as modified, and that § 26.59(b)(26) will be amended, as originally proposed. The final rule is being implemented as shown below:

§ 26.59 Official Certificates (general requirements).

* * * * *

(b) *Required Statements.* Each original and each copy of an official certificate shall, except as provided otherwise in the regulations or in the instructions or approved in specific cases by the Administrator, contain or show the following statements or information:

* * * * *

(25) For inspection of U.S. grain in ships from the lake ports to the Canadian ports, a statement, as follows:

This certificate shall not be deemed to represent the official grade of the above-identified lot of grain at the time of transshipment of the Grain from Canadian ports.

(26) Any other statements required by §§ 26.5, 26.6, 26.8, 26.13–26.16, 26.30, 26.39, 26.49, 26.61–26.63 and any other statements prescribed in the instructions or approved in specific cases by the Administrator.

* * * * *

Effective date: The amendment to §§ 26.59(b)(25) and 26.59(b)(26) will become effective April 1, 1978.

Done in Washington, D.C., on: November 23, 1977.

L. E. BARTELT,
Administrator.

[FR Doc.77-34320 Filed 11-29-77;8:45 am]

[3410-30]

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amdt. No. 127]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Food Stamp Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends and clarifies the procedures for handling utility expenses by providing households an allowance for amounts billed rather than amounts actually paid and requires State agencies to make prompt adjustments for households experiencing significant increases in utility costs. This change in policy will make the Food Stamp Program more responsive to the high winter heating costs of food stamp households.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

William R. Tlucek, Chief, State Agency Operations Branch, Food Stamp Division, 500 12th Street SW., Washington, D.C. 20250, 202–447–8360.

SUPPLEMENTAL INFORMATION: At present, the Food Stamp Program Regulations include a provision for deducting a household's shelter costs which exceed 30 percent of net income after other deductions. The shelter deduction is calculated using costs on an as paid basis. Shelter costs include rent or mortgage payments, utilities and property taxes. Allowable utility expenses are electricity, heating and cooking fuel, water and sewage, garbage and trash collection fees and the basic service fee for one telephone.

Utility costs can be the standard allowances set by the State agency or actual costs. If the State has standard allowances the household may claim actual costs if these are higher than the standard and the household provides verification.

Anticipating utility costs only on an as paid basis does not meet the needs of households with spiraling costs. A household that purchases its stamps may not have enough funds to pay a substantially increased utility bill that has not been reflected in its food stamp basis of issuance. Conversely, a household that pays an unanticipatedly high utility bill may not have the funds remaining to purchase its stamps. The result, in which a household may face a choice between paying a bill and getting adequate nutrition, is contrary to the purposes of the food stamp program. Therefore, to more accurately reflect a household's actual utility expenses, we are amending and clarifying the regulations to require that utility costs must be anticipated "as billed" and that the state agency must expedite certification and adjustments in participation when households document significant changes in their utility bills. This is designed to assure that households may both pay their utility bills and purchase their stamps.

Prior payment of a utility expense will not be required. Those expenses for which the household is billed are now to be counted. This amendment continues the policy of deducting only those shelter costs which exceed 30 percent of the household's net income and does not affect current methods of computing other components of the shelter deduction.

Effective January 1, 1978, upon initial or subsequent certification, the household's monthly utility allowance will be calculated in one of the following ways: (1) using the standard utility allowance, if applicable, or (2) using the bills the household is anticipated to receive during the certification period, based on the most recent actual bills received by the household and other accurate information available. In addition, effective January 1, 1978, a household shall receive an adjustment in its utility allowance whenever its most recent bills exceed the amount that has been anticipated.

The first method continues the State agency option of setting standard utility allowances in accordance with 7 CFR 271.3(c)(1)(iii)(h). The second method requires projection of the allowance using the most recent month's bills and any other information available to the applicant or the State agency which will result in the most accurate prediction of the household's utility bills over the certification period. Whenever, during a certification period, a household's most recent bills exceed the amount anticipated, the household shall be entitled to an adjustment in its allowance on the basis of such bills. The amendment also specifies the treatment of households whose utilities are billed on a "budget payment plan".

After the State agency has calculated the household's utility allowance in accordance with one of these methods, any previously undeducted, overdue utility expenses the household paid or intends to pay in the certification period shall be added. This provision is intended to ease the transition to the "as billed" method. A household can only receive this additional allowance if it can verify payment or has sufficient income and/or resources to cover an intended payment, and the expense was billed and received before the date of implementation of this amendment. Households making application for initial or subsequent certification which document increases of more than $25.00 in their utility expenses shall be certified within ten days of submission of an application. Setting an amount for the increase ensures uniform national application of this provision and corresponds to current policy on re-

porting changes in income and deductions.

The State agency cannot average several previous months' utility bills to compute the household's utility allowance. The household must be given an allowance based on the State's standard or on its most recent utility bills. For example, if a household applies in December, the State agency must use the most recent utility bills received by the household and cannot require previously paid bills from the household to compute an average. If the anticipated expenses are not believed to remain stable throughout the duration of the certification period, the household should be assigned a variable basis of issuance or a shorter certification period. Adjustments must be made monthly if changes of more than $25.00 in utility expenses are reported.

The State agency must adjust the basis of issuance for households which report increases of more than $25.00 a month in utility costs subsequent to certification but prior to purchasing their monthly allotments. Adjustments must be processed so that a household receives an opportunity to purchase within 10 days, or in less time if the allotment month is ending. Areas using authorization to purchase (ATP) cards must issue a replacement ATP card to show the correct basis of issuance. An over-the-counter (manual) ATP card must be issued if a machine ATP card cannot be provided within the deadlines. Changes in utility bills of $25.00 or less will be processed in accordance with the normal procedures specified in 7 CFR 271.3(a)(1)(iii).

In States using utility standards, households are allowed to switch to or from the standard allowance once during a certification period of two months or more. In addition, when a State updates its standard allowance, households are entitled to switch during their certification period from actual bills to the updated standard allowance.

State agencies must publicize notice of these new procedures in the media in each project area and post a notice in each welfare office as soon as possible but no later than December 31, 1977. The notice must be posted through April 30, 1978 and must be provided in languages other than English where appropriate. Additionally, they shall notify each of their outreach contact groups of this change. By no later than January 15, 1978, State agencies must provide individual written notice to each participating household. This notice may be sent with ATP cards or assistance checks or by individual mailings or other appropriate means. If the State agency does not implement these procedures by January 1, 1978, and/or does not provide individual notice by January 15, 1978, households with increased utility expenses beginning in January are entitled to file claims for restoration of lost benefits. If a household receives an allowance for incurred expenses that are never paid, no claim for overissuance shall be filed.

It is the policy of this Department to give the public and the State agencies an opportunity to comment on regulatory changes before issuance. However, because of the need for timely implementation to benefit households experiencing higher utility costs this winter, the Department has decided that it is contrary to the public interest to give notice of proposed rulemaking. The Department intends this rulemaking to ensure lower purchase prices this winter for such households and to ensure prompt adjustments for participating households having unexpectedly high utility expenses. The publication of this amendment as a final rulemaking will give State agencies as much time as possible to prepare for the January 1, 1978, implementation date.

Because the Department feels that the public and the State agencies should have an opportunity to comment, comments are solicited through December 31, 1977. Written comments are to be submitted to: Nancy Snyder, Director, Food Stamp Division, Food and Nutrition Service, United States Department of Agriculture, Washington, DC 20250. This amendment may be revised after considering the comments, if changes are appropriate or necessary.

Accordingly § 271.3 of Chapter II, Title 7, Code of Federal Regulation, is amended as follows:

In § 271.3, a new paragraph (f) is added which reads as follows:

§ 271.3 Household eligibility.

* * * * *

(f) *Utility costs deduction.* (1) Effective January 1, 1978, households which claim utility expenses as part of their shelter costs under 7 CFR 271.3(c)(1)(iii)(*h*) shall have them computed in accordance with the procedures in this paragraph. Allowable utility expenses are: Electricity; heating and cooking fuels; water and sewage; trash and garbage collection fees; and the basic service fee for one telephone.

(2) Households documenting an increase of more than $25 in utility expenses, either at the time of initial or subsequent certification, shall be certified within ten days of submission of an application.

(3) Except as provided in subparagraph (4) of this paragraph, the household's monthly utility allowance shall be projected at the time of initial or subsequent certification using one of the following:

(i) The standard utility allowance as provided in 7 CFR 271.3(c)(1)(iii)(h), if the State agency has adopted a standard utility allowance; or

(ii) The bills the household is anticipated to receive during the certification period, based on the most recent actual bills received by the household and other accurate information available.

(iii) The amount the household is billed on a payment schedule established in agreement with the utility provider.

If applicable, add to any utility allowance computed above the amount a household is entitled to in accordance with subparagraph (4) of this paragraph.

(4) The State agency shall include as part of the household's utility allowance any payment during a certification period of a utility bill received by the household prior to implementation of this amendment if:

(i) The bill represents an allowable utility expense, but was not used in any previous shelter allowance computations.

(ii) The expense is not already included as part of the household's utility allowance; and

(iii) The expense has been paid by the household or it intends to pay it and has sufficient income and/or resources available.

(5) The State agency shall not average previously paid utility costs to compute the household's monthly utility allowance.

(6) If the household expects that its utility expenses will fluctuate substantially during its certification period, the State agency should assign a shorter certification period or a variable basis of issuance. A household shall receive an adjustment in its utility allowance whenever its most recent bills exceed the amount that has been anticipated.

(7) If a certified household reports an increase of more than $25 in its utility costs and has not purchased its monthly allotment, the State agency shall adjust the household's basis of issuance and provide the household with an opportunity to purchase within ten days, or less if the allotment month ends in less than ten days. If the State agency cannot provide the household with an opportunity to purchase within these time limits using its normal issuance system, alternative methods shall be used. No adjustment for that month shall be made after the household has purchased its allotment. Changes in utility bills of $25 or less will be processed in accordance with the normal procedures specified in 7 CFR 271.3(a)(1)(iii).

(8) In States using utility standards, a household certified for more than one month shall be allowed to switch to or from the standard once during its certification period or to the standard if the standard is updated during its certification period.

(9) State agencies shall publicize the provisions of this paragraph in the media in each project area and by a notice posted in each welfare office. The notice shall be posted as soon as possible but not later than December 31, 1977, shall remain posted through April 30, 1978, and shall be in languages other than English where appropriate. In addition, the State agency shall notify each of their outreach contact groups. Each participating household shall also be notified individually not later than January 15, 1978. The notice may be sent with the household's ATP card(s) or assistance check, by a separate mailing, or other appropriate means.

(10) State agencies which do not implement these procedures by January 1, 1978 and/or do not provide individual

notices by January 15, 1978, are subject to claims for restoration of lost benefits by households which were adversely affected.

(11) A household given an allowance for an incurred utility expense which is never paid shall not be subject to a claim for overissuance.

* * * * *

(78 Stat. 703, as amended; (7 U.S.C. 2011–2027).)

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

Dated: November 28, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc.77–34379 Filed 11–29–77;8:45 am]

[3410–02]

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

[Orange, Grapefruit, Tangerine, and Tangelo Reg. 1, Amdt. 3]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Tangerine Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to Final Rule.

SUMMARY: This amendment continues the current minimum diameter requirement of 2$^{9}/_{16}$ inches (size 176) applicable to domestic fresh shipments of Florida tangerines, except that, during the period November 28 to December 4, 1977, each handler may ship a quantity of tangerines, not smaller than 2$^{1}/_{16}$ inches in diameter (size 210), equal to 50 percent of the volume of tangerines the handler shipped in the most recent previous week of the current fiscal period. Currently, any handler may handle only 25 percent of size 210 fruit during the week beginning November 28. Specification of minimum size requirements for Florida tangerines is necessary because of current and prospective supply and demand for the fruit, in order to maintain orderly marketing conditions, in the interest of producers and consumers.

EFFECTIVE DATE: November 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202–447–3545.

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the marketing agreement and Order No. 905, both as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the marketing agreement and order, and upon other information, it is found that the limitation of shipments of tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The amendment reflects the Department's appraisal of the current and prospective supply and market demand conditions for Florida tangerines. It is designed to assure an ample supply of acceptable size fruit to consumers and prevent an excessive buildup of smaller size tangerines in marketing channels. The action is consistent with the available supply of tangerines in the production area and recognizes that smaller fruit will attain higher levels of maturity and increase to more desirable sizes as the season progresses. For the season through November 20, 1977, fresh shipments of Florida tangerines totaled 1,393 carlots, and there were an estimated 3,107 carlots remaining for fresh shipment.

(3) It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act; and this amendment relieves restrictions on the handling of size 210 tangerines.

Accordingly, it is found that the provisions of paragraph (d) of § 905.301 (Orange, Grapefruit, Tangerine, and Tangelo Regulation 1, as amended) published in the FEDERAL REGISTER on November 7, 1977 (42 FR 57947; 59367; 59955) should be and hereby are amended to read as follows:

§ 905.301 Orange, Grapefruit, Tangerine and Tangelo Regulation 1.

* * * * *

(d) Notwithstanding the provisions of this section, during the period November 28, to December 4, 1977, any handler may handle a quantity of tangerines smaller than 2$^{9}/_{16}$ inches in diameter, if (1) the volume of such smaller tangerines does not exceed 50 percent of the total volume of tangerines shipped by such handler during the last previous week, within the current fiscal period in which the handler shipped tangerines; and (2) such smaller tangerines are of a size not smaller than 2$^{1}/_{16}$ inches in diameter, except that a diameter tolerance for such smaller tangerines is permitted as specified in paragraph (c) of this section.

* * * * *

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

Dated November 25, 1977, to become effective November 28, 1977.

FLOYD F. HEDLUND,
Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77–34303 Filed 11–29–77;8:45 am]

[3410–07]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER I—LOAN AND GRANT PROGRAMS (INDIVIDUAL)

[FmHA Instruction 1904–C]

PART 1904—LOAN AND GRANT PROGRAMS (INDIVIDUAL)

Subpart C—Farmer Program Loans

EMERGENCY LOANS—MISCELLANEOUS AMENDMENTS

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim Rule.

SUMMARY: The Farmers Home Administration amends its regulations concerning disaster assistance. This amendment is issued because regulations regarding County Committee certification, previously published in Part 1832, were omitted when FmHA consolidated and renumbered its regulations to Part 1904 Subpart C. Regulations regarding basic security, title clearance requirements, use of insurance proceeds and appraisals have been revised because of public interest in expediting the making and closing of Emergency loans to disaster victims. This action is intended to aid disaster victims by expediting the processing and closing of Emergency loans.

EFFECTIVE DATE: November 30, 1977. Comments must be received by December 30, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Jesse C. Joyner, 202–447–6257

SUPPLEMENTARY INFORMATION: Sections 1904.107, 1904.108, and 1904.170 of Subpart C of Part 1904, Chapter XVIII, Title 7, Code of Federal Regulations (42 FR 44668–44692 as amended at 42 FR 55195–55197) are amended. Section 1904.107, paragraphs (a)(6) (i) and (ii) are amended to provide that feed crops and pasture can together be one enterprise or each can represent single enterprises, and to include hog production as an eligible, single enterprise for purposes of emergency assistance. Section 1904.108, paragraph (b) is amended to provide that County Committee cer-

tification for EM loans will be made where the farming operation is located and to provide instructions concerning County Committee certification for EM loans. Section 1904.170, paragraph (f)(1)(vi) is amended to change the definition of basic security and to revise title clearance requirements. In addition, paragraphs (f)(1)(vii) (B) and (C) are amended to clarify the use of insurance proceeds under real estate purchase contracts, paragraphs (k)(2) has been amended so that a real estate appraisal will not be needed for some EM loans, and paragraph (k)(3) has been added to require chattel appraisals. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are being published effective on an interim basis. This action is being taken to expedite assistance to disaster victims and at the same time permit public participation in the rulemaking process. Any delay in implementing this amendment would be contrary to the public interest because certain disaster victims might be effectively prevented from obtaining needed assistance on a timely basis. Comments made pursuant to this notice will be considered in the development of the final rule.

Accordingly, various paragraphs in §§ 1904.107, 1904.108 and 1904.170 are amended to read as follows:

1. In § 1904.107, paragraph (a)(6)(i)(D) and (E) and (ii) are amended. Section 1904.107(a)(6)(i) and (ii) now read as follows:

§ 1904.107 Definitions and abbreviations.

(a) *Definitions.*

* * * * *

(6) *Farming or farm enterprises.* * * *

(i) *Single enterprise.* An enterprise which constitutes part of the applicant's farming, ranching, or aquaculture operation. The following are examples of "single enterprises": (A) All cash field crops; (B) all cash vegetable crops; (C) all cash fruit crops; (D) all crops to be fed to livestock, and/or all pasture to be grazed by livestock; (E) hog operations; (F) beef operations; (G) dairy operations; (H) poultry operations; and (I) aquaculture operations.

(ii) *Basic enterprise.* This term means any single enterprise which constitutes not less than 25 percent of the applicant's normal year's total farming operations gross income. To qualify crops to be fed to and/or pasture to be grazed by livestock as a basic enterprise the value of the crops or pasture for livestock use must be at least equal to 25 percent of the value of the total feed fed to the livestock annually. However, for crops to be fed to and/or pasture to be grazed by livestock to be considered a basic enterprise one or more (individually or collectively) of the livestock enterprises must qualify as a basic enterprise.

* * * * *

2. In § 1904.108, paragraph (b) has been amended as follows:

§ 1904.108 General provisions.

* * * * *

(b) *Committee certification.* (1) In general, before a loan is approved, the County Committee serving the county in which the borrower will reside following loan closing will certify on Form FmHA 440-2, "County Committee Certification or Recommendation," that the applicant is eligible for a loan in accordance with this Subpart. The County Committee will establish the maximum amount of credit that may be extended under the certification to meet the applicant's actual needs during the crop or operating year. The applicant will not be notified of the maximum credit as certified by the County Committee for the crop year, but will be notified of the committee's determination as to eligibility in accordance with Part 1801 of this Chapter (FmHA Instruction 410.1). The County Committee may recertify the applicant on the basis of changed circumstances by preparing and executing a new Form FmHA 440-2. If the County Committee rejects the application, reasons for unfavorable action will be given in the space provided on Form FmHA 440-2 above their signature.

(2) *For EM loans.* Before an EM loan is approved, the County Committee serving a designated county in which all or a part of the applicant's farming operation is located will make the certification required in paragraph (b)(1) of this section as amended by the following:

(i) Before an EM loan is made to a partnership or corporation, the County Committee will certify on Form FmHA 440-2 that the partnership or corporation is eligible, and will recommend that a loan be made not to exceed the certified amount.

(ii) At the bottom of the Form the County Committee will establish the maximum EM loan entitlement for production and physical losses based on the applicant's certification of disaster losses and the County Supervisor's calculations and verification of losses, and the amount of EM loan for annual operating expenses, and other authorized EM loan purposes.

(iii) The County Committee will indicate the Disaster Designation Number under which the loan is being made in the blank space on Form FmHA 440-2.

(iv) If it is found, after an applicant has been certified as eligible, that there was a change in the amount of actual losses or needs for other authorized purposes, it will be necessary for the County Committee to again certify the applicant as eligible on the basis of the changed circumstances if a larger loan is to be made. When the County Committee has agreed to certify an increase over the original amount certified, a new Form FmHA 440-2 will be prepared and executed. The Form FmHA 440-2 previously executed will be retained in the case files.

* * * * *

3. In § 1904.170, paragraphs (f)(1)(vi), (vii) (B) and (C), and (k)(2) have been revised and paragraph (k)(3) has been added and read as follows:

§ 1904.170 Emergency loans.

* * * * *

(f) *Security.* * * *

(1) *Security requirements.*

* * * * *

(vi) When an EM loan is to be secured by a lien on real estate or a combination of real estate and chattels and total security will be considered "basic security." However, notwithstanding the definition in section 1904.107(a)(19)(i), when chattels are primarily relied upon as security and real estate is taken only as additional security to better protect the Government's financial interests, in instances in which the amount of the loan does not exceed the value of the primary chattel security by more than $5,000, the additional real estate security will not be considered basic security. For all loans over $10,000 when real estate is taken as basic security title clearance is required except that, when a reputable long-term lender has a first mortgage on the property, the search need only be made after the recordation date for such mortgage. For loans of $10,000 or less, and loans for which real estate is taken as additional security only a certification of ownership and verification of equity in real estate is required. Certification of ownership may be accepted in the form of a notorized affidavit from the applicant stating who is the owner of record of the real estate in question and acknowledging all known debts, with balances owed, against the real estate. Whenever the County Supervisor is uncertain of the ownership of or debts against the real estate security, he will require title search.

(vii) * * *

(B) The applicant and the purchase contract holder will agree in writing that all insurance claim settlements received for real estate losses will be used in their entirety to replace or repair all damaged real estate improvements which are essential to the farming operation, used for other essential real estate improvements or, if not needed for any real estate improvements, paid on the EM loan or on any prior real estate indebtedness including the purchase contract. The applicant will renegotiate with the purchase contract holder to arrive at a new contract if there are any provisions objectionable to FmHA in the existing contract.

(C) If a satisfactory contract of sale cannot be renegotiated or the purchase contract holder refuses to enter into the agreement described in paragraph (f)(1)(vi)(B) of this section, the applicant will make every effort to refinance the existing purchase contract. If the applicant cannot obtain refinancing from another source, an EM loan will be considered to include funds to pay off the contract and improve the property. If the applicant can get the contract refinanced, an EM loan will be considered to restore the property to its predisaster condition.

* * * * *

(k) *Options, planning and appraisals.* * * *

* * * * *

(2) When real estate is taken for additional security (for loans in which the primary security is subject to rapid depreciation or is of a high risk nature, such as crops), no appraisal report will be required for the additional security. For loans of not more than $10,000 or for loans made only for actual losses an appraisal report will not be required. In these instances the County Supervisor will determine that security is adequate and record his estimate of value in the running case record showing the date he inspected the property and certifying that in his opinion the estimate is correct based on his knowledge of the value of comparable properties in the area. However, for actual loss loans over $10,000 an appraisal will be required if the value shown on the applicant's financial statement is not in keeping with comparable values in the community.

(3) A chattel appraisal will be required when chattels are taken as security.

* * * * *

(7 U.S.C. 1980; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: November 18, 1977.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc.77-34342 Filed 11-29-77;8:45 am]

[3410-07]

[FmHA Instruction 1904-C]

PART 1904—LOAN AND GRANT PROGRAMS (INDIVIDUAL)

Subpart C—Farmer Program Loans

MISCELLANEOUS CHANGES

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim Rule.

SUMMARY: The Farmers Home Administration amends its disaster assistance regulation to authorize the FmHA approval official to approve 20-year repayment terms under certain conditions; to show the relationship between FmHA and the Federal Disaster Assistance Administration (FDAA), and to point out that the FDAA is the Agency charged with the responsibility for seeing that assistance is made available to disaster victims when a major disaster or emergency declaration is made by the President; to add to the regulations a Memorandum of Understanding between Small Business Administration (SBA) and FmHA, and to reinstate as part of the regulations the Memorandum of Understanding between Agricultural Stabilization and Conservation Service (ASCS) and FmHA which was inadvertently deleted. The intended effect of this action is to clarify the type of disaster—loan assistance available in assisting small businesses engaged in farming, and the assistance available to farmers whose loss is to housing only and to insure that the Department's emergency programs are implemented as needed.

EFFECTIVE DATE: November 29, 1977. Comments must be received by December 30, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Jesse C. Joyner, 202-447-6257.

SUPPLEMENTARY INFORMATION: The FmHA amends the Table of Sections, to add two new Exhibits; amends §§ 1904.154, 1904.170, and Exhibit D of Subpart C of Part 1904, Chapter XVIII, Title 7, Code of Federal Regulations (42 FR 44669), The Table of Sections is amended to add Exhibit G, "Memorandum of Understanding between Small Business Administration and the United States Department of Agriculture—Farmers Home Administration pertaining to disaster loan type assistance;" Exhibit H, "Memorandum of Understanding and Coordination between the Agricultural Stabilization and Conservation Service (ASCS) and the Farmers Home Administration (FmHA) pertaining to Disaster Type Assistance;"—[Exhibit H was formerly Appendix III of Subpart A of Part 1832, inadvertently deleted at 42 FR 44669.] § 1904.154 is amended to add paragraphs (e) and (f) to make reference to Exhibits G and H; § 1904.170(e)(3)(i) is amended to authorize the FmHA loan approval official to approve 20-year repayment terms if the needs of the applicant justifies a longer repayment period; paragraph (e)(3)(iii) of this section is also amended to add paragraph (C) to authorize 20-year repayment terms for initial loans for annual purposes subject to conditions in paragraph (e)(3)(i) of this section; Exhibit D is amended to add paragraph VI pertaining to the relationship between FmHA and FDAA in handling major disasters or emergency declarations by the President or by the Governor of a State.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comments notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are being published on an interim basis and therefore are effective immediately. This action is being taken to expedite assistance to disaster victims and at the same time permit public participation in the rulemaking process. Any delay in implementing this amendment would be contrary to the public interest because certain disaster victims might be effectively prevented from obtaining needed assistance. Comments made pursuant to this notice will be considered in the development of the final rule. Accordingly, the Table of Sections, §§ 1904.154, 1904.170, Exhibit D as amended, and Exhibits G and H, as added, read as follows:

Sec.

* * * * *

EXHIBITS

* * * * *

G—Memorandum of Understanding between Small Business Administration and the United States Department of Agriculture—Farmers Home Administration pertaining to disaster type loan assistance.

H—Memorandum of Understanding and Coordination between the Agricultural Stabilization and Conservation Service (ASCS) and the Farmers Home Administration (FmHA) pertaining to disaster type assistance.

* * * * *

Section 1904.154 (e) and (f) are added as follows:

§ 1904.154 Memoranda of Understanding. * * *

* * * * *

(e) Memorandum of Understanding between Small Business Administration and the United States Department of Agriculture—Farmers Home Administration pertaining to disaster type loan assistance. (Exhibit G of this Subpart.)

(f) Memorandum of Understanding and Coordination between the Agricultural Stabilization and Conservation Service (ASCS) and the Farmers Home Administration (FmHA) pertaining to disaster type assistance. (Exhibit H of this Subpart.)

* * * * *

Section 1904.170 (e)(3) (i) and (iii) (C) are amended as follows:

§ 1904.170 Emergency loans.

* * * * *

(e) *Rates and terms.*

* * * * *

(3) *Terms of loans.* * * *

(i) Loan terms for actual losses to crops, livestock, supplies, harvested or stored crops, livestock products on hand, and equipment will be in accordance with the useful life of the security and the repayment ability of the applicant but not to exceed 7 years. When conditions warrant, installments may vary in amount. However, the final installment will not be larger than the amount which could usually be refinanced with private lenders or be repaid within a renewal period of not to exceed 5 years. The applicant must be advised before the loan is closed that FmHA will review each case at the end of the initial loan term to determine if a renewal is warranted. For any disaster occurring after January 1, 1975, loans made as a result of these disasters may be scheduled for repay-

ment in more than 7 years, but not more than 20 years if the FmHA Approval Official determines that the needs of the applicant justifies such a longer repayment period than that scheduled for repayment within 7 years initially with a possible 5-year renewal. Generally real estate will be needed as security when the longer repayment period is authorized. When the longer period is used, renewal is not authorized.

* * * * *

(iii) * * *

(C) The initial loan for annual operating purposes may be scheduled for repayment for a period up to 7 years and if it meets the conditions of paragraph (e) (3) (i) of this section it may be scheduled for repayment up to 20 years.

* * * * *

Paragraph VI is added to Exhibit D as follows:

EXHIBIT D

EMERGENCY LOANS SUPPORT TEAMS, REPORTING NATURAL DISASTERS, AND MAKING LOANS AVAILABLE

* * * * *

VI. *Relationship between FmHA and the FDAA.*

A. When a major disaster or emergency declaration is made by the President under paragraph V, A of this Exhibit, the FDAA is the agency charged with the responsibility for seeing that disaster assistance is made available to disaster victims. Also, that agency is responsible for coordinating the actions of other Federal agencies who have programs to provide disaster assistance. A Federal Coordinating Officer (FCO) is appointed for each major disaster or emergency to coordinate Federal assistance in the disaster area.

B. After a request for a major disaster or emergency declaration is made by the Governor of a State, FDAA through its Regional Director is responsible for obtaining necessary information on losses and damages to respond to the request.

C. Over the years FDAA and FmHA have had a very good working relationship. However, we have never formalized an agreement. Until such time as an agreement is formalized, the following policy will be followed by State Directors in working with FDAA. *Any exception to these guidelines must be approved by the National Office.*

1. When a request is made by FDAA for information on losses and damages caused by a natural disaster, FDAA will be advised to contact the State Emergency Board (SEB) Chairman. USDA Emergency Handbook (EOH) provides that the SEB and County Emergency Board (CEB) will prepare the Department's "Damage Assessment Report." State Directors and County Supervisors should cooperate with SEB and CEB Chairman in preparing the reports.

2. When an FmHA State Director is advised by FDAA that a major disaster or emergency has been declared, he will authorize the receiving of EM loan applications in the counties given him by FDAA. However, no EM loan can be approved until the National Office makes such authorization in accordance with paragraph V. A. of this Exhibit. Also, the State Director or his authorized representative will attend any meeting called by FDAA to discuss Federal assistance under the disaster declaration. The State Director will advise the SEB Chairman of any meeting called by FDAA.

3. If a request is made by FDAA for FmHA employees to man FDAA's "Disaster Assistance Centers," it will be advised to contact the SEB Chairman. The EOH provides that the SEB Chairman shall select qualified U.S. Department of Agriculture (USDA) personnel to represent USDA at each Center. State Directors should cooperate with the SEB Chairman in providing personnel for these Centers.

4. If FDAA requests State Directors for disaster lending activity reports, it will be advised that reports cannot be made more often than quarterly as established by applicable FmHA regulations (FmHA Instruction 492.7). However, State Directors, as authorized by applicable FmHA regulations (paragraph III B 4 of FmHA Instruction 492.7), may authorize County Supervisors to report on Form FmHA 492.7, "Report of Emergency Loan Actual Loss Application For Quarter Ending _____ 19__;" more frequently than quarterly, but not more often than weekly, provided they need such information in administering the EM loan program.

Exhibits G and H are added as set forth below:

[FmHA Instruction 1904–B]

EXHIBIT G.—MEMORANDUM OF UNDERSTANDING BETWEEN SMALL BUSINESS ADMINISTRATION AND THE UNITED STATES DEPARTMENT OF AGRICULTURE—FARMERS HOME ADMINISTRATION PERTAINING TO DISASTER TYPE LOAN ASSISTANCE

I. PREAMBLE

Pub. L. 94–305, which amended the Small Business Act, authorized the Small Business Administration (SBA) to assist small business engaged in farming and related activities under all of its programs including its physical and economic injury loan programs. This legislation did not create any new SBA loan programs but merely included the agricultural industries among the small businesses eligible for assistance under existing SBA programs. Neither did the legislation diminish, in any way, the responsibility of the Farmers Home Administration (FmHA) to meet the financial and other needs of farmers.

This joint memorandum reaffirms the mutual desire of SBA and FmHA to cooperate in the use of their respective loan making authorities to complement the activities of each other, and, to the extent possible, to improve and expand the delivery of financial assistance to the agricultural segment of the country; all with the least possible degree of overlapping, confusing or duplicating activities.

II. DEFINITIONS

1. *Farming* is defined as the business of producing crops, livestock, livestock products, and aquatic organisms through the management of land, water, labor, capital and basic raw materials, e.g., seed, feed, fertilizer and fuel.

2. *Natural Disaster* (As declared by the Secretary of Agriculture) is caused by such natural phenomena as hurricanes, tornadoes, cyclones, excessive rainfall, floods, earthquakes, blizzards, freezes, electrical storms, snowstorms, drought, excessively high temperatures, and hail; insects where abnormal weather contributed substantially to the spreading and flourishing of such insects; fire resulting from lightning, and fires of other origins which could not be controlled because of abnormal weather; and plant and animal diseases where abnormal weather contributed substantially to such diseases spreading into epidemic stages.

3. *Physical Disaster* (As declared by the Administrator of SBA) may be caused by a flood, riot, civil disorder, hurricane, tornado, storm, high water, wind-driven water, tidal wave, snowstorm, drought, fire, explosion or other catastrophic event.

4. *Major Disaster* (As declared by the President) may be caused by any catastrophic event of sufficient magnitude to warrant major disaster assistance by the Federal Government, under the Disaster Relief Act of 1974.

5. *Housing* losses refer to any real estate damage to the farm owner's home, tenant housing or farm labor housing and the contents and other personal property contained therein.

III. GENERAL GUIDELINES

1. The FmHA administers its financial assistance programs through its State, District and County offices.

The SBA administers its financial assistance programs through its Regional, District and Branch offices.

2. The FmHA National Office and SBA Central Office will immediately notify each other of areas where disaster financial assistance is made available.

3. FmHA State Directors and SBA District Directors will exchange addresses of their offices and identify the geographical area served by each. This information will be available in all field offices of both agencies so applicants can be referred to the appropriate offices. The FmHA will use local county offices to administer disaster programs. SBA will either establish special local offices for disaster assistance, or utilize permanent SBA offices, as appropriate.

IV. HOW LOANS ARE MADE AVAILABLE

1. How FmHA emergency (EM) loans are made available. EM loans will be made available in counties named by FDAA as eligible for Federal assistance under a major disaster or emergency declaration by the President; in counties where a natural disaster is designated by the Secretary of Agriculture; and in counties authorized by the State Director because of a natural disaster.

2. How SBA Disaster Loans are made available. SBA physical and economic injury disaster loans will, as determined to be necessary and appropriate, be made available in counties named by FDAA under the authority for a major disaster declaration by the President or a physical disaster declaration by the Administrator of SBA. An SBA declaration also includes adjacent counties. Also, Economic Injury Disaster loans are available to small business concerns in those counties named in a Natural Disaster declaration by Secretary of Agriculture.

3. FmHA and SBA will establish a liaison at both the State Director/District Director level and the National level and periodically coordinate their activities to: (a) exchange detailed information concerning the disaster loan program, (b) define areas of cooperation between the two agencies, (c) assure that their programs are servicing the intended recipients, (d) establish new methods to serve the public more expeditiously, and (e) achieve maximum utilization of their respective resources.

4. The SBA and FmHA agree that the interests of agricultural industries will be best served and that each agency will achieve better utilization of available resources through the following operating guidelines in areas where both agencies offer disaster assistance.

a. In order to avoid a duplication of effort, potential applicants may contact either agency for an interview but may file an application with only one agency at a time except as provided in "h" below. However, SBA will encourage those potential applicants that have been or are borrowing through the FmHA to continue their relationship with that agency.

b. FmHA personnel will, at the time of initial interview, refer those disaster victims that are not eligible for FmHA assistance (such as corporations and partnerships not directly engaged in farming, subsistence farmers or aliens) to SBA if they appear to be eligible for SBA assistance.

c. Potential applicants are not to be referred back and forth between FmHA and SBA. Representatives of each agency must be reasonably certain that the disaster victim is eligible for assistance from the other agency before a referral is made.

d. Disaster victims filing for financial assistance from either agency will give written permission for FmHA and SBA to exchange whatever prior or current loan application and loan experience information, including appraisals, either may have in its file. The format for this permission must be developed to comply with the Privacy Act.

e. Applicants who are denied SBA or FmHA assistance for losses for any reason, including lack of funds, may contact the other Agency for assistance.

f. Applicants filing for financial assistance from either agency must use the forms and procedures of the agency being requested to provide the assistance. An applicant who is denied assistance by either agency must use a new application to file with the other in accordance with that agency's forms and procedures. However, the earliest date of filing applications for losses with either agency will constitute the filing date with regard to termination dates for receiving applications, for either agency, provided that not more than six months have elapsed since the termination date of the second agency contacted when that agency is requested to process an application.

g. Applicants should not have to apply to two Federal agencies to borrow funds for a single purpose. Therefore, if either FmHA or SBA can make the entire loan, the applicant should not be referred to the other agency for part of the funds needed. If either FmHA or SBA cannot make the entire loan, the applicant should be referred to the other agency for the full amount. Joint funding of a single loan with collateral shared between the agencies is not encouraged and should be used only as a last resort. However, SBA and FmHA will cooperate in making their respective loan, collateral requirements, repayment terms, etc. when necessary to assure that the disaster victim receives all appropriate assistance.

h. When an applicant has only housing losses in areas where SBA's physical loss loans are available, only the SBA will make loans for the restoration or replacement of housing losses as defined above. When a farmer has suffered production and farm losses, as well as housing losses, FmHA or SBA may make the loans for the housing losses and for nonhousing losses.

V. DESCRIPTION OF LENDING POLICIES

The FmHA makes guaranteed loans and insured emergency loans. Guaranteed emergency loans are loans where the lending institution advances the entire loan from its account and the FmHA guarantees repayment of a certain percentage of principal and interest. Insured emergency loans are those made from an FmHA insurance fund.

The SBA makes direct, immediate participation and guaranteed loans. Direct loans are made with SBA funds only. In immediate participation loans SBA agrees to purchase an agreed percentage of a loan from a lender immediately after disbursement. Guaranteed loans are made by a conventional lender from its own funds and SBA guarantees a percentage of the unpaid balance.

VI. LOAN PROGRAMS

The emergency and disaster loan programs of FmHA and SBA are outlined in Table I.

VII. ADMINISTRATIVE GUIDELINES

1. The services of FmHA and SBA to lenders and applicants are by mutual agreement services that each agency would provide any eligible applicant in the normal course of business, and there will be no reimbursement by either agency to the other for such services.

2. The National Office of FmHA and the Central Office of SBA will cooperate in counseling their field offices and in resolving problems in specific cases.

3. This Memorandum of Understanding in no way alters or supersedes the existing Memorandums between the two agencies covering FmHA regular farmer loan authorities and Business and Industrial Loan Program and all of SBA's regular loan programs. However, this memorandum does supersede and replace the previous agreement on disaster type loan assistance.

4. This agreement may be amended at any time by written agreement of both parties.

5. This agreement shall take effect upon the date of execution thereof.

Dated: July 21, 1977.

GORDON CAVANAUGH,
Administrator, FmHA.

Dated: August 25, 1977.

A. VERNON WEAVER,
Administrator, SBA.

TABLE 1.—*SBA/FmHA Memorandum of Understanding*

Farmers Home Administration	*Small Business Administration*
ELIGIBILITY	ELIGIBILITY
1. An applicant must be a citizen of the United States, if an individual. If the applicant is a partnership, the individual partners must be citizens. If the applicant is a corporation it must be incorporated under the laws of the United States or any State thereof and the principal stockholders must be citizens.	1. Citizenship is not required. However, use of disaster loan proceeds outside the United States or its possessions and territories is not permitted.
2. The applicant must be unable to obtain the necessary credit from other sources, exclusive of an SBA disaster loan.	2. Physical disaster loans are made without regard to the availability of other financing or resources. Also, the age of an applicant shall not be a consideration in making the loan provided the disaster victim is of legal age to contract.
3. The applicant must be an established farm, ranch or aquaculture operator, either tenant or owner-operator, who manages the operations. If the applicant is a partnership or corporation it must be primarily engaged in farming operations and the operation(s) must be managed by one or more of the partners or stockholders.	3. Most home owners, businesses and nonprofit institutions are eligible for physical disaster assistance.
4. The applicant must operate in a county or counties where EM loans have been authorized.	4. The applicant's physical loss must be within the disaster area as defined by the disaster declarations.
5. The applicant must have suffered qualifying property damage or production losses.	5. The applicant must have suffered real or personal property damage as a direct result of the disaster.
6. The applicant must be of good character and have necessary experience, ambition, and managerial ability to carry out the proposed operation.	6. The applicant must be able to provide reasonable assurance of ability to repay the loan.
LOAN PURPOSES	LOAN PURPOSES
1. Cover actual losses and expenses for damaged or destroyed nonhousing farm property and production.	1. The purpose of these physical disaster loans is to restore the victim's home or business property, real or personal, as nearly as possible to predisaster condition. No upgrading is permitted.
2. Housing losses—only when SBA's physical disaster assistance is *not* available.	2. Housing losses—SBA will make all loans when the only losses are housing losses whether on farm housing, rural housing or urban housing.
3. Annual operating loans.	3. Economic Injury Loans are similar.
4. Major adjustment loans.	4. No comparable disaster loan programs.

TABLE 1.—*SBA/FmHA Memorandum of Understanding*—Continued

Farmers Home Administration	*Small Business Administration*
TERMS	TERMS
1. Actual loss loans—5 percent interest for disasters occurring prior to July 1, 1976, disasters occurring on or after July 1, 1976, and prior to October 1, 1978—primary resident and personal property related to the residence 1 percent on the first $10,000, 3 percent on the balance not to exceed $40,000, and 5 percent on the amount over $40,000; and for all other actual loss loans, 3 percent on the first $250,000 and 5 percent on the amount over $250,000—for crop and livestock production and chattel losses up to 7 years with a 5 year renewal, in some cases up to 20 years and for real estate losses or damages up to 40 years.	1. Interest rate based on a statutory formula. Maturity based on the victim's ability to repay but cannot exceed 30 years.
2. Annual operating—at prevailing current market rate—paid when principal income from year's operation is received.	2. No comparable terms.
3. Major Adjustment Loans at prevailing current market rate—chattels up to 7 years with a 5 year renewal, and for real estate up to 40 years.	3. No comparable disaster loan program.
LOAN LIMITS	LOAN LIMITS
No statutory dollar limit; determined by amount of loss and credit factors.	No statutory dollar limit. However, administrative ceilings have been established as follows: a. Home Loans: $50,000 for real estate, $10,000 for personal property, $55,000 for combined purposes. b. Business Loans: $500,000; exception by the Administrator authorized to avoid substantial hardship.
GRADUATION POLICY	GRADUATION POLICY
Reviewed to determine ability to receive credit from other credit sources after 5 years for operating type purposes and after 10 years for real estate purposes and every other year thereafter, if necessary. Refinancing when able is mandatory.	No such policy.
ECONOMIC INJURY LOANS	ECONOMIC INJURY LOANS
Emergency Loans for annual operating purposes are similar.	SBA is authorized to make Economic Injury Disaster loans to small business concerns that have suffered a cash flow problem that is related to the disaster. These loans are for working capital only and do not allow for any expansion. See paragraph IV, 2.

[FmHA Instruction 1904–C]

EXHIBIT H.—MEMORANDUM OF UNDERSTANDING AND COORDINATION BETWEEN THE AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (ASCS) AND THE FARMERS HOME ADMINISTRATION (FmHA) PERTAINING TO DISASTER TYPE ASSISTANCE

I. *General:* Federal Agencies that provide financial assistance to farmers suffering losses as a result of natural disasters are required to ensure that there is no duplication of benefits under other programs. Also, the USDA through the State and County Emergency Boards and the member agencies is responsible for providing leadership to insure that the Department's emergency programs are implemented as needed in the field.

II. *USDA State (SEB) and County (CEB) Emergency Boards:*

A. *Membership on Emergency Boards:*

1. SEB—There has been established in every state a SEB. The Board is composed of representatives of the seven USDA agencies having emergency responsibilities in the field. The Chairman of the SEB is the ASCS State Executive Director. FmHA State Directors are members of the SEB's. In an emergency, SEB's and member agencies provide leadership for USDA emergency programs at the state level.

2. CEB—There has been established in nearly every county a CEB. Membership consists of representatives of each USDA agency having available personnel at the county level. The Chairman, in most cases, of the CEB is the ASCS County Executive Director. FmHA County Supervisors are members of the CEB's. In an emergency, CEB's and member agencies provide leadership for USDA emergency programs at the county level.

B. *Responsibility for Reporting Disasters:* USDA SEB's and their member agencies are best qualified to accomplish assessment of rural and agricultural damages. Therefore, in accordance with "USDA State Emergency Memorandum No. 54," they are given the responsibility for reporting the occurrence of disasters. SEB and CEB chairmen shall call a meeting of their respective boards to prepare necessary reports as soon as possible after a disaster occurs which has significantly affected rural areas in their state or county. The FmHA State Director and County Supervisors shall cooperate with the chairmen of SEB's and CEB's.

C. *Federal Disaster Assistance Administration (FDAA.) Natural Disaster Assistance Centers:* Where a major disaster has been declared by the President and the FDAA establishes such center or centers in the local disaster areas, the SEB chairman is responsible for the following:

1. Selecting a qualified USDA person to represent USDA at each center. He will consult with other board members in making the selection. FmHA State Directors will cooperate with the SEB chairmen in seeing that the centers are properly manned.

2. Orienting the selected person(s) on all current USDA disaster programs. FmHA State Directors will cooperate in this orientation to insure that the USDA representative at the center is familiar with FmHA Emergency loans and other loans of FmHA that could be of assistance to the disaster victims.

3. Informing FDAA that a USDA representative is available to help at each of the assistance centers.

D. *ASCS and FmHA Coordination on Emergency Activities to Farmers and Ranchers:*

1. Affected ASCS Programs. FmHA Instruction 441.2 provides that *ASCS disaster type program benefits are to be considered in determining a farmer's eligibility and the maximum amount of his Emergency (EM) loan.* Therefore, the amount of any benefits received from ASCS disaster type programs, disaster payments (prevented planting and low yield) for wheat, feed grain, and upland cotton, cost-sharing payments under Emergency Conservation Measures (ECM,) sugar abandonment or deficiency payments, and livestock feed programs (LFP) will be considered as compensation for losses.

2. FmHA Action: In counties where Emergency loans are authorized and ASCS disaster type programs are available, FmHA County Supervisors will:

a. Furnish the ASCS county offices with a listing of names and addresses of farmers and ranchers who have had an EM loan approved

b. Request from the ASCS county offices, by name and address of each EM loan applicant, the following information: payments or benefits (disaster, ECM, sugar abandonment or deficiency payments, and LFP) made or to be made by ASCS to such applicant, ASCS records of acreages on the applicant's farm or farms, and established yields on crops used by ASCS. Form FmHA 441–29, "ASCS Verification of Farm Production History and Payments," will be used for this purpose.

3. ASCS Action: The ASCS county offices will:

a. Furnish the County Supervisor with the requested information.

b. In counties where EM borrowers have received EM loans and have:

(1) *Received Disaster Payments or ECM Assistance Concerning the Same Loss.* Issue such right drafts to show the borrower and FmHA as joint payees and the drafts will be forwarded to the FmHA County Office.

(2) *Applied for LFP Benefits Because of the Same Loss.* Limit LFP benefits to the difference, if any, in the amount a producer actually borrowed from FmHA and the maximum amount he could have borrowed. In cases where a producer has obtained the maximum loan, he must first repay FmHA to the extent of any benefits he may wish to obtain under the LFP (the difference between the LFP sales price and the market price)

(3) *Received Sugar Abandonment or Deficiency Payments.* Will advise the FmHA County Office of the date and amount of such payments.

This memorandum of Understanding and Coordination may be revised from time to

time by written mutual consent of the agencies involved.

Date: April 23, 1975.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

Date: April 18, 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

NOTE.—USDA Emergency Memorandum No. 54 which is referred to in paragraph II B of this Exhibit has been replaced by the USDA Emergency Operations Handbook.

NOTE.—FmHA Instruction 441.2 which is referred to in paragraph II D 1 of this Exhibit has been replaced by FmHA Instruction 1904–C.

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

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Date: November 18, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77–34345 Filed 11–29–77;8:45 am]

[3410–07]

SUBCHAPTER N—OTHER LOAN PROGRAMS

[FmHA Instruction 1980–B]

PART 1980—GUARANTEED LOAN PROGRAMS

Subpart B—Farmer Program Loans

MISCELLANEOUS—EMERGENCY LOANS—REVISIONS

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim rule.

SUMMARY: The Farmers Home Administration amends its disaster assistance regulations because of a policy revision brought about by public interest concerning the use of public records of ASCS in lieu of the applicants own records, or County averages established by the Crop Reporting Service. In addition, some changes are being made because of public interest in expediting the making and closing of Emergency loans to disaster victims.

This action is intended to aid disaster victims by expediting the processing and closing of Emergency loans.

EFFECTIVE DATE: November 30, 1977. Comments must be received by December 30, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Jesse C. Joyner, 202–447–6257.

SUPPLEMENTARY INFORMATION: Sections 1980.106 and 1980.170 of Subpart B of Part 1980, Chapter XVIII, Subchapter N, "Other Loan Programs," of Title 7, Code of Federal Regulations (42 FR 44715) are amended. Section 1980.106 is amended to revise paragraphs (b)(9)(i); (b)(9)(ii) (D) and (E) are combined to provide that feed crops and pasture can together be one enterprise or each can represent single enterprises; and new paragraph (b)(9)(ii)(E) includes production as an eligible hog enterprise for purposes of emergency assistance. Section 1980.170 is amended to revised paragraphs (c)(1)(i) and (c)(1)(i) (A) and (C) to provide that the applicant's normal year's production for flue-cured tobacco will be the poundage authorized by ASCS for the disaster year, and that applicants may use ASCS records of productions in lieu of their own records. Section 1980.170 is also amended to revise paragraphs (f)(2)(v), (f)(2)(vi); and (f)(2)(vi) (B) and (C) to change the definition of basic security and to revise title clearance requirements in paragraph (f)(2)(vi)(D)(2), line 2, the word "on" is corrected to read "or." It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are being published effective on an interim basis. This action is being taken to expedite assistance to disaster victims and at the same time permit public participation in the rulemaking process. Any delay in implementing this amendment would be contrary to the public interest because certain disaster victims might be prevented from obtaining needed assistance on a timely basis. Comments made pursuant to this notice will be considered in the development of the final rule. Accordingly, §§ 1980.106 and 1980.170 are amended to read as follows:

1. In § 1980.106 paragraphs (b)(9)(i) and (b)(9)(ii) (D) and (E) are revised to read as follows:

§ 1980.106 Definitions.

* * * * *

(b) * * *

(9) *Farming or farm enterprises.* * * *

(i) *Basic enterprise.* This term means any single enterprise which constitutes not less than 25 percent of the applicant's normal year's total farming operation's gross income. To qualify crops to be fed to and/or pasture to be grazed by livestock as a basic enterprise the value of the crops or pasture for livestock use must be at least equal to 25 percent of the value of the total feed fed to the livestock annually. However, for crops to be fed to and/or pasture to be grazed by livestock to be considered a basic enterprise one or more (individually or collectively) of the livestock enterprises must qualify as a basic enterprise.

(ii) *Single enterprise.* * * *

(D) All crops to be fed to livestock, and/or all pasture to be grazed by livestock; (E) Hog operations;

* * * * *

2. In § 1980.170 paragraphs (c)(1)(i), (c)(1)(i) (A) and (C); (f)(2)(v), (f)(2)(vi) (B) and (C) are revised to read as follows:

§ 1980.170 Emergency loans.

* * * * *

(c) *Determining losses and maximum amount of loan for actual losses.*

(1) *Production loss.* * * *

(i) Normal year's production will be determined on the basis of the per acre or animal production for the highest 4 out of 5 years immediately preceding the year in which the disaster occurred. The applicant may select and eliminate one year out of the 5 years immediately preceding the disaster and the average of those remaining 4 years will be his normal year's production for flue-cured tobacco under the acreage-poundage control. The normal year's production will be the pounds per acre authorized by ASCS for the disaster year.

(A) Such production will be that as provided by the State Crop and Livestock Report Service, State Statistical Office of the Statistical Reporting Service (SRS) or similar State or Federal body or a combination of such records and the applicant's ASCS production records as furnished by the applicant may be used, provided ASCS and other records are not combined for the same commodity. When such information is published by county, county averages will be used. If published only in a State, the State average shall be used.

* * * * *

(C) If an appliacnt presents factual records, including his/her records from ASCS for at least 4 of the 5 years immediately preceding the disaster which results in a higher normal production than that determined in accordance with paragraphs (c)(1)(i) and (c)(1)(i) (A) and (B) of this section, the higher production may be used in calculating the loss.

* * * * *

(f) *Security requirements.* * * *

(2) *Security for EM loans.*

* * * * *

(v) When an EM loan is to be secured by a lien on real estate or a combination of real estate and chattels, the security will be considered "basic security." However, notwithstanding the definition in section 1980.106 (b)(20)(i), when chattels are primarily relied upon as security and real estate is taken only as additional security to better protect the Government's interests in instances in which the amount of the loan does not exceed the value of the primary chattel security by more than $5,000, the additional real estate security will not be considered basic security. For all loans over $10,000 when real estate is taken as basic security title clearance is required except that, when a reputable

long-term lender has a first mortgage on the property, the search need only be made after the recordation date for such mortgage. For loans of $10,000 or less, and loans for which real estate is taken as additional security only a certification of ownership and verification of equity in real estate is required. Certification of ownership may be accepted in the form of a notarized affidavit from the applicant stating who is the owner of record of the real estate in question and acknowledging all known debts, with balances owed, against the real estate. Whenever the lender is uncertain of the ownership or debts against the real estate security, he will require title clearance.

(vi) If the real estate offered as security is held under a purchase contract, the following conditions will prevail:

* * * * *

(B) The applicant and the purchase contract holder will agree in writing that all insurance claim settlements received for real estate losses will be used in their entirety to replace or repair all damaged real estate improvements which are essential to the farming operation, used for other essential real estate improvements, or, if not needed for any real estate improvements, paid on the EM loan or on any prior real estate indebtedness including the purchase contract. The applicant will renegotiate with the purchase contract holder to arrive at a new contract if there are any provisions objectionable to FmHA and the lender in the existing contract.

(C) If a satisfactory contract of sale cannot be renegotiated or the purchase contract holder refuses to enter into the agreement described in paragraph (f)(2)(vi)(B) of this section, the applicant will make every effort to refinance the existing purchase contract. If the applicant cannot obtain refinancing from another source, an EM loan will be considered to include funds to pay off the contract and improve the property. If the applicant can get the contract refinanced, an EM loan will be considered to restore the property to its predisaster condition.

* * * * *

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

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Date: November 18, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77-34343 Filed 11-29-77;8:45 am]

[3410-07]

[FmHA Instruction 1980-B]

PART 1980—GUARANTEE LOAN PROGRAMS

Subpart B—Farmer Program Loans

MISCELLANEOUS AMENDMENTS

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim rule.

SUMMARY: The Farmers Home Administration amends its disaster assistance regulations to add a statement concerning "housing only" losses on farms to comply with a Memorandum of Understanding between SBA and FmHA which is published as Exhibit G of Part 1904 Subpart C. The regulations are also amended concerning scheduled loan repayments of the initial loan for annual operating purposes because the language currently published in Part 1980 Subpart B is in error.

This action is intended to aid disaster victims by expediting the processing and closing of Emergency loans.

EFFECTIVE DATE: November 30, 1977. Comments must be received by December 30, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Jesse C. Joyner, 202-447-6257.

SUPPLEMENTARY INFORMATION: Sections 1980.154 and 1980.170 of Subpart B of Part 1980, Chapter XVIII, Subchapter N, "Other Loan Programs," of Title 7, Code of Federal Regulations (42 FR 44715; 42 FR 55197) are amended. Section 1980.154 is amended to revise paragraph (d), (e), (f), and (h); paragraph (g) (Memoranda of Understanding Between FmHA and FDAA) of this section is deleted and reserved. Section 1980.170 is amended to add paragraph (d)(1)(iii) to provide that loans for losses to housing only be made by Small Business Administration when the applicant is located in an area where SBA's physical disaster loans are available; paragraph (d)(2) is amended by transferring language relating to repayment terms for annual operating loans under new paragraph (e)(3)(iii)(C). The effect of these amendments will be to update the provisions for scheduled loan repayments. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are being published on an interim basis and, therefore, are effective immediately. This action is being taken to expedite assistance to disaster victims and at the same time permit public participation in the rulemaking process. Any delay in implementing this amendment would be contrary to the public interest because certain disaster victims might be effectively prevented from obtaining needed assistance. Comments made pursuant to this notice will be considered in the development of the final rule. Accordingly, §§ 1980.154 and 1980.170 are amended to read as follows:

1. In § 1980.154, paragraph (d), (e), (f), and (h) are revised to update references; paragraph (g) is deleted:

§ 1980.154 Memoranda of Understanding on other items.

* * * * *

(d) FmHA and FCIC (Subpart N of Part 2000).

(e) FmHA and Farm Credit Administration (Exhibit E to Subpart C of Part 1904 of this Chapter; FmHA Instruction 1904-C).

(f) FmHA and SBA (Exhibit G to Subpart C of Part 1904 of this Chapter, FmHA Instruction 1904-C and Subpart O of Part 2000 of this Chapter).

(g) [Deleted]

(h) FmHA and ASCS (Exhibit H to Subpart C of Part 1904 of this Chapter; FmHA Instruction 1904-C).

In § 1980.170, paragraph (d)(1)(iii) is added; paragraph (d)(2) is revised; paragraph (e)(3)(iii)(C) is added, and read as follows:

§ 1980.170 Emergency loans.

* * * * *

(d) *Loan purposes.* EM loans may be guaranteed for the following purposes:

(1) *Actual loss loans.*

* * * * *

(iii) When an applicant has only housing losses and is eligible for SBA's physical loss loans in areas where SBA's physical loss laws are available, only SBA will make the loans for restoration or replacement of farm housing loans.

* * * * *

(2) *Annual operating purposes.* After the initial EM loan for any purpose, five *annual* subsequent EM loans may be made for annual operating purposes, provided they are made within 5 full calendar years after the disaster, to permit the borrower to return to his normal credit sources without a guarantee. In additional disaster(s) occur(s), 5 annual subsequent loans for annual operating purposes may be made after the initial EM loan has been made

for each disaster. In the event a borrower who has paid his EM loan in full is unable to obtain sufficient credit elsewhere he may obtain an EM loan for annual operating purposes to satisfy his operating needs, provided the loan is made within the first five full calendar years after the disaster. Annual loans for operating purposes may be made for:

* * * * *

(e) *Interest rates and terms.*

* * * * *

(3) *Terms of loan repayment.*

* * * * *

(iii) * * *

(C) The initial loan for annual operating purposes may be scheduled for repayment for a period up to 7 years and if it meets the conditions of paragraph (g)(3)(i)(A)(2) of this section, it may be scheduled for repayment up to 20 years.

* * * * *

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

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Date: November 18, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77-34344 Filed 11-29-77;8:45 am]

proposed rules

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

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1036]

[Docket No. AO-179-A43]

MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

Extension of Time for Filing Briefs

AGENCY Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing briefs.

SUMMARY: This notice extends the date for filing briefs on the hearing held October 12–14, 1977, at Cleveland, Ohio, concerning proposed amendments to the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area. An interested party requested additional time to complete its analysis of the hearing record.

DATE: Briefs are now due on or before December 12, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of hearing, issued September 20, 1977 (42 FR 48886).

Notice is hereby given that the time for filing briefs, proposed findings and conclusions on the record of public hearing held October 12–14, 1977, at Cleveland, Ohio, with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area pursuant to notice issued September 20, 1977 (42 FR 48886), is hereby extended to December 12, 1977.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C., on: November 25, 1977.

ROBERT B. BROWN,
Acting Administrator.

[FR Doc.77-34319 Filed 11-29-77;8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[14 CFR Part 300]

[PDR-48; Procedural Regulations Docket 31737 Dated: November 22, 1977]

RULES OF CONDUCT IN BOARD PROCEEDINGS; SEPARATION OF FUNCTIONS

AGENCY: Civil Aeronautics Board.

ACTION: Proposed rule.

SUMMARY: The Board, on its own initiative, seeks to modify the present Separation of Functions rule to allow the Board to consult with senior personnel in its staff bureaus in deciding certain hearing cases.

DATES: Comments by December 28, 1977.

ADDRESSES: Comments should be sent to: Docket 31737, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Gary J. Edles, Office of General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202–673–5235.

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act (5 U.S.C. 554(d)) imposes certain limits on the extent to which the Board may consult bureau personnel in the decision of adjudicatory matters. This "separation of functions" rule requires that employees in "investigative or prosecuting functions" in a particular adjudicatory case not participate in the decision of that case. Because this section deals with adjudication, it does not apply to rulemaking—a concept which includes rate cases as well as conventional "rules" cases.[1] In addition, the section excepts those adjudications that constitute "determining applications for initial licenses"—a concept which covers most route cases decided by the Board.[2]

As a pure legal matter, therefore, the Board is required to apply a separation of functions rule only in those adjudicatory proceedings where "accusatory or disciplinary" factors are likely to be present.[3] Moreover, even in such cases, the ban extends only to employees "engaged in the performance of investigative or prosecuting functions" in the particular proceeding.

As a matter of policy, however, the Board chose to go well beyond these legal requirements by maintaining a strict separation of functions rule in all cases involving trial-type hearings, no matter what the nature of the proceeding might be. In addition, the bar against consulting staff members who had been witnesses or counsel was extended to their supervisors. This result, earlier adopted as an internal matter, was eventually reflected in the regulation. PR-166, March 29, 1977; 42 FR 17436, April 1, 1977. Thus, as a practical matter, the Board chose to isolate itself from contact with bureau directors in the process of deciding hearing cases.

This rigid separation of functions rule may arguably enhance the appearance of fairness in the decisional process. It precludes any situation where a bureau advocating a particular position would then have nonpublic access to the decision maker. However, as explained by a Committee of the Administrative Conference of the United States, the exclusion of bureau personnel from Board deliberations has harmful effects: [4]

> First, the Board is deprived of the on-the-spot advice of its principal policy-making arm. The Bureau cannot possibly resolve in advance the policy implications of every conceivable course of action the Board might have under consideration. Moreover, Bureau personnel may be expected to have a high degree of familiarity with record materials, and to be able to make a contribution in this area as well.

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[1] Attorney General's Manual on the Administrative Procedure Act (1947) pp. 5053.

[2] See 5 U.S.C. 551(4), 551(5); *Wilson & Co.* v. *United States*, 335 F. 2d 788 (C.A. 7, 1964) cert. denied, 380 U.S. 951; *A.T. & T. Co.* v. *FCC*, 449 F. 2d 439 (C.A. 2, 1970). Section 554(d) also excepts "proceedings involving the validity or application of rates, facilities, or practices of * * * carriers." This language, together with the section's limitation to "adjudication", exempts "all rate fixing" from the separation-of-functions rule. Davis, *Administrative Law Treatise* (1958), p. 234.

[3] Attorney General's Manual, *supra*.

[4] S. Doc. 24, 88th Cong. 1st Sess., "Selected Reports of the Administrative Conference of the United States" (1963) pp. 409–410.

Second, the Bureau has a continuing need to be familiar with the thinking of individual Board Members and with the various policy approaches they are interested in entertaining. The value of the Bureau's advisory services, and the performance of its many day-to-day administrative functions, could be much improved by increasing the Bureau's contact with Board deliberations.

Indeed in 1963 the Administrative Conference recommended that the Board should: [5]

Provide for unrestricted consultation between personnel of the Bureau of Economic Regulation and Board decisional personnel at all stages of a route proceeding, except for (a) cases in which Bureau personnel are concerned with establishing prior misconduct by a party, and (b) Bureau counsel of record in the route proceeding and his witnesses.

The Board is considering, and hereby requesting comments on, two alternative courses of action to modify the present strict system of separation. The first proposed change would exclude from the decisional phase those lawyers and witnesses who participated in the matter as advocates, including those who actually reviewed or assisted in preparation of their written or oral presentations. At the same time, it would allow the Board to consult with supervisors who did not actually review their subordinates' participation. The separation of functions barrier—even when required by law—provides only that those employees "engaged in the performance of investigative or prosecuting functions * * * in a case" may not participate in the decision "in that or a factually related case * * *." 5 U.S.C. 554(d). A supervisor who did not in fact direct or review the subordinates' participation in a case would be allowed to advise in the decision.

Consultation with supervisory staff members who did not actually participate in hearings is one proper and acceptable approach to the question of separation of functions. In recent Senate hearings, the Administrative Conference supported extension of the separation of functions rule to initial licensing and formal rulemaking, but reasoned that the bar should "not extend to agency officials who have not personally been involved in the case but who have general supervisory responsibility over employees who have participated in the case." [6] The Federal Power Commission similarly stressed the benefits of its system whereby senior staff personnel advise the Commission in hearing cases notwithstanding the participation of subordinates. Senate Hearings, *supra*, pp. 400–401.

The Senate Judiciary Committee expressly relied on these views. It reported out a bill which extended separation of funds to formal rulemaking and initial licensing, but carefully preserved the agency's right to consult supervisory personnel. S. Rept. No. 94–1259, 94th Cong. 2d Sess. (1976) pp. 5. This bill (S. 798), providing that "an employee will not be deemed to have engaged in the performance of investigative or litigating functions solely by virtue of his general organizational or supervisory responsibility for such functions," was approved by the Senate,[7] but did not reach the House.

The Board now operates under the Government in the Sunshine Act; most of its meetings are open to public observation.[8] As a general matter, the advice of the Bureau Director or other supervisor (whose subordinate may have participated in the hearing) will be given in an open meeting.[9] Similarly, in hearing cases decided with out a meeting, any decisional advice from such a Director should generally be a matter of public record. This should dispel any inferences of impropriety in such consultation.

The Board is therefore proposing to amend § 300.4 to eliminate the prohibition on communication by "supervisors" who are not actually reviewing the positions in question with the Board or other decisionmaking personnel and their immediate advisors, except in cases involving economic enforcement or accusatory or disciplinary issues. In the latter cases the separation rule would continue to apply to all supervisors.

Bureau and office heads would maintain public lists of those participating—and those reviewing participation—in individual hearing cases. This would enable anyone to know the names of those employees who may not be consulted in the decision of such cases.

An alternative proposal under consideration would adhere more narrowly to the statutory requirements, and exempt from the separation of functions rule rate and fare matters and applications for, or for changes in, certificates or permits. The latter category, including any changes initiated by the certificate or permit holder, have been interpreted by the Attorney General's Manual on the APA (pp. 50–53, 1947) to be within the statutory exemption of "applications for initial licenses." If this alternative were adopted, any advice given to the Board by a person who had participated in preparation of the case would be given either in an open meeting or by publicly-filed memorandum.

Finally, the section as previously published inadvertently omitted the phrase, "except in accordance with a published Board rule or order," which of course is necessary to allow formal participation by the bureaus. The phrase would be inserted in the course of this proposed amendment.

Although this amendment pertains solely to agency organization, procedure, and practice, so that notice and public procedures are not legally necessary, the Board has decided to request public comments on the proposed rule. The views of experienced practitioners are particularly invited.

Proposed Rule

Accordingly, the Board proposes in the alternative to amend 14 CFR 300.4 in one of the following ways:

Alternative A

§ 300.4 would be revised to read as follows:

§ 300.4 Separation of functions.

A Board employee who is participating in a hearing case on behalf of a bureau or office that is a party; another Board employee who is in fact reviewing the position taken, or who has participated in developing the position taken in that case; or, in cases involving accusatory or disciplinary issues, including all enforcement cases, his or her supervisors within that bureau or office, shall have no substantive communication with any Board Member, administrative law judge in the case, or other Board employee advising them, with respect to that or any factually related hearing case, except in accordance with a published Board rule or order. For each hearing case, bureau or office heads shall maintain a publicly available record of those employees who are participating or are in fact reviewing the position taken, or who have participated in developing the position taken in that case.

Alternative B

The amendment proposed in Alternative A would be made, but the paragraph would be lettered (a), and a new paragraph (b) would be added to read as follows:

(b) This section does not apply to matters concerning fares or rates, or to applications for a certificate or permit under sections 401 or 402 of the Act, or applications by the holder for a change in the certificate or permit. However, any substantive communications on these subjects that would, but for this exception, have been prohibited by paragraph (a) of this section must either be made orally in an open Board meeting or by a memorandum that is immediately placed in the public file of the matter.

Request for Comments

Interested persons may take part in this rulemaking by submitting 20 copies of written data, views, or arguments on the subject discussed. All relevant material received by the date shown at the beginning of this notice will be considered by the Board before taking further action. Individual members of the general public who wish to express their interest

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[5] S. Doc. 24, *supra* at p. 53.

[6] Hearings on Administrative Procedure Act Amendments of 1976, Subcommittee on Administrative Practice and Procedure, Senate Committee on the Judiciary, 94th Cong., 2d Sess. (1976), p. 227.

[7] Con. Rec. September 21, 1976, p. S. 16245.

[8] Under internal procedures recently instituted, more of the Board's business will be done at meetings and less will be handled by "notation" voting.

[9] Remarks made in a properly closed meeting may, of course, be withheld from public disclosure. See 5 U.S.C. 552b(f)(2).

as consumers by informally taking part in this proceeding may do so by submitting comments in letter form to the Docket Section, without having to file additional copies.

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

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-34445 Filed 11-29-77;8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 821-7]

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the South Coast Air Quality Management District Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The South Coast Air Quality Management District has adopted changes to rules concerning air pollution emergency episodes. The intended effect of these rules is to provide an emergency episode plan that will prevent air pollution concentrations from reaching levels which could cause significant harm to the public health. These rules have been submitted to EPA by the California Air Resources Board as a revision to the California State Implementation Plan (SIP). The EPA proposes to approve portions of the SIP revision and to promulgate regulations where deficiencies in the rules are found. A public hearing will be held on the regulations being proposed. The EPA also invites written public comments on both the SIP revision and the EPA proposed regulations.

DATES: Written comments on EPA proposed regulations are due on or before (30 days after the close of the hearing). Written comments on revisions to rules and regulations of the South Coast Air Quality Management District are due on or before December 30, 1977. A hearing will be held on January 13, 1978.

ADDRESS: Send comments to: Regional Administrator, Attention: Air and Hazardous Materials Division, Air Programs Branch, Technical Assistance Team, EPA, Region IX, 215 Fremont St., San Francisco, Calif. 94105.

A public hearing will be held at the: Los Angeles Convention Center, 1201 S. Figueroa, Los Angeles, Calif. The hearing sessions will begin at 9:30 am and 1:30 pm in Room 211.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attention: Charlotte Hopper, 215 Fremont St., San Francisco, Calif. 94105, 415-556-2002.

SUPPLEMENTARY INFORMATION: Section 110(a) of the Clean Air Act requires SIPs to contain air pollution emergency episode plans. 40 CFR 51.16 specifies minimum requirements for the content of these plans. The original SIP submitted by the State of California on February 21, 1972 failed to meet the requirements specified in 40 CFR 51.16.

On May 31, 1972 (37 FR 10851) EPA disapproved the emergency plan portion of the California SIP. In November 1973, the State of California adopted a revised episode plan, which was submitted to EPA on February 6, 1974. The EPA proposed conditional approval of this SIP revision on June 26, 1974 (39 FR 23069).

In March 1975, the California Lung Association and others commenced a citizen suit against EPA and the California State Air Resources Board (ARB) requesting the U.S. District Court for the Central District of California to order EPA to promulgate and enforce an emergency episode plan for the South Coast Air Basin (SCAB) of California, *California Lung Association et al.* v. *Train*, Civil No. 75-1044-WPG. Pursuant to an agreed upon schedule, EPA and the ARB worked together toward Federal approval of an emergency episode plan for the SCAB, which was then composed of four local air pollution control districts and is now reorganized as the South Coast Air Quality Management District (SCAQMD). On April 12, 1976 (41 FR 15237) EPA approved as a revision to the SIP California's October 21, 1975 Air Pollution Emergency Plan for the three pollutants set out therein (oxidants, sulfur dioxide, and carbon monoxide). This plan did not contain provisions for nitrogen dioxide, particulate matter, and sulfur dioxide/particulate combined.

On June 27, 1977, pursuant to plaintiff California Lung Association's motion, the Court ordered EPA to certify that the emergency episode plan approved on April 12, 1976 was fully adequate under the law in all respects (i.e., contained episode plans for all six pollutants), or to withdraw such approval (*California Lung Association* v. *Costle*, Civil No. 75-1044-WPG). The EPA responded to this order by an affidavit, dated July 6, 1977, which stated that since the Agency's April 12, 1976 approval of the plan applied only to the three pollutants specifically set forth therein, EPA therefore concluded in accordance with the Court's order that the plan was not fully complete. Subsequently, on August 11, 1977 (42 FR 40695), EPA rescinded the prior approval, reinstating the disapproval of the emergency episode plan of the California SIP.

On May 6, 1977, the SCAQMD adopted a revised emergency episode plan, Regulation VII which was submitted to EPA by the ARB as a revision to the SIP on June 1, 1977. On August 8, 1977, the EPA Administrator submitted a second affidavit, as required by the Court, concerning this recent submittal and stating that EPA intended to approve most of Regulation VII as a revision of the California SIP and that EPA would promulgate regulations to correct certain deficiencies in the emergency episode plan for the SCAQMD. This rulemaking notice initiates the approval/promulgation actions.

In general, Regulation VII sets forth actions to be taken by industry, business, commerce, government, and the public to prevent air pollution concentrations from reaching levels which could cause significant harm to the public health.

These actions include monitoring of air quality; development and processing of emission reduction plans prepared by certain large industrial, business, commercial, and governmental establishments; public notification of episode conditions; implementation of emission reduction strategies; and conducting inspections during episodes to assure compliance with the emission reduction requirements of Regulation VII.

Action required by Regulation VII are divided into three stages, depending on the severity of the existing air quality and the predicted meteorology. At each stage curtailment of stationary source and vehicular emissions are included to some degree. This basically involves implementation of the emission reduction plans prepared by certain large establishments. At the most severe stage, Stage 3, Regulation VII also requires the general public, schools, commercial, industrial, and governmental activities throughout the District to operate as though the day were a major national holiday.

Based upon a comparison of Regulation VII to the requirements, specified in 40 CFR 51.16, EPA proposes to approve the following portions of Regulation VII for inclusion into the California SIP:

Rule 701, General.
Rule 702, Definitions.
Rule 703, Episode Criteria.
Rule 704, Episode Declaration.
Rule 705, Termination of Episodes.
Rule 706, Episode Notification
Rule 707, Radio-Communication System.
Rule 708, Plans.
Rule 708.1, Stationary Sources Required to File Plans.
Rule 708.2, Content of Stationary Source Curtailment Plans.
Rule 708.3, Traffic Abatement Plans.
Rule 708.4, Procedural Requirements For Plans.
Rule 709, First-Stage-Episode-Actions.
Rule 710, Second-Stage-Episode-Actions.
Rule 711, Third-Stage-Episode-Actions.
Rule 713(b), Interdistrict Coordination.
Rule 714, Source Inspections.

Rule 712 "Sulfate Episode Actions" has not been reviewed and is not proposed for inclusion in the SIP since EPA has

not defined significant harm levels for sulfates.

The EPA also proposes to promulgate regulations to correct deficiencies found in Regulation VII by the comparison to 40 CFR 51.16 (this comparison is detailed in an "Evaluation Report and Technical Support Document"). These deficiencies are as follows:

1. Three pollutants (nitrogen dioxide, particulate matter, and sulfur dioxide/particulate matter combined are not included in Regulation VII. EPA intends to correct this deficiency with the regulation proposed in this notice.

2. Rule 713(a), which is proposed to be disapproved, contains interdistrict coordination procedures but does not include mandatory emission control actions in the event of interdistrict air pollution emergency episodes. The EPA proposed regulations make interdistrict emission control actions mandatory.

3. Rule 708.4 lacks a time schedule for the SCAQMD to initiate the call for submittal of individual source abatement plans and lacks a time limit for review of such plans. EPA's proposed regulations call for the submittal and review of abatement plans within specified time limits.

The EPA proposed regulations are based on air quality data, emissions data, Regulation VII of the SCAQMD, and control strategy evaluation analyses. These analyses are presented in an "Evaluation Report and Technical Support Document". Incorporated into that document is a recently completed report by Pacific Environmental Services, Inc. presenting the results of a study to develop an air pollution episode plan in the SCAB for nitrogen dioxide, particulate matter, and sulfur dioxide/particulate matter combined.

In translating the substance of the "Evaluation Report and Technical Support Document" into regulations, EPA has used Regulation VII as a procedural guide. For ease of understanding the regulations, the terminology and general procedural details are consistent with Regulation VII; including defining "Stage 1" rather than "Alert" and using a radio communication system for notification. The emission reduction requirements are also generally consistent with Regulation VII; including content of the individual emission reduction plans, source types that must prepare such plans, and actions to be taken per episode stage.

Thus, the actions set forth in the EPA proposed regulations are similar to those in Regulation VII, which were described above. At Stage 3, however, the EPA proposes regulations to include the "major national holiday" strategy only for nitrogen dioxide since stationary source emission reductions are expected to be sufficient to prevent significant harm levels of particulate matter or sulfur dioxide/particulate combined.

Pursuant to Section 110 of the Clean Air Act as amended, and 40 CFR 51, EPA is required to approve or disapprove Regulation VII as an SIP revision. Furthermore, if the regulations submitted by the State are determined to be deficient, EPA is required to prepare and publish regulations to correct the deficiencies. The EPA hereby issues this notice setting forth the SIP revision and EPA proposed regulations as proposed rulemaking and advises the public that interested persons may participate in the rulemaking process by submitting written comments to EPA. Comments received on the SIP revision on or before December 30, 1977 will be considered. Comments received will be available for public inspection at the EPA Region IX office and the EPA Public Information Reference Unit.

In addition, a public hearing on the EPA proposed regulations contained in this notice will be held at the time and place previously specified in this notice. These hearings will be held to receive comments on the proposed regulations. Persons wishing to participate in the hearing are requested (but not required) to submit three copies of their statements at least five days prior to the date of the hearing to the EPA Region IX office. In addition, the public may submit written comments to the EPA Region IX office, to be received on or before 30 days after the close of the public hearing. Comments received will be available for public inspection at the EPA Region IX office and the EPA Public Information Reference Unit.

The EPA Region IX office has established a rulemaking Docket, 9A-77-1, containing all information on which the proposed rulemaking relies, which is available for public inspection during normal business hours at the EPA Region IX office and the EPA Public Information Reference Unit.

Copies of Regulation VII and EPA's "Evaluation Report and Technical Support Document are available for public inspection during normal business hours at the following locations:

South Coast Air Quality Management District, 9420 Telstar Ave., El Monte, Calif. 91731.

California Air Resources Board, 1709 11th Street, Sacramento, Calif. 95814.

Environmental Protection Agency, Region IX, 215 Fremont St., San Francisco, Calif. 94105.

Environmental Protection Agency, Los Angeles Contact Office, 300 North Los Angeles St., Los Angeles, Calif. 90012.

Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, SW., Washington, D.C. 20460.

(Sections 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. §§ 7410 and 7601(a)).)

Dated: November 3, 1977.

PAUL DE FALCO, Jr.,
Regional Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40, of the Code of Federal Regulations as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraph (c)(38) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(38) Revision of Regulation VII Emergencies (Rules 701–711 and 713–714) of the South Coast Air Quality Management District submitted on June 1, 1977 by the Governor's designee.

* * * * *

2. Section 52.274 is added as follows:

§ 52.274 California Air Pollution Emergency Plan.

(a) The requirements of § 51.16 of this chapter are not met except in the South Coast Air Quality Management District (SCAQMD) portion of the Metropolitan Los Angeles Intrastate Air Quality Control Region since the California Air Pollution Emergency Plan does not provide complete, implementable provisions for taking emission control actions necessary to prevent ambient concentrations from reaching significant harm levels.

(b) The requirements of § 51.16 of this chapter are met in the SCAQMD with the following exceptions: there is no schedule to assure that the emission control actions are fully implementable, Rule 713(a) does not provide specific emission control actions for interdistrict coordination, and provisions are not included for nitrogen dioxide, particulate matter, and sulfur dioxide/particulate matter combined.

(c) *Regulation for prevention of air pollution emergency episodes—plan scheduling and interdistrict coordination.* (1) The requirements of this paragraph are applicable in the SCAQMD.

(2) Each owner or operator required to submit a Stationary Source Curtailment Plan and/or Traffic Abatement Plan by Regulation VII of the SCAQMD, as revised on May 6, 1977, shall submit such plans within sixty days after promulgation of final rulemaking.

(3) The plans submitted pursuant to the requirements of Regulation VII of the SCAQMD, as revised on May 6, 1977, and the requirements of this paragraph, shall be reviewed for approval or disapproval according to the following schedule:

(i) For sources with emissions of hydrocarbons (HC) or nitrogen oxides (NO_x) greater than 454 metric tons (500 tons) per year, or for establishments employing more than 400 employees per shift, within 45 days after receipt.

(ii) For sources with emissions of HC or NO_x greater than 91 metric tons (100 tons) per year and less than 454 metric tons (500 tons) per year, or for establishments employing more than 200 and less than 400 employees per shift, within 90 days after reciept.

(iii) For sources with emissions of HC or NO_x less than 91 metric tons (100 tons) per year, or for establishments employing 100 to 200 employees per shift, within 180 days after receipt.

(4) The owner or operator of an industrial, business, governmental or commercial establishment required to submit a plan by Regulation VII of the SCAQMD, as revised on May 6, 1977, shall be notified within thirty days if the plan is disapproved.

(5) In the event specific sources or source areas within the SCAQMD are determined to significantly contribute to a declared air pollution episode in a nearby Air Pollution Control District, emission control actions specified in Regulation VII of the SCAQMD, as revised on May 6, 1977, for that declared episode stage shall be taken in the SCAQMD to abate that eposide.

(d) *Regulation for prevention of air pollution emergency episodes—nitrogen dioxide, particulate matter, and sulfur dioxide/particulate matter combined.*

(1) The requirements of this paragraph are applicable in the SCAQMD.

(2) For the purposes of this regulation the following definitions apply:

(i) "ppm" means parts per million by volume.

(ii) "COH" means coefficient of haze.

(iii) "μg^{-3}" means micrograms per cubic meter.

(iv) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(v) "Major National Holiday" means a holiday such as Christmas, New Year's Day, or Independence Day.

(vi) 'Source/Receptor Areas" are defined for each episode occurrence based on air monitoring, geographical, and meteorological factors: source area is that area in which contaminants are discharged and a receptor area is that area in which the contaminants accumulate and are measured.

(vii) "Air Contaminants" means nitrogen dioxide, particulate matter, and/or sulfur dioxide/particulate matter combined.

(3) For the purposes of this regulation, the following episode criteria shall apply:

Contaminants	Averaging time (hours)	Stage 1	Stage 2	Stage 3
Nitrogen dioxide	1	0.6 p/m	1.2 p/m	1.6 p/m.
	24	0.15 p/m	0.3 p/m	0.4 p/m.
Particulate matter	24	3.0 COH	5.0 COH	7.0 COH.
	24	375 μg^{-3}	625 μg^{-3}	875 μg^{-3}.
Sulfur dioxide/particulate matter combined	24	0.2 [1]	0.8 [1]	1.2 [1]
	24	65,000 [2]	261,000 [2]	393,000. [2]

[1] Product of sulfur dioxide (p/m) and particulate matter (COH).
[2] Product of sulfur dioxide (μg^{-3}) and particulate matter (μg^{-3}).

(4) Whenever it is determined that any episode level specified in subparagraph (3) of this paragraph is being attained or has been attained, and is predicted to remain at such level for 12 or more hours, or increase, unless control actions are taken, the existence of the appropriate episode level and the location of the source-receptor areas shall be declared.

(5) Whenever the available scientific and meteorological data indicate that any episode level declared by subparagraph (4) of this paragraph is no longer occurring and is not predicted to immediately increase again to episode levels, such episode shall be declared terminated.

(6) The following shall be notified whenever an episode is predicted, attained or terminated:

(i) Public officials.

(ii) Persons operating any facility or activity named in subparagraph (8) of this paragraph.

(iii) Public health, safety, and emergency agencies.

(iv) News media.

(7) Upon request of the Administrator, persons operating any facility or activity named in subparagraph (8) of this paragraph shall install, properly maintain and operate radio-receiving equipment with decoding device capable of receiving broadcasts of the declaration and termination of episodes required under this paragraph and instructions as to the actions to be taken.

(8) Stationary source curtailment plans and traffic abatement plans shall be prepared by industrial, business, commercial, and governmental establishments as follows:

(i) The owner or operator of any industrial, business, commercial, or governmental activity listed below shall submit to the Administrator plans to curtail or cease operations causing stationary source air contaminants in such activity:

(A) Petroleum refinery emitting 23 metric tons (25 tons) or more per year of air contaminants.

(B) Metal-melting plant requiring molten metal temperatures in excess of 540° C (1,000° F) or metal-refining plant or metal-smelting plant, in which a total of 1,135 kilograms (2,500 pounds) or more of metal are in a molten state at any one time or are poured in any one hour.

(C) Fossil fuel-fired electric generating facility having a total rated capacity of 50 megawatts or more.

(D) Any facility or plant emitting 91 metric tons (100 tons) or more per year of air contaminants.

(ii) The plans required by subparagraph (8) (i) of this paragraph shall include the following:

(A) A list of equipment which emits nitrogen oxides, particulate matter, and/or sulfur dioxide, including the SCAQMD permit number, the daily amount of air contaminants emitted, and a statement of the minimum time and recommended time to implement the abatement actions for each episode stage for the equipment listed.

(B) The total number of employees at the facility during each shift on a normal weekday and on a major national holiday.

(C) The normal amount of electricity used on a normal weekday and on a major national holiday.

(D) The actions to inform employees of the procedures to be taken in the event of an episode declaration.

(E) The name and telephone numbers of the facility's episode action coordinator and alternate, who are responsible for implementation of the plan.

(F) For stage 1 episodes:

(1) The measures to voluntarily curtail equipment emitting air contaminants.

(2) The measures to reduce emissions of air contaminants from electrical generating facilities by 10 percent.

(G) For stage 2 episodes:

(1) The measures to curtail as much as possible, without upsetting production, equipment operations which emit air contaminants.

(2) The measures to postpone operations which can be postponed until after the episode.

(3) The measures for combustion sources to use natural gas, liquid petroleum gas, or low sulfur (0.3 percent or less) fuel oil.

(4) The measures for electrical generating facilities to shift oil burning power generation to combined cycle gas turbine generating equipment burning fuel oil containing less than 0.15 percent sulfur to the maximum extent consistent with the public health, safety, and welfare.

(5) The measures for electric generating facilities to shift power generation to non-source areas to the maximum extent consistent with the public health, safety and welfare, except for stage 2 sulfur dioxide/particulate matter combined episodes.

(6) The measures for electrical generating facilities to reduce emissions of an air contaminants by 20 percent, except for stage 2 sulfur dioxide/particulate matter combined episodes.

(H) For stage 3 nitrogen dioxide episodes:

(1) The measures for petroleum refineries to reduce emissions of nitrogen dioxide by 33 percent, without damage to the equipment.

(2) The measures in subparagraph (8) (ii) (G) of this paragraph.

(I) For stage 3 particulate matter episodes:

(1) The measures for petroleum refineries to reduce emissions of particulate matter by 33 percent, without damage to the equipment.

(2) The measures described in subparagraph (8) (ii) (G) of this paragraph.

(3) The measures for any facility or plant normally emitting 91 metric tons (100 tons) or more per year of particulate matter to eliminate such emissions by starting no new batches, by ceasing feed of new materials, and by phasing down as rapidly as possible without damage to the equipment.

(4) The measures for metal melting, refining, or smelting plants to eliminate

emissions of particulate matter by starting no new batches, by ceasing feed of new materials, and by phasing down as rapidly as possible without damage to the equipment.

(J) For stage 3 sulfur dioxide/particulate matter combined episodes:

(1) The measures described in subparagraph (8)(ii)(G) of this paragraph.

(2) The measures for electric generating facilities to shift power generation to non-source areas to the maximum extent consistent with the public health, safety and welfare.

(3) The measures for electric generating facilities to reduce emissions of air contaminants by 20 percent.

(K) An estimate of the resultant reduction in air contaminant emissions.

(iii) The owner or operator of any industrial, business, commercial, or governmental activity listed below shall submit to the Administrator plans to curtail or cease operations causing air contaminants from vehicle use:

(A) Operators of 50 or more fleet vehicles.

(B) Industrial, business, commercial, or governmental establishments employing more than 100 persons per shift at one business address.

(iv) The plans required by subparagraph (8)(iii) of this paragraph shall include the following:

(A) The total number of employees at the facility during each shift on a normal weekday and on a major national holiday.

(B) The number of motor vehicles and vehicle miles traveled for motor vehicles operated:

(1) By the company on company business on a normal weekday and on a major national holiday.

(2) By employees commuting from home to the place of business on a normal weekday and on a major national holiday.

(C) The number of parking spaces used on a normal weekday and on a major national holiday.

(D) The minimum number of motor vehicles to be operated that are necessary to protect public health or safety.

(E) The actions to inform employees of the procedures to be taken in the event of an episode declaration.

(F) The name and telephone numbers of the facility's episode action coordinator and alternate, who are responsible for the implementation of the plan.

(G) For stage 1 episodes; the methods by which employers will encourage the utilization of car pools or otherwise reduce employee motor vehicle travel.

(H) For stage 2 and 3 episodes, the measures within the reasonable control of the employer to reduce the number of vehicle miles driven by employees in commuting to and from work.

(I) An estimate of the resultant reduction in vehicle miles traveled.

(v) Each owner or operator required to submit a plan by this paragraph shall submit such plan within sixty days after promulgation of final rulemaking.

(vi) The plans submitted in accordance with the provisions of this paragraph shall be approved or disapproved by the Administrator according to the following schedule:

(A) For sources with emissions of air contaminants greater than 454 metric tons (500 tons) per year, or for establishments employing more than 400 employees per shift, within 45 days after receipt.

(B) For sources with emissions of air contaminants greater than 91 metric tons (100 tons) per year and less than 454 metric tons (500 tons) per year, or for establishments employing more than 200 and less than 400 employees per shift, within 90 days after receipt.

(C) For sources with emissions of air contaminants less than 91 metric tons (100 tons) per year, or for establishments employing 100 to 200 employees per shift, within 180 days after receipt.

(vii) The owner or operator required to submit a plan by this paragraph shall be notified, within thirty days after the Administrator's decision if the plan is disapproved.

(viii) Any plan disapproved by the Administrator shall be modified to overcome this disapproval and resubmitted to the Administrator within thirty days of the notice of disapproval.

(ix) A copy of the plan approved in accordance with the provisions of this paragraph shall be on file and readily available on the premises to any person authorized to enforce the provisions of this section.

(9) The following actions shall be taken in the source and receptor areas upon declaration of a stage 1 episode:

(i) The Administrator shall advise the public that those individuals with special health problems should follow the precautions recommended by their physicians and health officials.

(ii) The Administrator shall advise school officials to cancel, postpone, or reschedule programs which require outdoor physical activity.

(iii) The Administrator shall request the public to stop all unnecessary driving.

(iv) The Administrator shall request the public to operate all privately-owned vehicles on a pool basis.

(v) Persons operating any facility or activity named in subparagraph (8) of this paragraph shall implement the appropriate plans specified in subparagraph (8) for the declared stage 1 episode and air contaminant(s).

(10) The following actions shall be taken in the source and receptor areas upon declaration of a stage 2 episode:

(i) The actions described in subparagraph (9)(i)–(iv) of this paragraph.

(ii) The Administrator shall request suspension of programs that involve physical exertion by participants using public parks or public recreational facilities located in receptor areas.

(iii) The burning of combustible refuse shall be postponed until the episode has been terminated.

(iv) The Administrator shall request the public to reduce the use of electricity by 10 percent.

(v) Persons operating any facility or activity named in subparagraph (8) of this paragraph shall implement the appropriate plans specified in subparagraph (8) for the declared stage 2 episode and air contaminant(s).

(11) The following actions shall be taken in the source and receptor areas upon declaration of a stage 3 episode:

(i) The actions described in subparagraphs (10)(i)–(iii) of this paragraph.

(ii) The Administrator shall request the public to reduce the use of electricity by 40 percent.

(iii) Persons operating any facility or activity named in subparagraph (8) of this paragraph shall implement the appropriate plans specified in subparagraph (8) for the declared stage 3 episode and air contaminant(s).

(iv) For nitrogen dioxide, the general public, schools, industrial, business, commercial, and governmental activities throughout the District shall operate as though the day were a major national holiday.

(v) For particulate matter and/or sulfur dioxide/particulate matter combined, the Administrator shall request the public to reduce as much as possible activities causing dust emissions including agricultural operations, off-road vehicle use, and driving on unpaved roads.

(vi) Construction and demolition operation shall be postponed until the episode has been terminated.

(12) In the event specific sources or source areas within the SCAQMD are determined to significantly contribute to a declared air pollution episode in a nearby Air Pollution Control District, emission control actions specified in this paragraph for that declared episode stage shall be taken in the SCAQMD to abate that episode.

(13) A source inspection plan shall be implemented by the Administrator upon the declaration of any episode stage.

(14) Any person who violates the requirements of this paragraph shall be subject to enforcement action under section 113 of the Act.

[FR Doc.77-34348 Filed 11-29-77;8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 1003, 1130, 1134]

[Ex Parte No. MC-100 (Sub-No. 2)]

MOTOR CARRIER CERTIFICATES AND PERMITS; CONTROL OR CONSOLIDATION; LIST OF FORMS

Revision of Procedures Requiring Service of Applications on State Officials; Extension of Time

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time for submission of written comments pertaining to the proposed regulations.

SUMMARY: By FEDERAL REGISTER publication of October 4, 1977, (42 FR 53982–53984), the Interstate Commerce Commission proposed to revise the procedures for serving on State officials copies of applications for permanent motor carrier certificates and permits, applications to consolidate, merge, purchase, lease or control operating rights or properties of motor carriers, and applications for temporary authority to operate motor-carrier properties sought to be acquired under separately filed application under section 5 of the Interstate Commerce Act.

The time for filing written comments by interested persons was established as 30 days from the date of publication in the FEDERAL REGISTER. The notice further called for service of the proposed rules on all State Public Utility Commissioners. Through inadvertence, this service was not accomplished. To afford these State officials the opportunity to be heard on the rules changes, the time for filing comments in the above-entitled proceeding has been extended from November 3, 1977 to December 15, 1977.

DATE: Comments should be filed with the Commission on or before December 15, 1977.

ADDRESSES: Send comments to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, Phone 202–375–7292.

By the Commission.

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

[FR Doc.77–34374 Filed 11–29–77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation No. A525]

COLORADO

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Colorado counties as a result of numerous intermittent hailstorms occurring May 3 through August 24, 1977:

Bent, Logan, Prowers, and Yuma.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR Part 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Richard D. Lamm that such designation be made.

Applications for emergency loans must be received by this Department no later than May 15, 1978, for physical losses and November 16, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 21st day of November 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 77-34297 Filed 11-29-77; 8:45 am]

[3410-07]

[Notice of Designation No. A526]

LOUISIANA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Louisiana Parishes as a result of drought May 1 through July 31, 1977, and excessive rainfall (with wind) August 1 through September 20, 1977, in Acadia Parish; drought May 1 through July 31, 1977, in Red River Parish; drought April 1 through June 30, 1977, excessive rainfall July 15 through September 30, 1977, and a tornado and flooding September 5, 1977, in Tangipahoa Parish; and drought May 1 through July 31, 1977, excessive rainfall August 1, through September 20, 1977, and hail June 6, 1977, in Vermilion Parish.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR Part 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Edwin W. Edwards that such designation be made.

Applications for emergency loans must be received by this Department no later than May 15, 1978, for physical losses and November 16, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 23d day of November 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 77-34298 Filed 11-29-77; 8:45 am]

[3410-07]

[Notice of Designation No. A527]

MARYLAND

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Maryland counties as a result of severe drought conditions March 15 through September 15, 1977:

Allegany, Queen Annes, and Washington.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR Part 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Blair Lee III that such designation be made.

Applications for emergency loans must be received by this Department no later than May 15, 1978, for physical losses and November 16, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 21st day of November 1977.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc. 77-34299 Filed 11-29-77; 8:45 am]

[3410-07]

[Notice of Designation Number A528]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Texas Counties as a result of intermittent hail, high winds, excessive rainfall, and tornadoes May 5 through June 20, 1977, in Carson County and extreme drought in Falls County April 15 through October 6, 1977 and in Lee County May 1 through October 12, 1977.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR Part 1904 Subpart C, Exhibit D, Paragraph VB, including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than May 15, 1978, for physical losses and November 16, 1978, for production losses, except that quali-

fied borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 21st day of November 1977.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc. 77-34300 Filed 11-29-77; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Order 77-11-07]

CALGARY TRANSPORTATION AUTHORITY, ET AL.

Certificates of Public Convenience and Necessity; Order on Reconsideration of Petition and Applications

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22nd day of November 1977.

In the matter of petition of the Calgary Transportation Authority and the Edmonton Area Air Services Commission (Docket 31036); and applications of Braniff Airways, Inc., Alaska Airlines, Inc., and Texas International Airlines, Inc. (Dockets 25217, 25558, and 30750, 31178) for amendment of their certificates of public convenience and necessity.

By Order 77-9-49, September 15, 1977, the Board denied the petition for investigation and motion for hearing of the Calgary Transportation Authority and the Edmonton Area Air Services Commission (the Canadian parties) to determine whether the public convenience and necessity require the certification of a U.S.-flag carrier to serve the Houston/Dallas/Ft. Worth-Calgary/Edmonton-Anchorage/Fairbanks route provided for by the 1974 air transport agreement between the United States and Canada. Additionally, the Board dismissed without prejudice applications filed by Braniff Airways and Alaska Airlines requesting Texas-Alberta-Alaska authority, pursuant to the mandatory dismissal of stale applications provision of the rule 911(b) of the Board's rules of practice.

On October 7, 1977, the Canadian parties filed a petition requesting reconsideration of the Board's decision. In support of their petition, the Canadian parties argue that the Board took an extremely narrow view of the traffic potential over the Texas-Alberta-Alaska route, failing to consider adquately growth rates, beyond-segment traffic support, and stimulation resulting from improvements in service. Additionally, the petitioners contend that the Board failed to address the implications of the U.S.-Canada agreement to construct the Alaska-Canada natural gas pipeline project (the Alcan project) in reaching its decision. The petitioners assert that the Alcan project will generate a new and substantial demand for air transportation between Texas and Calgary/Edmonton.

We will deny the Canadian parties' petition for reconsideration.[1] They have not demonstrated any error in our original determination or presented matters which were not considered in Order 7-79-49 or which would otherwise warrant grant of the relief sought.

The Canadian parties' contention that we took an unduly conservative view of the traffic potential of the Texas-Alberta-Alaska route misses the mark. A careful reading of our opinion reveals that we declined to speculate about the viability of single-plane service over the route or to forecast potential traffic support. Rather, the Board, focusing on the current traffic and service in the markets in issue, determined that there was no pressing need for single-plane service at the present time. Consequently, in view of our limited hearing resources, we determined that an immediate hearing on the Texas-Alberta-Alaska route was not warranted. The petitioners' argument that we failed to consider the stimulative implications of the Alcan project is equally unpersuasive. As noted in the Canadian parties' petition, the Board was advised of, and considered, the agreement to construct the Alcan project in reaching its decision in Order 77-9-49. Should it become clear in the future that the demands of the Alcan project, as well as other public interest considerations, warrant a hearing into the service needs of the Texas-Alberta-Alaska route, and there is civic and carrier interest, the Board will not hesitate to act accordingly. For now, we stand by our determination that our resources can be better employed elsewhere.

Accordingly, *it is ordered*, That:

1. The petition for reconsideration of the Calgary Transportation Authority and the Edmonton Area Air Service Commission be denied;

2. The motion to defer decision of the Calgary Transportation Authority and Edmonton Area Air Services Commission be denied; and

3. A copy of this order shall be served upon all persons listed in the certificate of service attached to the petition for investigation of the Calgary Transportation Authority and the Edmonton Area Air Services Commission, in Docket 31036.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[2]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 77-34332 Filed 11-29-77; 8:45 am]

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[1] On November 18, 1977, the Canadian parties filed a motion to defer decision on their petition for reconsideration. In support of their request, they note that Continental Air Lines and Western Air Lines recently have filed an interchange proposal for single-plane service over a Calgary-Denver-Houston route (Docket 31329), while Braniff and Western filed another interchange agreement providing for Edmonton-Calgary-Denver-Dallas/Ft. Worth single-plane service (Docket 31659). The Canadian parties argue that deferral of decision on their petition will permit the Board the option of simultaneously considering the question of nonstop authority over the Texas-Alberta-Alaska route in the event that we determine that a hearing on the interchange proposals is warranted. We shall deny the Canadian parties' motion. It is well settled that the Board has broad discretion to reasonably fashion the scope of its hearings in a manner conducive to the efficient use of its resources. The Board is not foreclosed by our actions taken in this order from considering the simultaneous hearing of the interchange proposals and pending carrier requests for nonstop authority over the Texas-Alberta-Alaska route at a future date.

[6320-01]

[Docket 30777, Agreement C.A.B. 26982, R-1 through R-3; Order 77-11-84]

INTERNATIONAL AIR TRANSPORT ASSOCIATION; TRAFFIC CONFERENCE 2

Order Relating to Passenger Fares

Issued under delegated authority November 18, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act), and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of Traffic Conference 2 (Europe/Africa/Middle East), of the International Air Transport Association (IATA). The agreement, adopted by mail vote, has been assigned the above CAB agreement number.

The agreement would specify first-class, economy-class, and creative fares between Mogadishu and the Seychelles. We will approve those portions of the agreement dealing with normal first-class and economy fares which are combinable with fares to/from United States points and thus have indirect application in air transportation as defined by the Act. Jurisdiction will be disclaimed on the creative fare which is not similarly combinable and thus has no application in air transportation.

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[2] All Members concurred except Vice Chairman O'Melia who was not present.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14:

1. It is not found that the following resolutions, incorporated in the agreement as indicated and which have indirect application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

Agreement CAB	IATA No.	Title	Application
26982:			
R-1	052	TC2 First-Class Fares (Amending)	2.
R-2	062	TC2 Economy-Class Fares (Amending)	2.

2. It is not found that the following resolution, incorporated in the agreement as indicated, affects air transportation within the meaning of the Act:

Agreement CAB	IATA No.	Title	Application
26982:			
R-3	072b	TC2 Creative Fares Except Europe (Amending)	2.

Accordingly, *it is ordered*, That:

1. Those portions of Agreement CAB 26982 described in finding paragraph 1 above and which have indirect application in air transportation as defined by the Act are approved; and

2. Jursdiction is disclaimed with respect to that portion of Agreement CAB 26982 described in finding paragraph 2 above.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

CRAIG LINDSAY,
Acting Secretary.

[FR Doc. 77-34329 Filed 11-29-77; 8:45 am]

[6320-01]

[Docket 30938; Order 77-11-127]

PACIFIC COMMON FARES INVESTIGATION

Reconsideration of Order 77-5-157

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23rd day of November 1977.

This investigation currently concerns the lawfulness of common fares for transpacific passenger air services. It was instituted by Order 77-5-157, dated May 27, 1977, after the issue of the lawfulness of these fares had been deferred in several previous orders. At that time we concluded that the investigation should encompass the common fares applicable between international and overseas points in the Pacific, on the one hand, and U.S. gateway points,[1] on the other. Petitions for reconsideration of this order and answers have been filed by Pan American World Airways, Inc. (Pan American) and the Puget Sound Traffic Association (PSTA). In addition, the Seattle-Tacoma Parties have filed a motion for expedited proceeding.[2] The purpose of this order is to dispose of the issues raised in these pleadings before the proceeding is set down for hearing.

Although styled as a petition for reconsideration, Pan American's filing essentially seeks clarification of the initiating order concerning the extent to which interior point traffic flows will be considered. The carrier asks the Board to decide expressly that the investigation will include an examination of the impact of eliminating Pacific common fares on the movement of traffic between interior U.S. points and points in the Pacific, because the elimination of mainland gateway common-faring will likely result in the shifting of a substantial amount of traffic to the least expensive routing via the most direct gateway, thus affecting its costs and revenue need.

PSTA asks that the scope of the investigation be expanded in two respects: to include, first, the issue of Pacific cargo common-rating and, second, an evaluation of the lawfulness of the various Board-approved IATA resolutions and tariff routing rules permitting passengers and cargo from interior U.S. points to move via more circuitous routings at fares and rates identical to the most direct routing. In support of its first request, PSTA argues that cargo common-rating is as important to the Seattle-Tacoma area as passenger common-faring; that the Board has previously recognized that cargo common-rating over the North/Central Pacific "* * * raises significant questions of possible preference and prejudice to Seattle shippers and consignees * * *";[3] that the Seattle/Tacoma area suffers continuing economic injury from cargo common-rating; that the Board is already committed to consider this issue in this investigation;[4] and that the consolidation of the common-faring and common-rating issues into a single proceeding will conserve the resources of both the Board and PSTA.

With respect to its second request, PSTA states that the current tariff rules and resolutions permitting the carriers to route passengers and cargo via more distant gateways at the more direct-service price level raise questions of unlawful preference and prejudice similar to those already under investigation; that the applicable rules and resolutions permit unlawful prejudice against the interior U.S.-Oriented passengers routing via the Seattle/Tacoma gateway and unlawful preference in favor of such passengers routing via the California gateways; that the Seattle/Tacoma gateway is prejudiced because of the resulting lessened volume of through traffic; that precisely the same results occur for cargo traffic; and that the inclusion of these routing resolutions and tariff rules will provide the Board with a thoroughly developed record and maximum decisional flexibility. Alternatively, the Board is asked to institute a separate proceeding to consider common-rating and the associated

[1] Since the order instituting this investigation does not clearly indicate which U.S. gateway points are included in this investigation, we are amending the ordering paragraph to reflect the fact that all continental U.S. gateways, including Alaska, are included.

[2] The Seattle-Tacoma Parties are composed of the Port of Seattle Commission, the City of Seattle, the County of King, the Seattle Chamber of Commerce, the City of Tacoma, and the Tacoma Chamber of Commerce, as well as the Puget Sound Traffic Association.

[3] Order 75-12-146, dated December 30, 1975.

[4] Order 76-9-13, dated September 2, 1976.

cargo rate construction and routing rules if the inclusion of the cargo issues would unduly expand this investigation and materially postpone decisions on the common-faring issues.

Pan American answers that it does not oppose PSTA's request for the inclusion of passenger fare construction and routing rules; that the investigation of these practices is consistent with its own view that the Board should consider the effect of eliminating common-faring on the interior point traffic flows; that Pacific cargo common-rating should not be included in the scope of this investigation; that a cargo common-rating investigation, if deemed necessary, should be conducted separately; that the inclusion of the cargo related issues and the interested parties would greatly expand the proceeding; that the cargo common-rating practice would receive less than full attention; that the issues presented are distinct inasmuch as cargo traffic moves on all-cargo as well as combination services and is less concerned with routings and stopovers; that the Board's ultimate decision with respect to passenger fares and cargo rates may be different; and that, therefore, the Board should follow the traditional practice of considering passenger fares and cargo rates in separate proceedings.

In reply PSTA states that it does not object to the Board's consideration of the effect of eliminating transpacific common-faring on the movement of interior U.S. point-Pacific passengers provided that the applicable tariff routing rules and IATA resolutions are also considered; that it takes exception to the carrier's assertion that interior point traffic movement would clearly be affected by the elimination of common-faring between the U.S. west coast, gateways and Pacific points; that contrary to Pan American's position common-faring exists on two levels, "local" west coast-Pacific fares and "through" interior point fares, and that the elimination of local common fares would not necessarily affect interior point fares or traffic movement; that, in this regard, the majority of transpacific SAM mail has continued to move via a less direct routing despite the absence of San Francisco/Seattle common-rating for this class of traffic;[5] and that Pan American incorrectly implies that it would be injured by a shift in interior point traffic movement if the Board were to eliminate only local west coast gateway common-faring.

By motion, the Seattle/Tacoma Parties have asked the Board to handle this proceeding expeditiously. In support of this request, they assert that Seattle gateway passengers are charged a substantial fare penalty vis-a-vis the more distant west coast gateways as a result of west coast-Oriented common fares; that the long-term trend towards mileage-related fares and rates is inexorable; that California-South Pacific air travelers will obtain fare reductions no longer available to Seattle passengers as a result of eliminating west coast-Hawaii common fares;[6] and, that they are not aware of any other case before the Board in which representatives of air passengers have complained that they are being systematically overcharged and discriminated against.

In consideration of these matters, we have determined that this investigation should be expanded to include the transpacific passenger fares for overseas and foreign air services to and from interior U.S. points, encompassing Alaskan points where applicable, and the arbitraries (add-ons) used in constructing these interior point fares, including the applicable routing rules and resolutions permitting circuitous transpacific service at the same price level as the most direct service price level. These fares embody a substantial departure from a mileage-basis, leading us to conclude that they may be unjust, unreasonable, unjustly discriminatory, unduly preferential and unduly prejudicial, or otherwise unlawful, and should be investigated. We also have decided to defer any investigation into the practice of transpacific cargo common-rating at this time. Finally, we have determined that this investigation of transpacific common fares, as expanded, should proceed promptly as a priority matter.

On the issues raised by interior point passenger fares, we believe that both Pan American and PSTA have advanced valid arguments for considering the effect of eliminating common fares on interior traffic flows through the gateways, as well as gateway origin or destination traffic, in this proceeding. The current practice in many markets is to establish identical transpacific fares from interior points over many routings irrespective of the gateway employed. While these identical fares are not strictly common fares, like the west coast gateway fares, the identical interior point fares are a factor affecting interior point traffic movement, which is a principal concern of this investigation. It follows logically also that any decision on our part to alter gateway common fares would ultimately have an impact on transpacific fares from interior U.S. points, and that adjustments to these fares are likely as a consequence of any such action. In our view, we can best measure and evaluate that impact and any necessary Board response by including these fares in this proceeding.

With regard to cargo common rates, we will deny PSTA's requests for investigation and inclusion. Certainly the common-rating of international and overseas transpacific cargo services parallels the common-faring practice to some extent; yet, cargo common-rating also involves separate issues and tariffs, requires additional parties, and raises distinct factual considerations which counsel against inclusion in this proceeding. Moreover, the inclusion of cargo common rates could divert the attention of the parties from the passenger common fares that are the primary focus of this investigation. Pan American has correctly noted that our traditional separation of passenger fare and cargo rate proceedings reflect these same concerns. We have also given great weight to the compelling concerns expressed by both PSTA and the Seattle-Tacoma Parties that we reach prompt decision on the common-faring issues presented, in view of the importance of these issues to the air travelers, communities, and carriers involved. We conclude, therefore, that this investigation should not be broadly expanded to include transpacific common-rating of cargo services.

We will instead defer the investigation of transpacific cargo common-rating sought by PSTA until the conclusion of this investigation. Although we continue to be concerned about the lawfulness of transpacific common rates, apparently established in substantial disregard for differences in distances involved, we feel that sound discretion requires that we defer the cargo common-rating investigation at this time. We often must make decisions about the proper allocation of our limited staff resources in exercising our regulatory responsibilities because we simply cannot pursue through concurrent investigations all of the matters that we might otherwise be inclined to review. The decision is not easy in this case, but we find ourselves ultimately persuaded by two factors: first, passenger common fares remain our foremost concern in the Pacific area[7] and, second, the principles and findings arrived at in this proceeding are likely to provide useful guidelines in later evaluating the law-

[5] Transatlantic, Transpacific, and Latin America Service Mail Rates Investigation, Docket 26487.

[6] Domestic Common Fares Investigation, Docket 27330; Order 77-6-21, dated June 6, 1977; Order 77-9-132, dated September 29, 1977.

[7] We note that the $544 million Pacific entity passenger revenues constitute 71.2 percent of the total American carrier Pacific passenger and freight revenues for the year ended march 31, 1977. Air Carrier Financial Statistics, Bureau of Accounts and Statistics, March 1977.

fulness of transpacific common rates.[8]

The carrier's petition also indirectly raises the question of the extent to which, if any, this investigation will consider the transpacific fare level. In our view, this investigation is intended to focus on the existing common fare structure and the related structure of interior point fares. Although the parties may demonstrate the economic impact of eliminating common fares on their respective interests in justification of the existing structure, we do not intend to review the overall revenue need of the carriers in this proceeding.

The expansion of the proceeding under this order will lengthen it to some extent. While we share the concern of PSTA and the Seattle-Tacoma Parties for its expeditious conduct, we also recognize that the proceeding must be broad enough in scope to enable us to evaluate fully the impact of the present fare structure and such alternatives as may be presented. We believe that our action in expanding the proceeding is consistent with our responsibilities and, therefore, that any delay in the conclusion of this investigation caused by this action will not be undue.

Accordingly, it is Ordered, That:

1. Ordering paragraph 1 of Order 77-5-157 be amended by inserting the word "continental" between the words "and" and "United" on line 3 of that paragraph;

2. The scope of the investigation in Docket 30938 be expanded to include an investigation to determine whether the fares between points in the North, Central and South Pacific areas, on the one hand, and continental United States interior points on the other, via the Pacific, applicable to overseas and foreign air transportation, and rules, regulations, and practices affecting such fares, including revisions thereto and reissues thereof, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful, and if found to be unlawful, in connection with foreign air transportation to take action to prevent the use of such fares, and provisions or rules, regulations, and practices, and in connection with overseas air transportation to determine and prescribe the lawful maximum or minimum, or maximum and minimum fares, and rules, regulations, and practices affecting such fares;

3. The investigation will include the issue of whether resolutions of the International Air Transport Association which establish or provide for the establishment of common fares between points in the North, Central, and South Pacific areas, on the one hand, and continental United States gateways, on the other, and which establish or provide for the establishment of fares between points in the North, Central, and South Pacific area, on the one hand, and continental United States interior points, on the other, for passenger services via the Pacific, are adverse to the public interest or in violation of the Federal Aviation Act of 1958 as amended;

4. To the extent not granted here; the petitions for reconsideration and answers filed by Pan American World Airways, Inc., and the Puget Sound Traffic Association, be denied;

5. To the extent not granted herein the motion for expedited proceeding filed by the Seattle-Tacoma Parties be denied;

6. Copies of this order will be served upon Air Micronesia, Inc.; Air New England, Inc.; Alaska Airlines, Inc.; Allegheny Airlines, Inc.; American Airlines, Inc.; Braniff Airways, Inc.; Delta Air Lines, Inc.; Eastern Air Lines, Inc.; Frontier Airlines, Inc.; Hughes Air Corp. d/b/a Hughes Airwest; National Airlines, Inc.; New York Airways, Inc.; North Central Airlines, Inc.; Ozark Air Lines, Inc.; Piedmont Aviation, Inc.; SFO Helicopter Airlines, Inc.; Southern Airways, Inc.; Texas International Airlines, Inc.; Trans World Airlines, Inc.; United Air Lines, Inc.; Western Air Lines, Inc., and Wien Air Alaska, Inc., which are made parties to this investigation;

7. Copies of this order shall be served on all parties to Docket 30938 and upon the City of Portland, the Portland Chamber of Commerce, the Portland Freight Traffic Association, the Port of Portland, the State of Hawaii, the Seattle-Tacoma Parties, and the Puget Sound Traffic Association.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[9]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 77-34333 Filed 11-29-77; 8:45 am]

[8] We regard this decision as consistent with Order 76-9-13, contrary to the assertion of PSTA that we are committed to investigate common rates in this proceeding as a result of that order. We indicated at that time that any decision to review transpacific common fares, as recommended by the administrative law judge in the Domestic Common Fares Investigation, supra, would involve legal issues which would, necessarily, provide considerable insight into similar issues raised by transpacific common rates (p. 14). Indeed, this same reasoning applies above to our decision to defer investigation of common cargo rates until transpacific common fares have been evaluated.

[9] All Members concurred.

[6320-01]

[Dockets 31493 and 31494; Order 77-11-103]

SOUTHERN AIRWAYS, INC.

Application for amendment of certificate of public convenience and necessity for Route 98 and request to operate nonstop flights between Atlanta, Ga. and Jackson, Tenn.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of November 1977.

In the matter of application of Southern Airways, Inc. for amendment of its certificate of public convenience and necessity for Route 98 (Docket 31493), and application of Southern Airways, Inc. for an exemption under section 416(b) of the Federal Aviation Act of 1958, as amended (Docket 31494).

On October 7, 1977, Southern Airways filed an application in Docket 31493 for an amendment of its certificate for Route 98 so as to add Jackson, Tenn., as an intermediate point between the terminal point Memphis, Tenn., and the intermediate point Muscle Shoals-Florence-Sheffield-Tuscumbia, Ala. on segment 2.[1] The carrier also filed a request in Docket 31494 for an exemption under section 416(b) of the Act to permit it to operate nonstop flights between Atlanta, Ga., and Jackson, Tenn., until 60 days after final Board action on its certificate amendment request in Docket 31493.[2]

In support of its exemption application, Southern states that it has one-stop authority between Jackson and Atlanta; that nonstop authority is needed for its integrated program to introduce it new Metro II aircraft to small communities such as Jackson; that this program is designed to ensure that small communities continue to receive the benefit of certificated air service; and that since Southern is the only certified carrier serving Jackson, there will not be any adverse

[1] Southern is authorized to serve Jackson on segment 4: Memphis; Jackson; Muscle Shoals-Florence-Sheffield-Tuscumbia; Huntsville; Chattanooga; Nashville; Knoxville; Bristol-Kingsport-Johnson City. Segment 2 currently reads as follows: Memphis; Muscle Shoals-Florence-Sheffield-Tuscumbia; Decatur; Huntsville; and (a) beyond Huntsville, the alternate intermediate points Birmingham or Atlanta, the intermediate points Columbus; Albany; Moultrie-Thomasville; Valdosta; and Jacksonville; and (b) beyond Huntsville, the intermediate points Birmingham; Montgomery; Dothan; Eglin Air Force Base; Panama City; Tallahassee; and (i) beyond Tallahassee, Orlando and Miama-Ft. Lauderdale; and (ii) beyond Tallahassee, Jacksonville. The carrier has not filed a motion for show cause or for a hearing of its certificate amendment application.

[2] Under its route structure, Southern is required to serve a segment junction point on all flights between Jackson and Atlanta.

impact on any other carrier. It asserts that Jackson will become a direct beneficiary of this program, with Jackson-Memphis frequencies increasing from six to eight and Jackson-Nashville frequencies from four to six. In addition, it states that the grant of its exemption request will permit direct nonstop service between Jackson and Atlanta, the largest connecting complex in the Southeast.

No answers have been filed.

We have decided (1) to issue an order to show cause why Southern's certificate for Route 98 should not be amended under section 401(g) so as to add Jackson, Tennessee, as an intermediate point on segment 2, and (2) to grant Southern's exemption request pending completion of the certification procedures.

We tentatively conclude that the public convenience and necessity require the proposed amendment to Southern's certificate.[3] In support of our ultimate determination, we make the following tentative findings and conclusions.

Amendment of Southern's certificate to add Jackson as an intermediate point on segment 2 will permit the carrier greater operating flexibility to provide additional and improved service as market needs require between Jackson and other points on its system in the Southeast, particularly Atlanta. Although Atlanta ranks third among Jackson's markets, Southern is unable to provide nonstop service in the market because of the carrier's route structure. Amendment of its certificate as proposed would enable Southern to provide nonstop service in the Atlanta-Jackson market as well as to provide improved connecting service through this major large hub to the entire air transportation system. This improved operating authority will therefore benefit the traveling public as well as the carrier. Further, since Southern is the only carrier certified to serve Jackson, the proposed amendment will not significantly affect any other carrier.

We also find that it would be in the public interest to exempt Southern from the terms and limitations of its certificate so as to authorize it to provide nonstop air transportation of persons, property and mail between Atlanta and Jackson pending final action on its certificate amendment application in Docket 31493. We find that the proposed operations will provide significant public benefits because of the improved service and convenience to travelers and shippers. We also conclude that grant of this authority will assist the carrier in instituting and developing its program of service with Metro II aircraft to small communities without adversely affecting any other air carrier. Accordingly, we find that enforcement of section 401 of the Act and the terms, conditions, and limitations of Southern's certificate for Route 98, to the extent that they would otherwise prevent Southern from operating nonstop flights between Atlanta and Jackson, would be an undue burden on it by reason of the limited extent of, and unusual circumstances affecting, its operations in this instance and is not in the public interest.

Finally, we have determined that, in view of our tentative findings and conclusions, we will require Southern to file within 20 days of the date of adoption of this order an environmental evaluation with respect to the certificate amendment being proposed.[4]

Interested persons will be given 30 days following the date of this order to show cause why the tentative findings and conclusions set forth above should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail what he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, *it is ordered*, That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending the certificate of public convenience and necessity of Southern Airways, Inc., for Route 98 so as to add the intermediate point Jackson, Tenn., between Memphis, Tenn., and Muscle Shoals-Florence-Sheffield-Tuscumbia, Ala., on segment 2;

2. Any interested person having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth in this order shall, within 30 days after the date of adoption, file with the Board and serve upon all persons listed in paragraph 9, a statement of objections together with a summary of testimony, statistical data and other evidence expected to be relied upon to support the stated objections; answers to objections shall be filed within 10 days of such date;[5]

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth in this order;

5. Southern Airways, Inc., be exempted temporarily from the provisions of section 401 of the Act and the terms, conditions, and limitations of its certificate of public convenience and necessity for Route 98 to the extent necessary to permit it to provide nonstop service between Atlanta, Ga., and Jackson, Tenn.;

6. The portion of the flights between Atlanta, Ga., and Jackson, Tenn., authorized in paragraph 5 shall be ineligible for subsidy;

7. The authority granted in paragraph 5 shall be effective on December 1, 1977, and shall continue until 60 days after final decision in Docket 31493;

8. Southern Airways, Inc., shall file in Docket 31493 an environmental evaluation under section 312.12 of the Board's regulations within 20 days of this order;

9. A copy of this order will be served upon Braniff International Airways, Inc.; Delta Air Lines, Inc.; Eastern Air Lines, Inc.; National Airlines, Inc.; Northwest Airlines, Inc.; Piedmont Aviation, Inc.; Trans World Airlines, Inc.; United Air Lines, Inc.; Mayor of Jackson, Tenn.; Mayor of Atlanta, Ga.; Airport Manager, McKellar Field; Airport Manager, Hartsfield Atlanta International Airport; Governor of Tennessee; Governor of Georgia; Georgia Department of Transportation; Tennessee Department of Transportation; and the Postmaster General; and

10. The exemption authority granted in this order may be amended or revoked at any time in the discretion of the Board without hearing.

This order will be published in the FEDERAL REGISTER.

[3] We further find that Southern is a citizen of the United States within the meaning of the Act and is fit, willing, and able to perform properly the transportation under the amended certificate proposed and to conform to the provisions of the Act and the Board's rules, regulations, and requirements. We also tentatively find that the proposed new authority should be granted on a subsidy-ineligible basis.

[4] We find that the operations proposed by the carrier under the exemption authority would not result in a significant impact on the quality of the human environment.

[5] All motions and/or petitons for reconsideration shall be filed within the period allowed for filing objections and no further such motions, requests, or petitions for reconsideration of this order will be entertained.

By the Civil Aeronautics Board.[6]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 77-34330 Filed 11-29-77; 8:45 am]

[6320-01]

[Docket 31206; Order 77-11-106]

WILSON & CO. AB (SWEDEN)

Application for Permit To Engage in Indirect Foreign Air Transportation of Property; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of November 1977.

By application filed July 28, 1977, Wilson & Co. AB (Sweden) d.b.a. Wilson Air Freight, Inc. (U.S.A.), requests issuance of a foreign air carrier permit authorizing it to engage in the indirect air transportation of property from any point or points within the United States to any point or points outside the United States.[1] On August 29, 1977, Wilson & Co. AB filed a motion for an order to show cause why its application should not be granted. The applicant states that it is a Swedish citizen, that all of its stock is owned by Swedish citizens, and that neither the government of Sweden nor any other government has any interest, beneficial or otherwise, in the applicant nor exercises any control over it. Wilson & Co. AB also states that it is an ongoing, profitable enterprise meeting a public need. No answers have been received to either the application or the motion.

BACKGROUND

Wilson & Co. AB (Wilson) owns 25 percent of the outstanding stock of Wilson Air Freight, Inc. (Air Freight), a New York corporation.[2] Air Freight is an international air freight forwarder holding CAB operating authorization No. 330. The remaining 75 percent of Air Freight's stock is owned by the estate of its founder and president, Mr. Torsten Frosberg, and by his widow, Beatrice Frosberg. After Mr. Frosberg's death on January 9, 1976, Wilson AB agreed to purchase from Mrs. Frosberg and the estate of Mr. Frosberg their entire interest in Air Freight. This agreement also provides that Wilson AB will obtain from the Board a foreign indirect air carrier permit and that Air Freight will surrender its air freight forwarder authorization and become a foreign indirect air carrier as a wholly owned subsidiary of Wilson AB. All Air Freight stock has been placed in escrow pending Board disposition of the application, but there has been as yet no change in the management or control of Air Freight; the beneficial owners have retained all voting powers. By these transactions Wilson would retain the use of its name in its U.S. airfreight business and continue to support the operation with its considerable assets and expertise. Moreover, the orderly settlement of the estate is desired to be the stock's sellers.

OWNERSHIP AND CONTROL

Wilson is engaged in the business of freight forwarding, affreightment and ship's agency, and other related activities. Formed in 1843 as a transport company, Wilson is today a corporation organized and existing under the laws of the Kingdom of Sweden, with its principal office in Gothenburg. Wilson is owned 50 percent by its President, Mr. Carl Wilhelm Kjellberg, a Swedish citizen, and 50 percent by Stockholms Rederiaktiebolag Svea (Svea). Svea is a Swedish corporation engaged in the business of shipowner. All the officers and directors of Wilson are Swedish citizens. The applicant also states that neither the government of Sweden nor any other government has any interest, beneficial or otherwise, in it or exercises any control over it. We tentatively conclude that Wilson is substantially owned and effectively controlled by citizens of Sweden.

FINANCIAL AND OPERATIONAL FITNESS

Wilson's balance sheet as of December 31, 1976, shows an operating profit of 6,619,000 Swedish crowns and a net profit of 830,000 crowns. In addition to the sound financial condition of the parent company, compliance with sec. 296.52 of the Board's economic regulations assures adequate insurance coverage for operations carried on in the United States. Wilson also states that it will encourage the expansion of Air Freight's services to other American cities in addition to New York. It is expected that branch offices will be opened at Baltimore, Chicago, Norfolk, Detroit, and Dallas/Ft. Worth within three years. Thus, we tentatively conclude that the applicant meets all of the fitness requirements of section 402 of the Act.

CONTROL RELATIONSHIP

Wilson currently conducts air freight forwarding operations through its subsidiary inter-Scandanavian Airfreight AB (ISA). ISA, headquartered at Arlanda Airport, Stockholm, offers a full range of air freight forwarding services between the Scandanavian countries, particularly Sweden, and all parts of the world, including an inward air freight forwarding service to the United States. Through its subsidiary, Wilson's American Company, Wilson AB in 1976 handled 181 metric tons of air cargo in the United States as an IATA cargo sales agent. Wilson is a party to a Sales Agency Agreement with all IATA airlines (providing for direct air freight handling) and also to special agreements with IATA airlines and agents for consolidation of traffic to many destinations.[3]

In support of its application, Wilson states that Air Freight will accept affiliates of Wilson as customers on the same basis as nonaffiliates, that they will be charged according to the terms and provisions of tariffs to be filed with the Board and that they will be given no preferences within the meaning of the Act.

We tentatively find that Air Freight is an indirect air carrier and that Wilson is a person acquiring control of an air carrier, all within the meaning of section 408(a)(5) of the Act, and that this control relationship is subject to that section. However, we also tentatively find (1) that the transaction will not affect the control of an air carrier directly engaged in the operation of the aircraft in air transportation; (2) that the transaction does not result in creating a monopoly or tend to restrain competition; and (3) that no person has requested a hearing. Therefore, we tentatively find that approval of the control relationship, pursuant to the third proviso of section 408(b) of the Act, is in the public interest.

INTERLOCKING RELATIONSHIPS

Wilson proposes to add three new directors to Air Freight's management. One of these, Mr. Per Vranum, is also the president of Wilson's Customs Clearance and of Wilson's American Co. The former, a New York corporation, is the holder of Custom House Broker's License No. 3426. The latter, also a New York corporation, is the holder of FMC License No. 224 authorizing it to engage in the business of independent ocean freight forwarding. Of the remaining two proposed directors, Christian Ovesen is also a director of Svea and Halcan Larsson is a director of ISA. In view of our previous tentative approval, above, of the acquisition of Wilson Air Freight under section 408, and under sec. 287.2 of the Board's economic regulations, we tentatively exempt these interlocking relationships, to the extent they are subject to section 409(a)(3) of the Act.

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[6] All Members concurred except Vice Chairman O'Melia who was not present.

[1] Wilson & Co. AB also requests Board approval of a control relationship under section 408 and exemption of certain interlocking relationships to the extent they are subject to section 409.

[2] This ownership arrangement was approved by the Board in Order 74-4-112, April 12, 1974.

[3] Application at 7 and exhibit L.

PUBLIC INTEREST

On the basis of comity and reciprocity, it is tentatively concluded that it is in the public interest to grant Wilson a permit. There are no limitations within the Kingdom of Sweden on allowing access to United States companies operating in Sweden. In fact Emery Airfreight Corp. is currently engaged in the air freight business in Stockholm. Moreover, it is Board policy to encourage freedom of entry for indirect foreign air transportation.

We have tentatively determined, therefore, to grant Wilson AB an indirect air carrier permit for a period of five years.

The Board tentatively finds:

1. That Wilson AB is wholly owned and effectively controlled by nationals of Sweden;

2. That it is in the public interest to grant a foreign air carrier permit to Wilson & Co. AB (Sweden) d.b.a. Wilson Air Freight, Inc. (U.S.A.), authorizing it to engage in the indirect air transportation of property from any point or points in the United States to any point or points outside the United States;

3. That it is in the public interest to approve the acquisition of the remaining outstanding shares of Air Freight by Wilson AB, the transaction not affecting the control of an air carrier directly engaged in the operation of aircraft in air transportation or resulting in the creation of a monopoly nor tending to restrain competition, and that an evidentiary hearing on this matter is not required in the public interest;

4. That the interlocking relationships described in the application should be exempted pursuant to sec. 287.2 of the Board's economic regulations and the section 408 approval granted in paragraph 3, above;

5. That the public interest requires that the exercise of the privileges granted by the permit shall be subject to the terms, conditions, and limitations contained in the specimen form of permit attached to this order, those set forth below in paragraphs a, b, c, d, and e, and to such other reasonable terms, conditions and limitations required by the public interest as may from time to time be prescribed by the Board:

(a) The holder, with respect to the use of aircraft, shall be subject to the provisions of section 296.21, 296.22, and 296.23 of the Board's Economic Regulations, or as amended;

(b) The holder shall comply with the insurance coverage provisions of section 296.52 of the Board's economic regulations, or as amended, except that it shall not be necessary for the holder to provide public liability insurance for its operations outside the United States;

(c) In using the authority granted herein (1) the name Wilson & Co. AB (Sweden) d.b.a. Wilson Air Freight, Inc. (U.S.A.), shall appear on all of the holder's advertising, airwaybills, stationery, and the like; (2) the above name will always be used in its entirety; and (3) the name Wilson & Co. AB (Sweden) shall be displayed at least as prominently as the name Wilson Air Freight, Inc. (U.S.A.);

(d) The holder shall comply with the applicable record retention provisions of Part 249 B and with section 9 of Part 244 of the Board's economic regulations, and shall file such other reports regarding the activities authorized by its permit, or activities reasonably related thereto, as the Board may from time to time require;

(e) This permit will issue upon the surrender by the holder of C.A.B. Operating Authorization No. 330 and upon (1) the purchase of Wilson Air Freight, Inc., from the estate of Torsten Forsberg and from Beatrice Forsberg, and (2) the provision of a pension for Beatrice Forsberg, as described in the agreements accompanying the application.

5. That Wilson & Co. AB (Sweden) d.b.a. Wilson Air Freight, Inc. (U.S.A.) is fit, willing, and able properly to perform the above-described foreign air transportation, and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder;

6. That an evidentiary hearing is not required in the public interest; and

7. That the grant of a permit to the applicant is not a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, and will not be inconsistent with the policy objectives of the Energy Policy and Conservation Act of 1975 (EPACA).

Accordingly, *it is ordered*, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions and (a) approve the purchase of the remaining shares of Wilson Air Freight, Inc. by Wilson & Co. AB; (b) exempt the interlocking relationships detailed here, to the extent that they are subject to section 409(a)(3) of the Act; and (c) issue a foreign air carrier permit to Wilson & Co. AB (Sweden) d.b.a. Wilson Air Freight, Inc. (U.S.A.), for a period of five years, subject to the approval of the President pursuant to section 801 of the Act;

2. Any interested person having objection to the issuance, without hearing, of an order making final the tentative findings and conclusions stated herein shall file a statement of objections supported by evidence within 21 days after the adoption of this order. If an evidentiary hearing is requested the objector should state in detail why a hearing is considered necessary and what relevant and material facts he would expect to establish through such hearing which cannot be established in written pleadings;

3. If timely and proper objections are filed, further consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;[4]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. Copies of this order shall be served upon Wilson & Co. AB (Sweden) d.b.a. Wilson Air Freight, Inc. (U.S.A.), and the Ambassador of Sweden in Washington, D.C.

This order will be published in the FEDERAL REGISTER and will be transmitted to the President. A copy of the order will be furnished to the Attorney General of the United States not later than one day following the date of its publication.

By the Civil Aeronautics Board.[5]

PHYLLIS T. KAYLOR,
Secretary.

SPECIMEN PERMIT

PERMIT TO FOREIGN INDIRECT AIR CARRIER

Wilson & Co. AB (Sweden) d.b.a. Wilson Air Freight, Inc. (U.S.A.), is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage indirectly in foreign air transportation of property from any point or points in the United States to any point or points outside the United States.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting the right to engage in indirect air transportation of property now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Sweden shall be parties.

This permit shall be subject to the condition that in the event that any practice develops which the Board regards as inimical to sound economic conditions, the holder and the Board will consult with respect thereto and will use their best efforts to agree upon modifications thereof satisfactory to the Board and the holder.

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[4] Since provision is made for filing of objections to this order, petitions for reconsideration will not be entertained.

[5] All Members concurred except Vice Chairman O'Melia who was not present.

The exercise of the privileges granted hereby shall be subject to the terms, conditions, and limitations set forth in order dated ———— and to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

By accepting this permit the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

This permit shall become effective on ———— and shall terminate on ————. *Provided, however,* That if during said period the operation of the foreign air transportation herein authorized becomes the subject of any treaty, convention, or agreement to which the United States and Sweden are or shall become parties, then and in that event this permit shall continue in effect during the period provided in such treaty, convention, or agreement.

In witness whereof, the Civil Aeronautics Board has caused this permit to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the ————.

————,
Secretary.

Issuance of this permit to the holder approved by the President of the United States on ———— in ————.

[FR Doc. 77-34331 Filed 11-29-77; 8:45 am]

[6320-01]

[Docket 30332; Agreement CAB 26983 R-1 and R-2; Order 77-11-90]

JOINT TRAFFIC CONFERENCES OF THE INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreement Relating to Special Commodity Rates

NOVEMBER 18, 1977.

Issued under delegated authority November 18, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act), and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement extends various specific commodity rates under an existing commodity description as shown in the Attachment, and adds one new rate with a new specific commodity description as set forth below, reflecting reductions from general cargo rates; and was adopted pursuant to unprotested notice to the carriers and promulgated in an IATA letter dated October 24, 1977.

Agreement C.A.B. 26983	Specific Commodity Item No.	Description and Rate[1]
R-1	6002	Chemicals, Dyes, Fertilizers, Insecticides, Paints Pigments, Varnishes, Drugs, Pharmaceuticals, Medicines, Cosmetics, Soaps, Toilet Preparations and Articles, Perfumes, Essential Oils, (Bottles, Packaging, Printed Advertising Material and/or Advertising Sets Appertaining Thereto Only When Shipped With One of the Main Articles Mentioned Above) Gums Resins and Plastics Solely in the Form of Sheets, Slabs, Rods, Tubings, Powder and Other Unfinished Forms. 256 cents per kg.,[2] minimum weight 1,000 kgs. From New York to Tehran.
R-2		See Attachment.

[1]Subject to applicable currency conversion factors as shown in tariffs.
[2]Expires September 30, 1978.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions ordered.

Accordingly, *It is ordered,* That:

Agreement CAB 26983, R-1 and R-2, is approved, provided that (a) approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

CRAIG LINDSAY,
Acting Secretary.

AGREEMENT CAB 26983 (R-2)

RATES EXTENDED UNDER EXISTING COMMODITY DESCRIPTIONS

IATA commodity item No.[1]	Specific commodity rate		Market
	Cents per kg.	Minimum weight (kgs.)	
7107	127	100	Amsterdam to/from New York.
	91	300	Do.
	127	100	Barcelona to/from New York.
	91	300	Do.
	123	100	Belfast to/from New York.
	85	300	Do.
	134	100	Belgrade to/from New York.
	98	300	Do.
	134	100	Bergen to/from New York.
	98	300	Do.
	132	100	Berlin to/from New York.
	96	300	Do.
	131	100	Bremen to/from New York.
	95	300	Do.
	127	100	Brussels to/from New York.
	91	300	Do.
	126	100	Cardiff to/from New York.
	90	300	Do.
	127	100	Cologne to/from New York.
	91	300	Do.
	131	100	Copenhagen to/from New York.
	95	300	Do.

AGREEMENT CAB 26983 (R-2)—Continued

RATES EXTENDED UNDER EXISTING COMMODITY DESCRIPTIONS—CONTINUED

IATA commodity item No.[1]	Specific commodity rate		Market
	Cents per kg.	Minimum weight (kgs.)	
7107	123	100	Dublin to/from New York.
	85	300	Do.
	131	100	Frankfurt to/from New York.
	95	300	Do.
	125	100	Glasgow to/from New York.
	87	300	Do.
	134	100	Gothenburg to/from New York.
	98	300	Do.
	131	100	Hamburg to/from New York.
	95	300	Do.
	131	100	Hanover to/from New York.
	95	300	Do.
	140	100	Helsinki to/from New York.
	103	300	Do.
	132	100	Innsbruck to/from New York.
	96	300	Do.
	142	100	Istanbul to/from New York.
	104	300	Do.
	138	100	Kristiansand to/from New York.
	101	300	Do.
	132	100	Linz to/from New York.
	96	300	Do.
	125	100	Lisbon to/from New York.
	87	300	Do.
	125	100	London to/from New York.
	87	300	Do.
	127	100	Luxembourg to/from New York.
	91	300	Do.
	127	100	Madrid to/from New York.
	91	300	Do.
	133	100	Malmo to/from New York.
	97	300	Do.
	125	100	Manchester to/from New York.
	87	300	Do.
	131	100	Milan to/from New York.
	95	300	Do.
	132	100	Munich to/from New York.
	96	300	Do.
	131	100	New York to/from Nice.
	95	300	Do.
	132	100	New York to/from Nuremberg.
	96	300	Do.
	138	100	New York to/from Oslo.
	101	300	Do.
	127	100	New York to/from Paris.
	91	300	Do.
	132	100	New York to/from Prague.
	96	300	Do.
	133	100	New York to/from Rome.
	97	300	Do.
	121	100	New York to/from Shannon.
	84	300	Do.
	138	100	New York to/from Stavanger.
	101	300	Do.
	138	100	New York to/from Stockholm.
	101	300	Do.
	131	100	New York to/from Stuttgart.
	95	300	Do.
	143	100	New York to/from Tel Aviv.
	133	100	New York to/from Vienna.
	97	300	Do.
	133	100	New York to/from Warsaw.
	97	300	Do.
	133	100	New York to/from Zagreb.
	97	300	Do.

[1] See applicable tariffs for commodity description.

NOTE.—Rates are subject to applicable currency conversion factors as shown in tariffs.

[FR Doc.77-34209 Filed 11-29-77;8:45 am]

[1505-01]

[Order 77-11-39]

TRANSCONTINENTAL LOW-FARE ROUTE PROCEEDING, ET AL.

Applications; Order on Reconsideration

Correction

In FR Doc. 77-33367, appearing at page 59525, in the issue for Friday, November 18, 1977, the order number was omitted from the heading and should have read as set forth above.

[3510-24]

DEPARTMENT OF COMMERCE

Economic Development Administration

GREENFIELD COMPONENTS CORP.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Greenfield Components Corp., 184 Shelburne Road, Greenfield, Mass. 01301, a producer of electronic components, was accepted for filing on November 21, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 77-34338 Filed 11-29-77; 8:45 am]

[3510-03]

MARITIME ADMINISTRATION

[Docket No. S-584]

INGRAM OCEAN SYSTEMS INC.

Application

Notice is hereby given that application has been filed under the Merchant Marine Act, 1936, as amended (the Act), for an extension of its operating-differential subsidy contract with respect to bulk carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, which expires on December 31, 1977, unless extended. In connection with this application, the applicant is requesting a change in the written permission previously granted under section 805(a) of the Act to employ ships in the domestic intercoastal or coastwise service.

Ingram Ocean Systems Inc., operates two tug/barges units, the MV *Martha R. Ingram*, and its sister integrated tug/barge the MV *Carole G. Ingram*, in U.S. coastwise service. Ingram Barge Co., Ingram Barge Inc., and Ingram Materials Inc., affiliates of the applicant, operate towboats and barges on the inland waterways of the United States. Written permission pursuant to section 805(a) has previously been granted for the foregoing domestic operations. Ingram is now requesting written permission for the domestic operation of two additional wholly-owned affiliates as follows: Ingram Transportation Co., operates towboats and barges on the inland waterways of the United States and Ingram River Equipment Inc., charters inland waterways towboats and barges.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on December 9, 1977, file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

By Order of the Assistant Secretary for Maritime Affairs.

Dated: November 25, 1977.

ROBERT J. PATTON, Jr.,
Assistant Secretary.

[FR Doc. 77-34341 Filed 11-29-77; 8:45 am]

[3510-03]

[Docket No. S-585]

PRUDENTIAL LINES., INC.

Application

Notice is hereby given that Prudential Lines., Inc., in its application dated November 7, 1977, for a one-year interim operating-differential subsidy agreement, has requested permission to continue its present domestic privileges without change. Prudential Lines, Inc., has written permission under section 805(a) of the Merchant Marine Act, 1936, as amended, with respect to its passenger-cargo service on Trade Routes Nos. 23, 24, and 25, for the privilege of carrying passengers, their baggage, and automobiles between U.S. Pacific ports (Washington-California, inclusive) on regularly scheduled voyages of the C4-S1-49a (Magdalena-class) vessels assigned to this service. The company also has been granted written permission under section 805(a) for the operation of the tanker *Exxon Seattle* (ex-*Saroula*) in coastwise service by the Exxon Corp., which has bareboat chartered the vessel from The Skouras Lines., Inc., an affiliate of prudential Lines, Inc. The company has also been granted written permission under section 805(a) to render advice and assistance to The Delta Queen Steamboat Co., relative to the overall business and operation of vessels carrying passengers on the U.S. inland waterway system comprising the Mississippi and Ohio Rivers. However, such advice and assistance will terminate on or about February 20, 1978, and any continued written permission under section 805(a) associated with the agreement between Prudential Lines., Inc. and The Delta Queen Steamboat, Co., shall also terminate on or about February 20, 1978.

New written permissions will be required under section 805(a) of the Merchant Marine Act, 1936, as amended, to continue these authorizations if the application of Prudential Lines., Inc., for a new one-year interim subsidy agreement is approved.

Any person, firm, or corporation, having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on December 9, 1977, file same with the Secretary, Maritime Administation, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation, operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

By Order of the Assistant Secretary for Maritime Affairs.

Dated: November 25, 1977.

ROBERT J. PATTON, Jr.,
Assistant Secretary.

[FR Doc. 77-34340 Filed 11-29-77; 8:45 am]

[3510-49]

National Fire Prevention and Control Administration

ADVISORY COMMITTEE ON FIRE TRAINING AND EDUCATION FOR THE NATIONAL ACADEMY FOR FIRE PREVENTION AND CONTROL

Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

NAME: Advisory Committee on Fire Training and Education for the National Academy for Fire Prevention and Control (Committee).

DATE OF MEETING: January 5-6, 1978.

PLACE: The Grand Hotel, Canal Street, New Orleans, La.

TIME: 9 a.m. to 5 p.m.

PROPOSED AGENDA: January 5, 1978: Receive public comment; review first draft of final report; new business.—January 6, 1978: Continue review of first draft of final report; determine future requests of staff for finished draft of final report.

The meeting will be open to the public with approximately 20 seats available on a first-come-first-served basis.

Thursday, January 5, 1978, from 9 a.m. to 12 noon has been set aside for public comment, with participation on a first-come-first-served basis. Oral presentations shall be limited to 20 minutes per comment or proposal, with additional time being allowed by the Chairman at his discretion, if time permits. Advanced scheduling is encouraged and may be made by contacting: Ms. Jane Sornberger, National Fire Academy, National Fire Prevention and Control Administration, P.O. Box 19518, Washington, D.C. 20036, 202-634-7541, on or before December 30, 1977.

Minutes of the meeting will be prepared by the Committee and will be available for public viewing in Room 214, National Fire Prevention and Control Administration, 2400 M Street NW., Washington, D.C. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: November 21, 1977.

HOWARD D. TIPTON,
Administrator, National Fire Prevention and Control Administration.

[FR Doc. 77-34269 Filed 11-29-77; 8:45 am]

[3510-12]

National Oceanic and Atmospheric Administration

PACIFIC FISHERY MANAGEMENT COUNCIL; SCIENTIFIC AND STATISTICAL COMMITTEE; AND SALMON ADVISORY SUBPANEL

Meeting Location Change

Notice is hereby given of a change in the meeting location as published in the FEDERAL REGISTER November 8, 1977, Volume 42, Number 215, for the Pacific Fishery Management Council and its Scientific and Statistical Committee.

The December meeting of the Council and its Scientific and Statistical Committee initially scheduled to be held at the Cosmopolitan Motor Hotel, 1030 Northeast Union, Portland, Oreg., will now be held at the Hyatt House, located at 17001 Pacific Highway South, Seattle, Wash.

The Council will meet in the Phoenix Room (A and B), of the Hyatt House. The agenda dates and convening and adjourning times remain the same as previously announced.

The Scientific and Statistical Committee will meet in the Phoenix Room (E). The agenda, dates, and convening and adjourning times also remain unchanged.

Notice is hereby given that the Salmon Advisory Subpanel also will meet at the Hyatt House on December 14 and 15. On December 14, the meeting of the Subpanel will begin at 10 a.m. and adjourn about 5 p.m. On December 15, the meeting will convene at 8 a.m., and adjourn about 5 p.m. The meeting on both days will be held in the Pheonix Room (D) of the Hyatt House. The agenda will be consideration of the Draft FMP/EIS for Commercial and Recreational Salmon Fisheries Off The Coasts of Washington, Oregon, and California Commencing in 1978.

Dated: November 25, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 77-34306 Filed 11-29-77; 8:45 am]

[3510-12]

National Oceanic and Atmospheric Administration

PRELIMINARY FISHERY MANAGEMENT PLANS

Availability of Supplements to Final Environmental Impact Statements

Purusant to section 102(2)(C) of the National Environmental Policy Act of 1969, the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, Department of Commerce has prepared supplements to the final environmental impact statements on the preliminary fishery management plans for the following fisheries:

Atlantic Herring Fishery of the Northwestern Atlantic.
Foreign Trawl Fisheries of the Northwestern Atlantic.
Hake Fisheries of the Northwestern Atlantic.
Squid Fisheries of the Northwestern Atlantic.
Mackerel Fishery of the Northwestern Atlantic.
Trawl Fishery of the Gulf of Alaska.
Trawl Fisheries and Herring Gillnet Fishery of the Bering Sea and Northeast Pacific.
Sablefish Fishery of the Bering Sea and Northeastern Pacific.
Trawl Fisheries of Washington, Oregon, and California.

Under the authority of the Fishery Conservation and Management Act of 1976, the preliminary fishery management plans for the aforementioned fisheries were implemented on March 1, 1977, to regulate foreign fishing within the 200 mile fishery conservation zone of the United States. These supplements to the final environmental statements contain proposed changes to these preliminary fishery management plans for foreign fishing in 1978.

Concurrent with this Notice the environmental statements are being transmitted to the Council on Environmental Quality. Copies of the following supplements may be obtained from the Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Mass. 01930:

Atlantic Herring Fishery of the Northwestern Atlantic.
Foreign Trawl Fisheries of the Northwestern Atlantic.
Hake Fisheries of the Northwestern Atlantic.
Squid Fisheries of the Northwestern Atlantic.
Mackerel Fishery of the Northwestern Atlantic.

Copies of the following supplements may be obtained from the Director, Alaska Region, Federal Building, Room 453, 709 West Ninth Street, P.O. Box 1668, Juneau, Alaska 99802:

Trawl Fishery of the Gulf of Alaska.
Trawl Fisheries and Herring Gillnet Fishery of the Bering Sea and Northeast Pacific.
Sablefish Fishery of the Bering Sea and Northeastern Pacific Ocean.

The supplement to the final environmental statement on the Trawl Fisheries of Washington, Oregon, and California may be obtained from the Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue, Seattle, Wash. 98109.

Copies of all of the supplements to the final environmental statements may be inspected at:

Environmental Science Information Center Library, Page Building 2, Room 193, 3300 Whitehaven Street NW., Washington, D.C. 20235.

Signed this 23d day of November 1977, at Washington, D.C.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 77-34296 Filed 11-29-77; 8:45 am]

[3510-12]

National Oceanic and Atmospheric Administration

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL'S SCIENTIFIC AND STATISTICAL COMMITTEE

Public Meeting

The Scientific and Statistical Committee of the Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and will meet December 13, 1977, at Sandy Hook Laboratory, NMFS, Highlands, N.J. The meet-

ing starts at 10 a.m. on December 13th and will adjourn at about 4:30 p.m. on the same day.

Proposed Agenda: (1) Review of Committee's functions; (2) Review of Sea Scallop objectives; (3) Review of Request for Proposal for Atlantic Mackerel; and (4) other administrative matters.

Meeting is open to the public. For more information on seating, changes to the agenda, or written comments, contact Mr. John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, North and New Streets, Dover, Del. 19901. Telephone: 302-674-2331.

Dated: November 28, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 77-34397 filed 11-29-77; 8:45 am]

[3510-17]

Office of the Secretary

[Dept. Organization Order 35-25; Amdt. 1]

BUREAU OF THE CENSUS

Statement of Organization

This order effective October 1, 1977, amends the material appearing at 41 FR 24205 of June 15, 1976.

Department Organization Order 35-2B, dated April 27, 1976, is hereby amended as shown below. This amendment incorporates the transfer of the Foreign Demographic Analysis Division from the Bureau of Economic Analysis to the Bureau of the Census.

1. In Section 5. "Office of the Associate Director for Demographic Fields," a new subparagraph .01g. is added to read as follows:

"g. The Foreign Demographic Analysis Division shall conduct specialized studies of population, manpower, economics, and social systems of foreign countries, involving the compilation and evaluation of relevant data, prepare estimates and projections, and prepare special analytical and interpretative reports and monographs."

2. The organization chart, Exhibit 1, attached to this amendment supersedes the organization chart dated April 27, 1976. A copy of the organization chart is on file with the original of this document with the Office of the Federal Register.

Effective date: October 1, 1977.

GUY W. CHAMBERLIN,
Acting Assistant Secretary for Administration.

[FR Doc. 77-34286 Filed 11-29-77; 8:45 am]

[3510-17]

[Dept. Organization 35-1B, Amdt. 2]

BUREAU OF ECONOMIC ANALYSIS

Statement of Organization, Function, and Authority Delegation

This order effective October 1, 1977, further amends the material appearing at 40 FR 58878 of December 19, 1975, and 42 FR 1064 of January 15, 1977.

Department Organization Order 35-1B, dated October 24, 1975, is hereby further amended as shown below. This amendment removes the Foreign Demographic Analysis Division, which has been transferred to the Bureau of the Census.

1. In Section 7. Associate Director for International Economics, in pen and ink, delete paragraph .02, "Foreign Demographic Analysis Division," and renumber paragraph .03 as .02.

2. The organization chart, Exhibit 1, attached to this amendment supersedes the organization chart dated October 24, 1975. A copy of the organization chart is on file with the original of this document with the Office of the Federal Register.

Effective date: October 1, 1977.

GUY W. CHAMBERLIN,
Acting Assistant Secretary for Administration.

[FR Doc. 77-34285 Filed 11-29-77; 8:45 am]

[3510-17]

[Dept. Organization Order 30-7B, Amdt. 1]

NATIONAL TECHNICAL INFORMATION SERVICE

Statement of Organization, Function and Authority Delegation

This order effective October 25, 1977, amends the material appearing at 42 FR 44831 of September 7, 1977.

Department Organization Order 30-7B, dated August 1, 1977, is hereby amended as shown below. This amendment clarifies the wording in Sections 4. and 5., and changes the titles of the units under the Office of Product, Program and Administrative Management (section 7.) to be compatible with the organization chart attached to the order.

1. Section 4. is revised to read as follows:

SEC. 4. *Staff Offices Reporting to the Director*—The "Office of Government Inventions and Patents" shall develop and operate programs to promote wider private sector use of government inventions. It shall administer a program for the foreign filing and licensing of government inventions under Executive Order 9865, as amended. It shall also provide Executive Secretariat functions for the Committee on Government Patent Policy (of the Federal Council for Science and Technology) and assist, to the extent appropriate, in the development and formulation of a uniform governmentwide patent policy.

2. In SEC. 5. *Office of Marketing.*—in pen and ink add a comma after the word "services" in line 3 of the paragraph.

3. In SEC. 7. *Office of Product, Program and Administrative Management.*

a. paragraph .01 is revised to read as follows:

.01 The Product and Program Management Division shall be directly responsible for coordinating the successful production and marketing of ongoing products and services, and for developing and bringing to the market new and improved information products and services. The division shall be responsible for insuring the regular acquisition of scientific and technical, economic, and engineering information from foreign or domestic sources, for availability to business, industry, Government, and other interested individuals. The division shall be responsive, on a continuing basis, to the needs of NTIS source clients, managing dealers, and major customers, and will monitor their acceptance of, and sensitivity to, NTIS policies on products, programs, and pricing.

b. In pen and ink change the office title in line one of paragraph .02 to read as follows:

.02 The Administrative Services Division * * *

Effective date: October 25, 1977.

GUY W. CHAMBERLIN,
Acting Assistant Secretary for Adminisration.

[FR Doc. 77-34284 Filed 11-29-77; 8:45 am]

[3510-25]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

ANNOUNCING AN ADDITIONAL OFFICIAL OF THE GOVERNMENT OF PAKISTAN AUTHORIZED TO ISSUE EXPORT VISAS FOR COTTON TEXTILES AND COTTON TEXTILE PRODUCTS

NOVEMBER 25, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Adding a new official to the list of those authorized by the Government of Pakistan to issue export visas for cotton textiles and cotton textile products exported to the United States.

SUMMARY: The name of S. M. H. Tirmizi is being added to the previously published list of officials of the Government of Pakistan who are authorized to issue export visas for cotton textiles and cotton textile prod-

ucts, produced or manufactured in Pakistan and exported to the United States. A complete list of officials currently so authorized is published as an enclosure to the letter to the Commissioner of Customs which follows this notice.

EFFECTIVE DATE: November 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Judith L. McConahy, International Trade Specialist, Office of Textile, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION: On July 7, 1972, a letter to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements was published in the FEDERAL REGISTER (37 FR 13365), which establishes an export visa requirement for cotton textiles and cotton textile products, produced or manufactured in Pakistan and exported to the United States. One of the requirements is that the visas accompanying such shipments must be signed by an official authorized by the Government of Pakistan to issue visas.

The Government of Pakistan has requested that the name of S. M. H. Tirmizi be added to the list of officials authorized to issue export visas for cotton textiles and cotton textile products exported to the United States. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to make this change.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

NOVEMBER 25, 1977.

COMMISSION OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive further amends, but does not cancel, the directive of June 28, 1972 from the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1 through 64, produced or manufactured in Pakistan, for which the Government of Pakistan had not issued an export visa. It also amends, but does not cancel, the directives of March 3, October 7, and November 19, 1976, and July 7, 1977, which named Government of Pakistan officials authorized to issue export visas and certifications for exempt textile products.

Under the terms of the Arrangement Regarding International Trade in Textiles, pursuant to the Bilateral Cotton Textile Agreement of May 6, 1976, between the Governments of the United States and Pakistan, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, the aforesaid directives are further amended to include the name of S. M. H. Tirmizi, who is authorized to issue export visas for cotton textiles and cotton textile products, produced or manufactured in Pakistan. A complete list of the officials currently so authorized is enclosed.

The actions taken with respect to the Government of Pakistan and with respect to imports of cotton textiles and cotton textile products from Pakistan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

GOVERNMENT OF PAKISTAN OFFICIALS AUTHORIZED TO ISSUE EXPORT VISAS FOR COTTON TEXTILES AND COTTON TEXTILE PRODUCTS EXPORTED TO THE UNITED STATES

Riaz Ahmad, Ejaz Ahmad, Shabbir Ahmad, Mohammad Akhtar Alam, S. M. Anwar, S. A. Aziz, S. Asif Ali Bokhari, Moinul Hasan, Pir Mohammad Khan, Ghulam Mustafa, Sajjad Hussain Naqvi, Tariq Iqbal Puri, Abdul Ghaffar Quereshi, Mujib-ur-Rehman, Asif Ali Shaikh, Niamat Shah, I. H. Siddiqi, M. Adil Siddiqui, S. M. H. Tirmizi, S. A. Zaidi.

[FR Doc. 77-34339 Filed 11-29-77; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE

Department of the Navy

SECRETARY OF THE NAVY'S ADVISORY BOARD ON EDUCATION AND TRAINING

Establishment, Organizations and Functions

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Academic Advisory Board to the superintendent, U.S. Naval Academy; the Board of Advisors to the Superintendent, Naval Postgraduate School, and the Board of Advisors, Naval War College have been consolidated with the Secretary of the Navy's Advisory Board on Education and Training. This consolidation is in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed this consolidation and concurs.

The nature and purpose of the Secretary of the Navy's Advisory Board on Education and Training is as follows:

The Secretary of the Navy's Advisory Board on Education and Training is established to advise the Secretary of the Navy on policy concerning all facets of education and training for Navy and Marine Corps personnel, officer and enlisted, active and inactive. The Board shall review Navy and Marine Corps education and training policy and programs as designated by the Secretary of the Navy or service representatives to the Board, and shall make appropriate recommendations to the Secretary of the Navy regarding Navy and Marine Corps education and training; and assist the Secretary in formulating policy on new and projected programs of education and training. In connection herewith the Board may organize itself into subcommittees composed of committee members reporting to the Board.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, Washington Headquarters Services.

NOVEMBER 25, 1977.

[FR Doc. 77-34301 Filed 11-29-77; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES76-74]

EL PASO ELECTRIC CO.

Application

NOVEMBER 22, 1977.

Take notice that on November 14, 1977, El Paso Electric Co. (the "Applicant"), filed an application with the Commission pursuant to section 204 of the Act, seking authorization to use the proceeds from the issuance and sale of short term unsecured promissory notes payable to brokers and dealers in commercial paper and to commercial banks not only to provide interim financing for the Applicant's construction programs but also to provide temporary financing of current transactions, to maintain cash working funds at normal levels, to carry accounts receivable, to provide for periodic large cash needs, such as tax payments, to supply temporary funds for unexpected cash requirements, and to provide for other types of current operational business requirements. The issuance of such short term notes was previously authorized by the Commission's Order issued November 5, 1976, in Docket No. ES76-74 for the purpose of financing Applicant's construction programs. All other terms and conditions previously instituted by the Commission's order shall remain in full force and effect. The aforesaid order of the Commission authorized the issuance and sale of such short term notes in the aggregate principal

amount not to exceed $100 million at any time outstanding, bearing final maturity dates of not later than December 31, 1978.

The Applicant is incorporated under the laws of the State of Texas with its principal business office in El Paso, Tex., and is engaged in the electric utility business in the States of Texas and New Mexico in an area in the Rio Grande Valley extending approximately 110 miles northwesterly from El Paso to the Caballo Dam in New Mexico and 120 miles southeasterly from El Paso to Van Horn, Tex., with a population of approximately 480,000 of whom 365,000 reside in metropolitan El Paso.

Any person desiring to be heard or to make any protest with reference to said application should, on or before November 30, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 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 proceedings. Persons wishing to become parties to the proceedings or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-34291 Filed 11-29-77; 8:45 am]

[6740-02]

[Docket No. ER78-19]

FLORIDA POWER & LIGHT CO.

Extension of Time

NOVEMBER 22, 1977.

On November 14, 1977, Florida Power & Light Co. (FP&L), filed a motion to extend the time for filing a response to petitions to intervene and protests to the proposed tariff changes tendered for filing by FP&L on October 14, 1977, and noticed on October 20, 1977, in the above referenced docket. The motion states that Staff Counsel and counsel for Florida Cooperatives and Florida Cities do not object to the requested extension.

Upon consideration, notice is hereby given that the date for filing responses to petitions to intervene and protests is extended to and including December 1, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-34292 Filed 11-29-77; 8:45 am]

[6740-02]

[Docket No. RP76-3]

INLAND GAS CO., INC.

Motion for Extension of Interim Curtailment Procedures

NOVEMBER 22, 1977.

Take notice that on November 7, 1977, The Inland Gas Co., Inc. (Inland), filed pursuant to section 1.12 of the Commission's Rules of Practice and Procedure, a motion to extend for a 12-month interim period commencing January 1, 1978, the curtailment plan embodied in its FPC Gas Tariff, Original Volume No. 1, as set forth in Appendix A to the motion. According to Inland, the aforesaid interim curtailment procedures have been utilized on its system since December 16, 1974.

In its motion, Inland states that it purchases the major portion of its natural gas supply from Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., under a Contract Demand Service Agreement providing for the delivery of 51,000 Mcf of natural gas per day, and, in addition, has volumes of locally purchased and produced gas currently estimated to average approximately 9,400 Mcf per day during 1978. It further states that approximately 98 percent of its total annual sales are to 16 industrial customers, and that the remainder of the gas is sold to numerous rural domestic and commercial consumers throughout its system.

Inland contends that the subject plan is an end-use type curtailment plan allocating its gas supply deficiencies on a proportional basis among its nine large industrial customers, i.e., those having maximum daily contract quantities in excess of 300 Mcf per day and defined in Inland's tariff as "Affected Customers". Inland states that it contacted each of the nine Affected Customers and provided them with information and data showing the impact of an Order 467-B type curtailment plan upon their operations for the calendar year 1978 as compared with the impact from continuing the existing curtailment procedures.

Inland states that all nine Affected Customers have authorized it to declare their support for the proposed extension of Inland's existing curtailment procedures on a settlement basis. Inland asserts that the currently effective curtailment procedures have fully protected service to its residential, commercial, and small industrial customers purchasing not more than 300 Mcf per day. Additionally, it points out that during the nearly 3 years in which its interim curtailment procedures have been utilized, none of its Affected Customers has requested either a special adjustment under Inland's tariff provisions or extraordinary relief pursuant to section 2.78(b) of the Commission's General Policy and Interpretations.

The tariff provisions set forth in Appendix A provide for a $10 per Mcf overrun penalty as well as distribution of the penalties among those customers that were unable to receive their authorized volumes of gas because of the overruns.

The motion is on file with the Commission and is available for public inspection. Answers or objections to the motion may be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C., on or before November 30, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-34293 Filed 11-29-77; 8:45 am]

[6740-02]

[Docket No. RI77-56]

OIL AND GAS FUTURES, INC., OF TEXAS, ET AL.

Application for Issuance of Temporary Authorization To Deliver Natural Gas at Contract Rates, Subject to Refund, Pending Final Action on Application for Special Relief

NOVEMBER 22, 1977.

Take notice that on September 27, 1977, Oil and Gas Futures, Inc., of Texas, et al. (O. & G. Futures) filed in Docket No. RI77-56 an application for issuance of temporary authorization to deliver natural gas at contract rates, subject to refund, pending final action on its application for special relief, pursuant to section 2.76 of the Commission's General Policy and Interpretations (18 CFR § 2.76) and sections 154.94 and 157.28 of the Commissions Regulations (18 CFR §§ 154.94, 157.28).

On April 8, 1977, O. & G. Futures filed in Docket No. RI77-56 an application for special relief pursuant to section 2.76 of the Commission's General Policy and Interpretations and Order No. 481. In its application for special relief O. & G. Futures requested authorization to collect a rate of $2.25 per Mcf for sales of natural gas to Trunkline Gas Company (Trunkline) from the Grand Isle Block 82 Field, offshore Louisiana, in the Federal domain. The application for special relief is currently pending Commission action.

In its application for temporary authorization to delivery natural gas at contract rates, O. & G. Futures requests authorization to collect the $2.25 per Mcf rate for sales from the Grand Isle Block 82 Field pending final Commission action on its application for special relief. O. & G. Futures states that the $2.25 per Mcf rate is authorized by a contract amendment with Trunkline dated February 23,

1977. O. & G. Futures proposes to collect the $2.25 per Mcf rate subject to the condition that it will refund with interest any amounts collected in excess of the rates permanently authorized by a final order of the Commission on O. & G. Futures' application for special relief.

Any person desiring to be heard or to make any protests with reference to the above filing should on or before December 13, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-34294 Filed 11-29-77; 8:45 am]

[6740-02]

[Docket No. ER77-59]

SUPERIOR WATER, LIGHT & POWER CO.

Order Granting Motion To Sever Proceedings

NOVEMBER 23, 1977.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On November 15, 1976, the Superior Water, Light & Power Co. (Superior) filed for an increase in wholesale electric rates of $154,659 (based on the 12-month period ending June 30, 1976) to Dahlberg Light & Power Co. (Dahlberg), Superior's only jurisdictional customer. Following notice of Superior's filing on November 30, 1976, neither Dahlberg nor the Public Service Commission of Wisconsin intervened in the proceeding.

Superior, a wholly owned subsidiary of Minnesota Power & Light Co. (M.P. & L.) furnishes electric, gas, and water service to Superior, Wis., and adjacent areas. Superior purchases approximately 84 percent of its kilowatthour requirements from M.P. & L.

By Order issued December 15, 1976, the Commission accepted Superior's filing and suspended it for 3 months to become effective subject to refund on March 16, 1977. Since the primary purpose of the proposed increase was to reflect the increase in Superior's cost of purchased power from M.P. & L. as a result of M.P. & L.'s proposed increase in wholesale electric rates in Docket No. 76-827 and since the M.P. & L. docket and the Superior docket would involve common issues of law and fact, the Commission's December 15 order also consolidated the two proceedings.

On September 29, 1977, Superior filed a motion with the Commission which requested that the proceedings in Docket No. ER77-59 be severed from the proceeding in Docket No. ER76-827, and submitted a settlement offer which, if accepted, will dispose of all outstanding issues in the above-captioned docket.

On or about October 17, 1977, Staff filed its comments in support of the proposed settlement agreement.

In its motion, Superior states that it is expected that the related M.P. & L. case cannot be settled and that the parties will proceed to hearing. Consequently, we find that it is in the public interest to sever the cases.

The Commission finds: Good cause exists to grant Superior's motion to sever the proceedings in Docket No. ER77-59 from those in Docket No. ER76-827.

The Commission orders: (A) The proceedings in Docket No. ER77-59 are hereby severed from those in Docket No. ER76-827.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 77-34295 Filed 11-29-77; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[OPP—180135A; FRL 822-4]

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

Specific Exemption To Use Methidathion To Control the Artichoke Plume Moth; Spatial Extension

The Environmental Protection Agency (EPA), granted a specific exemption to the California Department of Food and Agriculture (hereafter referred to as the "Applicant"), to use Supracide 2E (methidathion), in ground applications to control the artichoke plume moth on 10,470 acres of artichokes; treatment was approved in the counties of Santa Barbara, Monterey, and Santa Cruz in California. A maximum of 62,820 pounds active ingredient was authorized. Notice of issuance of this exemption was published in the FEDERAL REGISTER on August 31, 1977 (42 FR 43875).

Since that time, the Applicant has requested that permission be granted for the treatment of an additional 1,000 acres of artichokes in San Mateo and San Luis Obispo counties. According to the Applicant, if the pest is not controlled, the potential economic loss to growers in these two counties could be as much as $650,000.

EPA has determined that the spatial extension requested should not pose a significant hazard to the public health or the environment. Therefore, the specific exemption is amended as follows:

1. A maximum of 1,000 acres of the artichoke crop located in San Mateo and San Luis Obispo counties may be treated;

2. A maximum of 6,120 pounds of active ingredient may be applied in the above counties. The total amount of methidathion which may be applied under this exemption has been increased to 68,940 pounds active ingredient; and

3. All other restrictions pursuant to the original specific exemption remain in force.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: November 22, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Program.

[FR Doc. 77-34270 Filed 11-29-77; 8:45 am]

[6560-01]

[OPP-180162; FRL 823-4]

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

Issuance of Specific Exemption To Use Aluminum Phosphide To Control Various Insects in Stored Safflower Seed

The Environmental Protection Agency (EPA) has granted a specific exemption to the California Department of Food and Agriculture (hereafter referred to as the "Applicant") to use a maximum of 3,900 pounds of aluminum phosphide for the control of various stored product insects threatening approximately 180,000 tons of safflower seed in storage warehouses throughout California. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., room E-315, Washington, D.C. 20460.

According to the Applicant, about 180,000 tons of safflower seed in storage warehouses are threatened by insect damage. Prolonged storage encourages insect infestation to proliferate to economically serious proportions. Various stored product insects destroy the oil-bearing parts of the seed leaving mostly hulls, which have no oil. The insects need not eat all of the seed to affect oil production. A break in the seed coat activates enzymes which ultimately create free fatty acids in the oil which lower the quality of the oil and must be removed. Insect damage can account for up to 10 percent loss in oil production, which would mean an estimated loss of value of as much as $2.5 million.

There are no registered alternative pesticides that can be used to control insect infestations in stored safflower seeds. The problems could be circumvented by immediate processing of all safflower seeds for oil. However, the logistics and economics of the processing equipment made this undesirable, according to the Applicant.

The Applicant proposed to use Phostoxin Degesch New Coated Tablets and Phostoxin Degesch Coated Pellets, EPA Registration Numbers 5857-1-AA and 5857-2-AA, respectively. Six tablets or ten pellets per ton of safflower seed are to be injected with a probe or fed into the stream at a uniform rate as the seeds go into storage. The quantity of pesticide to be applied is a maximum of 3,900 pounds of active ingredient (aluminum phosphide). All applications will be made by State-licensed Pest Control Operators. Both products listed above are already registered for post-harvest treatment on many crops. Among these are peanuts, cotton seeds, sunflower seeds, almonds, and corn. The presence of these existing registrations and the limited use site indicate that no adverse long- or short-term effects on the environment are likely to occur. The efficacy of the pesticides seems apparent. Additionally, no residues are expected in the safflower seed oil or meal nor are any likely to occur in eggs, milk, meat, fat, or meat byproducts of livestock due to this use.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of various insects in stored safflower seed has or is about to occur; (b) there is no pesticide presently registered and available for use to control these insects in the storage warehouses in California; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the insects are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until December 31, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Two aluminum phosphide products, Phostoxin Degesch New Coated Tablets (EPA Reg. No. 5857-1-AA) and Phostoxin Degesch Coated Pellets (EPA Reg. 5857-2-AA), may be used;

2. Application rate shall be six tablets or ten pellets per ton of safflower seed;

3. A maximum of 3,900 pounds of active ingredient (aluminum phosphide) may be used;

4. A maximum of 180,000 tons of safflower seed may be treated;

5. All applications shall be made by State-licensed Pest Control Operators;

6. The Applicant is responsible for ensuring that the restrictions pursuant to this specific exemption are met;

7. A phosphine residue level not to exceed 0.1 ppm in or on safflower seed has been determined to be adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

8. All label precautions must be followed; and

9. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with this exemption.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Dated: November 22, 1977.

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

[FR Doc. 77-34271 Filed 11-29-77; 8:45 am]

[6560-01]

[OPP-180153; FRL 822-5]

CLEMSON UNIVERSITY

Issuance of a Specific Exemption To Use Methomyl To Control Armyworms

The Environmental Protection Agency (EPA) has granted a specific exemption to the Division of Regulatory and Public Service Programs, Clemson University (hereafter referred to as the "applicant") to use methomyl for control of armyworms (beet armyworms, fall armyworms, and yellowstriped armyworms) on a maximum of 76,000 acres of coastal bermudagrass in South Carolina. This exemption was granted in accordance with and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, room E-315, 401 M Street SW., Washington, D.C. 20460.

Coastal bermudagrass (*Cynodon dactylon*) is an important forage crop in the southern States. It is grazed by cattle, cut and cured for hay, or cut, dried, and ground for use in feed mixes for cattle, hogs, and poultry or the meal is pelletized for animal feed. According to the Applicant, the extreme drought conditions existing in many areas in the southeastern United States have greatly decreased the availability of hay and the productivity of pastures; as a consequence, a shortage of forage has been reported by several States. Other States in the area have reported outbreaks of armyworms and another generation of armyworms is anticipated in South Carolina as a result of the heavy moth flight expected from Florida. The estimated loss of 76,000 acres of coastal bermudagrass in South Carolina is valued at $4,660,000.

Parathion, methyl parathion, methoxychlor, trichlorphon, and carbaryl are pesticides registered for use on forage bermudagrass to control armyworms. Several States which have reported heavy infestations of armyworms have also reported that the registered pesticides are in short

supply in their area. In addition, due to the severity and extent of this year's armyworm infestations, the efficacy of the registered alternatives (carbaryl, trichlorphon, and methoxychlor) is questionable. Under the existing conditions, the applicant stated that even 90 percent control has not reduced insect damage to an acceptable level. Therefore, the current emergency, Applicant reported, results from the lack of a readily available pesticide which will effectively reduce the high populations of armyworms which are causing severe damage to bermudagrass in South Carolina. Methomyl has previously been used under emergency conditions for this control purpose.

The exemption allows treatment of coastal bermudagrass with applications of methomyl at the rate of one-quarter (0.25) to one-half (0.50) pound active ingredient per acre on a maximum of 76,000 acres throughout South Carolina. A maximum of three applications may be applied; applications will be by ground or aerial equipment.

After reviewing the application and other available information, EPA has determined that: (a) An armyworm outbreak has occurred on the coastal bermudagrass crop; (b) there is no pesticide presently registered and available for use to control armyworms in South Carolina; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the armyworms are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the applicant has been granted a specific exemption to use the pesticide noted above until October 30, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Insecticidal products such as Lannate L or Nudrin containing the active ingredient methomyl (S-methyl N-[(methylcarbamoyl)oxy]thioacetimidate) may be used at a dosage rate of 0.25 to 0.50 pound active ingredient methomyl per acre;

2. A maximum of three (3) applications may be applied;

3. A maximum of 114,000 pounds of active methomyl may be used;

4. Applications may be made by either certified private applicators or by State-licensed commercial applicators using ground or air equipment;

5. There must be a waiting period of seven (7) days before grazing animals on treated grass; a preharvest interval of seven (7) days for cutting hay that is to be air dried; and seven (7) days for grass that is to be dehydrated and processed into meal and pellets;

6. Green grass, with residue levels of methomyl not exceeding 5.0 ppm, and cured hay, ground or pelletized meal with residue levels of methomyl not exceeding 10.0 ppm may enter interstate commerce. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare has been advised of this action;

7. Methomyl is toxic to fish and wildlife. All precautions must be taken to avoid drift to non-target areas;

8. The South Carolina Division of Regulatory and Public Service Programs is responsible for insuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by October, 1978; and

9. The EPA shall be immediately informed of any adverse effects resulting from the use of methomyl in connection with this exemption.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 et seq.).)

Dated: November 22, 1977.

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

[FR Doc. 77-34272 Filed 11-29-77; 8:45 am]

[6560-01]

[OPP-180159; FRL 823-2]

CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION

Issuance of Specific Exemption To Use Terramycin To Control X-Disease on Peach and Nectarine Trees

The Environmental Protection Agency (EPA) has granted a specific exemption to the Connecticut Department of Environmental Protection (hereafter referred to as the "applicant") to use a maximum of 159 pounds of terramycin formulation for the control of X-disease on peach and nectarine trees located in seven counties in Connecticut. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., room E-315, Washington, D.C. 20460.

The applicant requested approval to use Terramycin Tree Injection Formula (oxytetracycline hydrochloride) on 11,500 peach and nectarine trees to control X-disease, which is caused by a pathogenic mycoplasma. X-disease is found in Eastern and Western forms. In the Western form, the disease is assumed to be transmitted from peach to peach with insects serving as the disease vector. The Eastern form of the disease is associated with the presence of chokecherries in the vicinity, and therefore it is assumed that the disease is transmitted from chokecherries to peaches. The difference in transmission is assumed to be attributed to unknown differences in the various populations of insect vectors. Many growers now believe, however, that Eastern X-disease, like its Western counterpart, can be transmitted from peach to peach as well as from chokecherries to peaches. The first indication in an infected peach tree is foliage. Leaves on isolated branches tend to curl inward and develop water-soaked spots which turn yellow to reddish purple. Shortly thereafter, the affected leaves drop. Fruit set may appear normal, but most fruit on infected branches will drop prematurely. In two or three years, the entire tree shows symptoms.

There are no EPA-registered pesticides available for the control of X-disease in peach and nectarine trees. The only control method available at present to prevent Eastern X-disease consists of eradicating chokecherries from the immediate vicinity of the peach and nectarine orchards. However, it has proved impossible to completely eradicate these wild shrubs which grow profusely in the woods, along roads, and in fencerows.

It is estimated that annual crop losses from untreated X-disease will be approximately 23,100 bushels based on a total of 24,700 peach trees that are now in full-bearing condition in Connecticut. During the first year following the appearance of symptoms, there is a 60 percent crop loss. During the second year there is a 92 percent crop loss, and then the trees must be removed and replaced. The cost of replacement averages $12/tree. It is estimated that the use of this program on the entire peach crop affected by X-disease could prevent an annual crop loss valued at approximately $160,000 to $200,000.

After reviewing the application and other available information, EPA has determined that: (a) A pest outbreak of X-disease has occurred; (b) there is no pesticide presently registered and available for use to control X-disease in Connecticut; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if X-disease is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Appli-

cant has been granted a specific exemption to use the pesticide noted above until November 1, 1977, to the extent and in the manner set forth in the application. The specific exemption will be conducted in accordance with the following program:

1. Terramycin Tree Injection Formula (containing oxytetracycline hydrochloride), EPA Reg. No. 1007-79, manufactured by Pfizer Chemical Division, is authorized;

2. Application rate shall be at a maximum of 6.25 grams of formulation per tree;

3. A single application of terramycin may be made post-harvest, but before leaf fall;

4. A maximum of 11,500 peach and nectarine trees located in New Haven, Hartford, Middlesex, New London, Fairfield, Windham, and Tolland Counties in Connecticut may be treated;

5. A maximun of 159 pounds terramycin formulation may be applied;

6. Application of terramycin may be made by injection, small volume infusion, and large volume infusion and pressure methods;

7. Freshly prepared solutions shall be used and applied on warm, sunny days when trees are actively transpiring. All holes and wounds resulting from these treatments shall be treated with an EPA-registered wound sealant containing a fungicide;

8. The duration of the application period shall be from late September until November 1, 1977;

9. Application of terramycin may be made by growers;

10. An extension plant pathologist and the agricultural extension specialists shall make all recommendations of terramycin application. They shall instruct growers on proper methods of mixing formulations, injecting trees, and other program criteria;

11. The applicant shall keep records of this program. The records shall contain information to be included in a report to be submitted to EPA by November 1, 1978, summarizing the results of this program;

12. A residue level of oxytetracycline hydrochloride in peaches and nectarines not exceeding 0.1 ppm has been deemed adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

13. All label precautions must be followed; and

14. The applicant shall inform EPA immediately of any adverse effects resulting from this program and shall be responsible for the performance of all provisions of this exemption.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: November 22, 1977.

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

[FR Doc. 77-34273 Filed 11-29-77; 8:45 am]

[6560-01]

[OPP-180157; FRL 822-8]

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Issuance of a Specific Exemption to Use Methomyl on Forage Grasses to Control Armyworm

The Environmental Protection Agency has granted a specific exemption to the Florida Department of Agriculture and Consumer Services (hereinafter referred to as the "Applicant"), to use methomyl for control of armyworms on a maximum of 510,679 acres of improved pasture and 202,463 acres of hay pasture in 35 counties in North and Northwest Florida. This exemption was granted in accordance with and is subject to the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, Room E-315, 401 M Street SW., Washington, D.C. 20460.

Applicant availed itself of a crisis exemption for use of methomyl to control armyworms on forage grasses on August 11, 1977. Since treatment was expected to continue for more than 15 days under the crisis exemption, Applicant requested the specific exemption. The armyworm outbreak was first reported in Escambia County on July 20, 1977. During the next three weeks armyworm outbreaks were reported throughout a 35-county area located in the northern and northwestern areas of the State. A survey of the damage conducted by the University of Florida Institute of Food and Agriculture Sciences and the Florida Farm Bureau Federation confirmed that armyworms, primarily fall armyworms, had damaged 601,593 acres of improved pasture and 156,400 acres of hay pasture in the affected counties. The hay pasture consists of approximately 75 percent coastal bermudagrass, 15 percent bahiagrass, and 10 percent combined clover and crab grass. The improved pasture consists of approximately 45 percent coastal bermudagrass, 45 percent bahiagrass, and 10 percent Paraguay 22. The Applicant estimated that 75 percent of Florida's total hay crop would have been lost without controlling the armyworms; the combined loss of pasture hay and improved pasture grasses would represent an economic loss of $48,306,081.

The fall armyworm (*Spodoptera frugiperda*) fluctuates greatly in abundance, undergoing cycles which reach destructive peaks at greatly varying periods of years. Outbreaks are especially severe in the South following a cold, wet spring. Like the true armyworm, the caterpillars often move from field to field in large numbers devouring the foliage and tender stems of field and vegetable crops. Although they feed on a variety of crops, plants of the grass family are probably the preferred food.

The following pesticides are registered for use on forage grasses: carbaryl, methyl parathion, parathion, and trichlorphon. Several States which have reported heavy infestations of armyworms have also reported that the registered pesticides are in short supply in their area. In addition, due to the severity and extent of the year's armyworm infestations, the registered pesticides are of questionable efficacy. The current emergency, the Applicant reported, results from the lack of readily available pesticides which will effectively reduce the high populations of armyworms currently causing severe damage to forage grasses in Florida.

The specific exemption allows the application of methomyl to 510,679 acres of improved pasture and 202,463 acres of hay pasture at a rate of 0.225 to 0.450 pound active ingredient per acre per application in the 35-county area. A maximum of three (3) applications may be applied; application will be by ground or aerial equipment.

After reviewing the application and other available information, EPA has determined that (a) an armyworm outbreak has occurred on forage grasses in Florida; (b) there is no pesticide presently registered and available for use to control the armyworm in Florida; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the armyworm is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until November 30, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Insecticidal products containing the active ingredient methomyl (S-methyl N-[methylcarbamoyl)oxy]-thioacetimidate) may be used at a dosage rate of 0.225 to 0.450 pound of active ingredient per acre;

2. Applications are limited to 510,679 acres of improved pasture which shall consist of coastal bermudagrass, bahiagrass, and crabgrass; and 202,463 acres of hay pasture which shall consist of bermudagrass, bahiagrass, and Paraguay 22;

3. A maximum of three (3) applications may be applied;

4. A maximum of 267,500 pounds of active methomyl may be applied;

5. Applications may be made by either air or ground equipment;

6. All applications will be made by State-licensed commercial pesticide applicators or by growers on their own property;

7. All livestock and other domesticated animals will be removed from the areas to be sprayed prior to application;

8. There must be a waiting period of seven (7) days before grazing, feeding, or cutting for hay or for dehydration and processing into meal and pellets;

9. Green grass with residue levels of methomyl not exceeding 5.0 ppm and cured hay and ground or pelletized meal with residues of methomyl not exceeding 10.0 ppm may enter interstate commerce. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare has been advised of this action;

10. Methomyl is toxic to fish and wildlife. All precautions must be taken to avoid spray drift to non-target areas;

11. Aerial application of methomyl will be limited to those products registered for that method of application;

12. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed;

13. Applicant is responsible for ensuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by September 1978; and

14. The EPA shall be immediately informed of any adverse effects resulting from the use of methomyl in connection with this exemption.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 et seq.).)

Dated: November 22, 1977.

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

[FR Doc. 77-34274 Filed 11-29-77; 8:45 am]

[6560-01]

[OPP-180158; FRL 823-1]

MICHIGAN DEPARTMENT OF AGRICULTURE

Issuance of Specific Exemption To Use Terramycin To Control X-Disease on Peach and Cherry Trees

The Environmental Protection Agency (EPA) has granted a specific exemption to the Michigan Department of Agriculture (hereafter referred to as the "Applicant"), to use a maximum of 337.5 pounds of terramycin formulation for the control of X-disease on peach and cherry trees located in twenty-one counties in Michigan. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

The Applicant requested approval to use Terramycin Tree Injection Formula (oxytetracycline hydrochloride) on 14,600 peach trees and 9,900 cherry trees to control x-disease, which is caused by a pathogenic mycoplasma. X-diseased chokecherry bushes have always been associated with diseased cherry and peach trees. Disease spread drops sharply when chokecherry bushes are removed from areas near infected orchards. The disease is transmitted from this host plant to cherry and peach trees by several species of leafhoppers. These species of leafhoppers do not normally live on cultivated peaches or cherries; they occasionally stray or are forced by strong winds into commercial orchards and transmit the disease organism through chance feedings. The first indication in an infected peach tree is foliage. Leaves on isolated branches tend to curl inward and develop water-soaked spots which turn yellow to reddish purple. Shortly thereafter, the affected leaves drop. Fruit set may appear normal, but most fruit on infected branches will drop prematurely. In two or three years, the entire tree shows symptoms.

There are no EPA-registered pesticides available for the control of x-disease in peach and cherry trees. The traditional mode of suppression has been elimination of the chokecherry population.

The Applicant stated that the chokecherry eridication has not been entirely successful because of budget limitations in the State, manpower, and inability of owners to approach control of neighboring property, public lands, rights-of-way, and roadsides. According to the Applicant, there has been a consistent rise in the percentage of infection in the State because of these factors. The 1976 estimated increase in infected peach trees has been placed at 16 percent.

It is estimated that there are 146,000 peach and 97,500 cherry trees infected with x-disease. Of this total, only 10 percent or 24,500 trees will be treated in this program. Restoration of this amount of trees to full crop production would prevent an economic loss of approximately $154,244. This amount would have to be supplemented by the saving resulting from not having to replace diseased trees.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of X-disease has occurred; (b) there is no pesticide presently registered and available for use to control X-disease in Michigan; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the X-disease is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until November 1, 1977, to the extent and in the manner set forth in the application. The specific exemption will be conducted in accordance with the following program:

1. Terramycin Tree Injection Formula (containing oxytetracycline hydrochloride), EPA Reg. No. 1007-79, manufactured by Pfizer Chemical Division, is authorized. The product shall be supplementally labeled by Pfizer for use in Michigan against X-disease;

2. Application rate shall be at a maximum of 1.25 grams oxytetracycline hydrochloride (active ingredient) per tree;

3. A single application of terramycin may be made post-harvest, but before leaf fall;

4. A maximum of 24,500 peach and cherry trees located in eleven counties adjoining Lake Michigan to the Grand Traverse Bay region plus the ten inland counties of Cass, St. Joseph, Kalamazoo, Barry, Kent, Montcalm, Macomb, Livingston, Lapeer, and Oakland, may be treated;

5. A maximum of 337.5 pounds of terramycin formulation may be applied;

6. Application of terramycin may be made by trunk infusion and pressure methods;

7. Application of terramycin shall be made by private applicators from September until November 1, 1977;

8. County Extension Service horticultural agents and Michigan State University personnel shall disperse information concerning treatment and program criteria. Supplemental bulletins shall be provided by Pfizer, giving dosage and treatment directions. Records of purchases and quantity purchased shall be required of Pfizer or their elected distributor. Program follow-up and evaluation shall be performed by the Applicant and the Michigan State Extension Service;

9. The Applicant shall submit a report to EPA by November 1, 1978, summarizing the results of this program;

10. A residue level of oxytetracycline hydrochloride in or on peaches and cherries not exceeding 0.1 ppm has been deemed adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

11. All label precautions must be followed; and

12. The Applicant shall inform EPA immediately of any adverse effects resulting from this program and shall be responsible for the performance of all provisions of this exemption.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: November 22, 1977.

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

[FR Doc. 77-34275 Filed 11-29-77; 8:45 am]

[6560-01]

[OPP-180156; FRL 822-7]

NORTH CAROLINA DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use Methomyl To Control Fall Armyworm On Forage Grasses

The Environmental Protection Agency (EPA) has granted a specific exemption to the North Carolina Department of Agriculture (hereafter referred to as the "applicant") to use methomyl for control of the fall armyworm on a maximum of 131,000 acres of tall fescue, orchardgrass, Italian ryegrass, and small grains. This exemption was granted in accordance with and is subject to the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, room E-315, 401 M Street SW., Washington, D.C. 20460.

Tall fescue (*Festuca arundinacea*) orchardgrass (*Dactylis glomerata*), Italian ryegrass (*Lolium multiflorum*) and small grains (several species) comprise a major portion of cool season forage grown in North Carolina. Total acreage for each of these grasses used for grazing is about 720,000 for tall fescue, 360,000 for orchardgrass, 80,000 for Italian ryegrass, and 150,000 for small grains. Prolonged drought conditions have resulted in a severe shortage of forage in the State. Many growers depend on these crops as the primary source of cattle feed. According to the applicant, North Carolina growers cannot afford additional losses due to armyworm damage. Damages equal to or greater than those encountered in previous years are expected if an effective pesticide is not used. Fields where infestations are heavy may be stripped, eliminating grazing in the late fall months in a year when such grazing will be essential for maintenance of productive herds. According to the applicant, growers may be forced to sell off their herds if forage or hay is not available at a price they can afford.

The fall armyworm overwinters in the Gulf Coast region and migrates northward each summer. They fluctuate greatly in abundance north of their overwinter sites and undergo cycles which reach destructive peaks. According to the applicant, there is usually only one generation in each locality in North Carolina each season; however, several overlapping generations are known to occur. Like the true armyworm, the caterpillars often move from field to field in large numbers devouring the foliage and tender stems of field and vegetable crops. Although they feed on a variety of crops, plants of the grass family are probably the preferred food.

The following pesticides are registered for use on forage grasses: carbaryl, methoxychlor, methyl parathion, and trichlorphon. Several States which have reported heavy infestations of armyworm have also reported that the registered pesticides are in short supply in their area. In addition, due to the severity and extent of this year's armyworm infestations, the registered pesticides are of questionable efficacy, the current emergency, the applicant reported, results from the lack of a readily available pesticide which will effectively reduce the high populations of armyworm currently causing severe damage to forage grasses throughout the State of North Carolina.

The specific exemption allows treatment of forage grasses with applications of methomyl at the rate of one-quarter (0.25) to one-half (0.50) pound active ingredient per acre per application on a maximum of 131,000 acres throughout North Carolina. A maximum of three (3) applications may be applied; application will be by ground or aerial equipment.

After reviewing the application and other available information, EPA has determined that: (a) A fall armyworm outbreak has occurred on forage grasses; (b) there is no pesticide presently registered and available for use to control the fall armyworm in North Carolina; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the fall armyworm is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the applicant has been granted a specific exemption to use the pesticide noted above until November 30, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Insecticidal products containing the active ingredient methomyl (S-methyl N-[(methylcarbamoyl)oxy]-thioacetimidate) may be used at a dosage rate of one-quarter (0.25) to one-half (0.50) pound of active ingredient per acre;

2. Applications are limited to 131,000 acres of the following forage grasses: tall fescue, orchardgrass, Italian ryegrass, and small grains;

3. Application rate is limited to a maximum of one-half (0.50) pound active ingredient per acre per application;

4. A maximum of three (3) applications may be applied;

5. A maximum of 65,500 pounds of active methomyl may be applied;

6. Applications may be made by either licensed commercial applicators or State-certified private applicators using air or ground equipment;

7. There must be a waiting period of seven (7) days before grazing, feeding, or cutting for hay or for dehydration and processing into meal and pellets;

8. Green grass with residue levels of methomyl not exceeding 5 ppm, and cured hay and ground or pelletized meal with residues of methomyl not exceeding 10 ppm may enter interstate commerce. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare has been advised of this action;

9. Methomyl is toxic to fish and wildlife. All precautions must be taken to avoid spray drift to nontarget areas;

10. The applicant is responsible for insuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by September 1978; and

11. The EPA shall be immediately informed of any adverse effects resulting from the use of methomyl in connection with this exemption.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 et seq.).)

Dated: November 22, 1977.

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

[FR Doc. 77-34276 Filed 11-29-77; 8:45 am]

[6560-01]

[OPP-180161; FRL 823-3]

VERMONT DEPARTMENT OF AGRICULTURE

Issuance of Specific Exemption To Use Carbaryl To Control the Maple Leaf Cutter

The Environmental Protection Agency (EPA) has granted a specific exemption to the Vermont Department of Agriculture (hereafter referred to as the "applicant") to use carbaryl (Sevin) on approximately 5,000 acres in Vermont to control populations of the maple leaf cutter, which are threatening commercial sugar maple orchards. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SE., Room E-315, Washington, D.C. 20460

According to the applicant, populations of the maple leaf cutter (*Paraclemensia acerifoliella*) has been a serious defoliator in Vermont for the last four years. It is estimated that over 34,000 acres of sugar maple were defoliated in 1976. Unless control measures are taken again this year, tree mortality, tree top and branch kill, and lower sap quality and syrup production will take place. Apparently, stress is present after one year of defoliation. Some commercial operators have not "sugared" for two or more years in order to ease the stress on infested trees. The applicant stated that many others would not operate during the 1978 spring sap season unless control measures were taken. The applicant estimated that syrup losses amounting to $250,000 are expected to occur this year as a result of maple leaf cutter feeding damage.

There are no insecticides currently registered for control of maple leaf cutter on sugar maples that are being used as a food crop. Several insecticides, including carbaryl, are registered for use on forest insect pests on sugar maples in forest situations.

The applicant proposed to use carbaryl (Sevin) applied from fixed-winged aircraft at a dosage rate of one (1.0) pound of actual carbaryl per acre. Most of the sugar maple acreage to be treated is located in the counties of Bennington, Lamoille, Windham, Windsor, Rutland, and Washington. Personnel involved in the applications are experienced in all aspects of forest pest management, including insect disease and include personnel from the University of Vermont Agricultural Extension Service, the Vermont Department of Forests and Parks, and the Vermont Department of Agriculture. A maximum of 5,000 acres will be treated.

The Fish and Wildlife Service, U.S. Department of the Interior, has advised EPA that peregrines are present in Vermont; however, the particular counties involved in this specific exemption are not known to be frequented by these birds.

After reviewing the application and other available information, EPA has determined that: (a) A pest outbreak of the maple leaf cutter has or is about to occur; (b) there is no pesticide presently registered and available for use to control the maple leaf cutter in Vermont; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the maple leaf cutter is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the applicant has been granted a specific exemption to use the pesticide noted above until July 30, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Either Sevin 80 Sprayable or Sevin 4-Oil, containing the active ingredient carbaryl (1-naphthyl N-methylcarbamate) will be used at a dosage rate of 1 pound active ingredient/acre. One application will be made per orchard;

2. Up to 5,000 acres of sugar maple in the counties listed in this notice may be treated;

3. The method of application will be by aircraft;

4. The applicant must insure that all personnel involved in this program are competent in the application of pesticides and that all provisions of this specific exemption are followed;

5. A residue level of carbaryl not exceeding 0.5 ppm in the raw agricultural commodity maple sap has been deemed adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

6. The EPA shall be immediately informed of any adverse effects resulting from the use of carbaryl in connection with this exemption;

7. All label precautions must be followed; and

8. A report which summarizes the orchards treated and the results of this program must be submitted to the EPA by the end of 1977.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: November 22, 1977.

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

[FR Doc. 77-34278 Filed 11-29-77; 8:45 am]

[6560-01]

[OPP-180155; FRL 822-6]

WASHINGTON STATE DEPARTMENT OF AGRICULTURE

Issuance of Specific Exemption To Use Post-Harvest Applications of Terramycin To Control Fire Blight on Pears

The Environmental Protection Agency (EPA) has granted a specific exemption to the Washington State Department of Agriculture (hereafter referred to as the "Applicant") to employ post-harvest applications of the calcium complex of oxytetracycline (Terramycin) on up to 9,000 acres of pears in order to control Fire Blight. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., room E-315, Washington, D.C. 20460.

According to the Applicant, there are approximately 20,000 acres of pears in the State of Washington. Depending on weather conditions, fire blight (which is caused by a plant pathogenic bacterium (*Erwinia amylovora*)) may occur on only a small portion or on almost all of this acreage. The Applicant stated that the occurrence of strains of the fire blight bacterium resistant to streptomycin have been known in the State since 1973; at present, about 30% of the State's pear acreage is known to be infected with streptomycin-resistant bacteria. According to the Applicant, most of this acreage currently has fire blight in epidemic proportions.

For the past several years streptomycin has been used for the control of fire blight. Prior to the development of streptomycin, fixed copper sprays were used for control of this disease. However, control with fixed copper sprays has been erratic, at best. Also, under certain weather conditions, fixed copper may russet the fruit. Cutting out the infested portions of the trees is an alternative to spraying. However, not only is this expensive (in terms of labor), but also severe reductions in fruit yield are felt. Because of

the loss of the fruit-bearing area, the losses are not confined to one year. Loss due to fire blight is compounded by the loss of large sections of an established tree; in some cases, whole trees might be lost. Once fire blight has gotten out of the control of the grower, several years are involved to bring the pear orchard back into production. Post-harvest sprays can be an important phase of fire blight control, since the bacterium overwinters on the host in cankers and attacks the blossoms in the spring.

Under epidemic conditions, 10 to 15% of the bearing surface of an orchard may be lost. Depending on the normal yield of the orchard, this could result in a loss ranging from ½ to 3 tons of pears per acre. Approximately 6,000 to 9,000 acres of pears are expected to have economic loss due to fire blight during the 1977 season. The Applicant estimated that, based on an average loss of one ton per acre, this represents a monetary loss of up to $900,000 (current price approximately $100/ton to the grower). Failure to control the disease will extend this loss to subsequent years. To this can be added the cost of bringing an orchard back to normal production by replacing dead or dying trees and cutting out infected wood.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of fire blight on pears has occurred; (b) there is no pesticide presently registered and available for use to control fire blight in Washington State; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the fire blight is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until October 31, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The Myco Shield Brand of Pfizer Agricultural Terramycin, containing the calcium complex of oxytetracycline, is authorized at a dosage rate of 50 to 100 gallons of a 200 ppm spray solution. Up to 27,000 pounds of product may be used;

2. Up to 9,000 acres of pears in counties east of the crest of the Cascade Mountains may be treated. Treatment is authorized only after Washington State pathologists determine that streptomycin resistant strains of *Erwinia amylovora* are present in a given growing area;

3. Up to three post-harvest applications may be made. No application will be made to any block of trees until all fruit in that block has been harvested;

4. Application will be made with ground sprays ond only by State-licensed commercial or certified private applicators. Applicators must wear protective clothing and respirators;

5. Workers may not enter orchards treated with terramycin until foliage is dry;

6. Applications must not be made near highly populated areas, hospitals, and areas where food or water may be contaminated;

7. A residue level of oxytetracycline in or on pears not exceeding 0.1 ppm has been deemed adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

8. The EPA shall be immediately informed of any adverse effects resulting from the use of terramycin in connection with this exemption; and

9. The Applicant is responsible for ensuring that all provisions of this exemption are followed, and that records are kept of the amount of terramycin sold to growers for the purpose of fire blight control. A final report must be submitted by October 31, 1978, which summarizes the results of this control program and the acreage treated.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: 22 November, 1977.

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

[FR Doc. 77-34277 Filed 11-29-77; 8:45 am]

[6560-01]

[FRL 808-5]

PERSONS EXPOSED TO TRANSURANIUM ELEMENTS IN THE ENVIRONMENT

Federal Radiation Protection Guidance on Dose Limits

AGENCY: Environmental Protection Agency.

ACTION: Proposed Federal radiation protection guidance.

SUMMARY: This proposed guidance is addressed to Federal agencies and would contain recommendations intended to assure protection of the public health by limiting the radiation doses persons may receive from transuranium elements present in the environment as a result of existing or possible future unplanned contamination.

The guidance considers both the inhalation and ingestion pathway of transuranium elements to humans and would establish a maximum dose rate to lung and bone for members of the general population. Agencies implementing the guidance would be required to estimate dose rates to persons from measured air and/or soil concentration levels. Based on available environmental measurements, nearly all the land outside the boundaries of existing contaminated sites is below the levels specified in the guidance and little or no remedial actions would probably be required to achieve compliance.

DATES: Comments must be received on or before February 28, 1977, and should be addressed to: Director, Criteria and Standards Division, Office of Radiation Programs AW-460/CM-2, U.S. Environmental Protection Agency, Washington, D.C. 20460. The Agency will schedule a public hearing if warranted on the basis of comments received.

All written comments filed pursuant to this Notice will be available for inspection and copying in the EPA Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C. during normal business hours.

TECHNICAL DESCRIPTION: A technical summary document explaining the proposed guidance has been prepared by the Office of Radiation Programs. Single copies of this document may be obtained on request from the Director, Criteria and Standards Division at the above address, or from any EPA Regional Office.

FOR FURTHER INFORMATION CONTACT:

Dr. Gordon Burley, Chief, Environmental Standards Branch, Criteria and Standards Division, Office of Radiation Programs (AW-460/CM-2), U.S. Environmental Protection Agency, Washington, D.C. 20460, Telephone Number 703-557-8610.

SUPPLEMENTARY INFORMATION:

Statutory Authority.—Authorities of the former Federal Radiation Council, which was established under Executive Order 10831 and Public Law 86-373, were transferred to the Environmental Protection Agency by Reorganization Plan No. 3 of 1970. It is the Administrator's statutory responsibility (42 U.S.C. 2021h) to:

> • • • advise the President with respect to radiation matters, directly or indirectly affecting health, including guidance for all Federal agencies in the formulation of radiation standards in the establishment and execution of programs of cooperation with States.

Previous actions by EPA.—This Agency published a Notice of Intent to Review the Need for Establishing New Rules for Plutonium and Other Transuranium Elements in the FEDERAL REGISTER, Vol. 39, page 34098 on September 23, 1974. Public Hearings to gather information were subsequently held in Washington, D.C., on Decem-

ber 10-11, 1974, and in Denver, Colo., on January 10, 1975. The Proceedings of these Hearings were published as EPA Document ORP/CSD-75-1.

Rationale for guidance.—The guidance is intended to provide recommendations on protection of the public health from exposure to transuranium elements at levels above those found in the environment as a result of fallout from the testing of nuclear devices. Accordingly, it proposes to establish a maximum dose rate applicable to the general population which considers all possible important pathways to humans. Two primary criteria used in deriving the proposed guidance were: that any added risk to an individual from exposure to the transuranium elements be very small, and that any actions required by implementation of the guidance be practical in terms of overall economic requirements. The Agency has found that the costs of remedial actions and benefits of risk reduction differ so greatly between contaminated sites that generic guidance applicable to all sites cannot be provided by formal benefit-cost procedures.

Radiation induced risks can be estimated based on a number of different assumptions, but the most prudent is that there is some finite risk to humans no matter how small the amount of absorbed radiation might be and that the risk at any given low dose level is directly proportional to the damage actually observed at much higher dose levels. The acceptance of such assumptions, in the absence of data to the contrary, must be considered as most appropriate for a regulatory or guidance function. On this basis, there is no level of radiation exposure which is absolutely safe and any radiation dose carries with it some degree of risk. Balanced against this is the fact that in our modern society all persons are exposed to a large number of competing risks (including natural background radiation) and that the reduction of a single risk must be viewed from the overall perspective of the costs and benefits.

The guidance recommendations are intended to achieve adequate health protection for the small fraction of the total population at greatest risk from exposure to transuranium nuclides in the environment, and will therefore offer much greater protection to the vast majority of the population at lesser risk. The risk at the proposed guidance level is estimated to be less than one chance in a million per year and less than ten chances per hundred thousand in a lifetime that an individual would develop a cancer from continuous exposure at the stated dose rates. It must be recognized that these estimates are not precise, and have an uncertainty of at least a factor of three for cancer risk. There may be differences in reputable scientific opinions on their accuracy, but they represent the best judgment of the Agency. The social judgment of whether this risk level is acceptable will be subject to public comment during the period provided. The final Agency recommendation may be higher or lower as appropriate.

Other Federal regulatory actions have considered lifetime risk levels for other carcinogens but there is, at this time, no uniformity of approach to the regulations of carcinogens. The lifetime risk levels proposed range from one per million as "virtually safe" to greater than 300 per million. Differences in the action levels reflect different regulatory requirements, constraints associated with remedial actions for a particular carcinogen, uncertainties in the calculations, differences in methods used to derive lifetime risks, and economic considerations.

The Agency has recognized a difference between those sites presently contaminated and sites that may be accidentally contaminated in the future, and has considered whether separate numerical guides should be developed for these two cases. It was concluded that no specific rationale is known that would justify different guidance based on health risk considerations. Therefore, the Agency recommends that the same numerical guide be used in both cases, but that all future contamination be cleaned up as soon as possible after occurrence in order to minimize radiation exposures of the general public and prevent widespread dispersion of environmental contamination.

The Agency has also considered the costs which might be involved in implementing this guidance, based on the information available. These costs were estimated from soil contamination levels at existing sites of contamination. A reference level of soil contamination was chosen which, with a very high degree of probability would be expected to result in an inhalation dose to an individual not to exceed the guidance recommendation. The costs of implementing the guidance can be expected to vary by location, contamination level, and other factors. A minimum cost of $500 per acre has been assumed for estimating the total costs which may be incurred in bringing all areas above the designated level into compliance. Such costs include dilution or removal of contamination by plowing or scraping as required and restorative actions needed to prevent erosion and assist ecological recovery. Costs necessarily increase as the difference between the existing contamination levels and those sought becomes greater. Results are discussed below in more detail. It can be concluded that the costs of implementing the guidance at the reference level would be reasonable and achievable, but that the cumulative costs increase rapidly when lower guidance limits are considered.

On the basis of the above considerations, the Agency has concluded that the proposed guidance would provide adequate protection of the critical segment of the population and would be capable of implementation at reasonable cost. Further details are provided in the technical summary document, which is available on request.

Scope of guidance.—The proposed guidance is not intended to supersede existing radiation protection guides, such as the individual and population limits established by the Federal Radiation Council in 1960, but rather to supplement these by specifying limits for one type of source and for one group of radionuclides within these broader limits. The scope of the proposed guidance includes all transuranium element contamination in the general environment from all sources. The recommendations are applicable to individuals in the general population outside the boundaries of a Federal facility, Federally licensed facility, or other site under the direct control of a Federal agency. The limits apply specifically to the critical segment of the exposed population, which is that group of persons in the general population who, because of residency or other factors, can on the average be expected to receive the highest lifetime radiation dose from a specified source of transuranium elements.

The recommendations are given in terms of an annual limiting dose commitment to the pulmonary region of the lung or to bone. Although the proposed guidance specifies dose rate limits to only these organs, this also limits the potential accumulation in other body organs including gonadal tissues. The annual dose rate to the designated organs can be estimated from representative measurements of air concentrations or soil contamination levels, either by use of site-specific data or by use of calculations based on reasonable procedures and assumptions.

Risk perspectives.—It is known that exposure to radiation may increase somatic risks, primarily that of cancer, as well as genetic risks to future generations. The proposed guidance is based on suitable models chosen by the Agency that relate environmental levels to the dose to internal organs. Health risks resulting from radiation exposure were estimated using models and recommendations of the Advisory Committee on the Biological Effects of Ionizing Radiation of the National Academy of Sciences (NAS-BEIR Committee) in its reports entitled "The Effects on Populations of Exposure to Low Levels of Ionizing Radi-

ation" (1972), and "Health Effects of the Alpha-Emitting Particles in the Respiratory Tract" (1976) as well as information in other technical reports.

The radiation risk due to inhalation of transuranium elements is primarily lung cancer. Additional risks may result from translocation of a small fraction of the transuranium elements from the lung to other body organs, especially to the liver and bone. On the basis of models, it was estimated that, for a cohort of 100,000 persons followed through their entire lifetimes, the continuous inhalation over their lifetimes of transuranium aerosols leadings to an average annual dose rate to the pulmonary tissue of 1 mrad/year per person could potentially result in 10 premature cancer deaths. For an Average lifespan of 71 years, the annual risk to each person from lifetime exposure at this level is about one per million per year.

The radiation risk due to ingestion of transuranium elements is primarily bone and liver cancers. In a cohort of 100,000 persons, continuous ingestion over a lifetime of a transuranium radionuclide at a level causing an average skeletal (bone) dose rate of 3 mrad per year 70 years after the start of ingestion could potentially result in less than 6 premature deaths from such cancers.

Genetic damage is possible as a result of assimilation of transuranium elements in gonadal tissue. There is considerable uncertainty in the estimated dose to gonadal tissue and resultant genetic risk but it can be estimated that, for continuous ingestion at the limits set by this proposed guidance, the total dose to gonadal tissue over 30 years of chronic exposure would be about 10 millirad. Such a gonadal dose to each of the parents is estimated to produce 1 to 20 genetic defects per 100,000 live births in the first generation. This number can be compared to the approximately 6000 genetic defects normally observed in 100,000 live births.

In practice, very few, if any, individuals are expected to be subjected to the recommended guidance limits and the total number of individuals exposed above levels of worldwide fallout will be small. The Agency also considered the total impact on population groups but, because the exposed population groups are small and are likely to remain so, it was deemed unnecessary to separately consider the total population radiation dose commitment in developing this guidance.

Implementation.—Implementation of this guidance would require measurement of the ambient concentration level of transuranium elements in air, soil, food, or water, and conversion through models to dose estimates. In most cases the critical pathway for exposure to transuranium elements is through inhalation of airborne particulates derived from resuspension of soil particles and compliance with this dose guidance can be demonstrated by measurements of air and/or soil concentration. Air concentration may be related to the dose guidance using dosimetry models that include consideration of particle size distribution and other parameters appropriate to the specific site of contamination. Soil contamination levels can be related to a corresponding air concentration by use of a resuspension factor, which is obtained either by experimental determination or by calculational techniques.

For practical reasons of facilitating implementation of the proposed guidance, derived numerical values for level of soil or air concentrations, which can reasonably be predicted to result in dose rates less than the guidance recommendations, could be substituted for the site-specific values. On the basis of limited data available for several existing sites, the Agency suggests that a soil contamination level of 0.2 $\mu Ci/m^2$, for samples collected at the surface to a depth of 1 cm and for particle sizes under 2 mm, would establish a reasonable "screening level" for this purpose. The Agency also suggests that a derived air concentration based on an activity median aerodynamic particle diameter (AMAD) not to exceed 0.1 μm, which is substantially smaller than observed values at all known contamination sites, could be equated to a limiting concentration of about 1 fCi/m^3 for alpha emitting transuranium nuclides. Use of such derived numerical values can serve to reduce the land areas requiring evaluation and minimize the number of measurements needed. Areas which do not exceed the "screening level" would generally be considered in compliance with the guidance recommendations; those that exceed it would require more intensive evaluation to determine actual dose rates to exposed persons.

Remedial actions and economic evaluation.—Where a need for the use of remedial measures would arise, two alternatives are available: (1) reduction or elimination of the source term; or (2) establishing restricted access or use of the area in question. Remedial measures which reduce or remove existing surface contamination, in order to minimize the source term and subsequent transport of plutonium to humans, include:

1. In-place stabilization by the application of a relatively impermeable cover, such as oil, polymerized plastics, or asphalt;
2. Dilution by plowing or other similar techniques; and
3. Disposal by removal of surface soils and burial either on-site or in a designated waste storage repository.

It can generally be expected that a variety of techniques could be used to achieve the guidance level at any site. An economic evaluation can be used to identify the technique or combination of techniques that will attain and maintain the guidance level at the least total cost. Monetary costs, environmental costs, and other nonmonetary costs should all be considered in the evaluation of each alternative combination of possible remedial actions.

Projected impact of guidance and alternatives.—Under the provisions of the National Environmental Policy Act of 1969, it is required that every major Federal action be examined in terms of projected impacts and that all available alternatives be considered. The purpose of such an analysis is to compare the costs and benefits of the recommended action with other options in terms of the broad range of projected health, sociological, economic, and environmental impacts.

The implementation of the proposed action would be site-specific. The portion of the environment affected is that where present or future transuranium nuclide concentrations may exceed guidance values. Such areas are likely to be those where the transuranium elements are prepared, fabricated, used, stored, or transported. A number of such areas currently exist within the limits of the continental United States. Most contamination is located on lands with restricted or limited access, but a few instances exist where contamination has spread to privately owned properties.

There are four Federal sites in the United States that have transuranium element contamination above ambient levels in soils beyond their boundaries. These include the Rocky Flats Plant in Jefferson County, Colo., Mound Laboratory in Miamisburg, Ohio, Nevada Test Site in southern Nevada, and Trinity Test Site near Alamogordo, N. Mex. The majority of all contamination released is confined within areas under the direct control of the Federal government, which imposes restrictions on the access and use of these areas. Relatively small amounts of transuranium element contamination exists outside the boundaries of these sites on lands generally accessible to the public.

The following discussion is intended to supply a perspective of applying the guidance recommendations to these sites in terms of the reference level of 0.2 $\mu Ci/m^2$, and is based on all the information presently available to the Agency. Use of such a reference level for soil contamination is intended solely to provide a basis for comparison and in most cases probably overestimates the magnitude of the areas subject to remedial actions. Comparisons are made in terms of areas outside the boundaries of these sites which may exceed the derived soil reference level.

The Rocky Flats Plant (RFP) produces components for nuclear weapons. Barrels containing plutonium contaminated cutting oil slowly corroded and some of the contents eventually leaked into the environment and were dispersed. On the basis of soil concentration data, all offsite areas at the Rocky Flats plant probably would be in compliance with guidance recommendations. However, more intensive evaluation in the most highly contaminated areas east of the plant may be needed to determine the actual dose rates to the general population. The area is sparsely inhabited and there are few people living in the particular area of concern. All local water supplies are expected to yield ingestion dose rates well below the guidance recommendations.

Mound Laboratory is a major research and development site for fabrication of radioisotopic heat sources used for space and terrestrial applications. In 1969 a pipeline transporting a waste Pu-238 solution ruptured, spilling the contaminated solution. The plutonium migrated slowly into nearby waterways. The majority of the plutonium is now sorbed and fixed on the sediments of the North and South Canals. Maximum concentrations are 1 to 3 ft. below the sediment surface and currently do not pose any radiation problem, since very little of the plutonium is in soluble form and the canal water is not used for drinking purposes. Banks immediately adjacent to the canal and overflow creek, which are subject to occasional flooding, have maximum plutonium concentrations exceeding the reference level. The amount of land in question is about 0.01 mi^2 and there are no people living on this land. No immediate cleanup is indicated for this site, but continued surveillance is warranted.

The Nevada Test Site (NTS) covers an area of 1400 mi^2 with an additional exclusion zone extending distances of 16 to 48 miles. Major programs at NTS have included nuclear weapons tests, testing for peaceful uses of nuclear explosives, and nuclear reactor engine development. These activities have resulted in plutonium contamination in certain areas of the test site and exclusion areas and slight contamination (above worldwide fallout levels) outside the exclusion areas. There are no known uncontrolled areas which have transuranium element contamination exceeding the reference level.

The Trinity Test Site was the location of the first nuclear explosion. No other nuclear explosion tests were performed at Trinity. A site survey was performed by EPA during 1973-74 to determine residual plutonium concentration contours. The highest plutonium contamination levels in uncontrolled areas ranged from .02 to .09 $\mu Ci/m^2$. On the basis of limited available data, no major remedial actions would appear to be necessary at this site.

Text of proposed guidance.—The Environmental Protection Agency proposes that the following recommendations be submitted by the Administrator to the President for issuance as Federal Radiation Guidance:

1. The annual alpha radiation dose rate to members of the critical segment of the exposed population as the result of exposure to transuranium elements in the general environment should not exceed either:

a. 1 millirad per year to the pulmonary lung, or and

b. 3 millirad per year to the bone.

2. For newly contaminated areas, control measures should be taken to minimize both residual levels and radiation exposures of the general public. The control measures are expected to result in levels well below those specified in paragraph one. Compliance with the guidance recommendations should be achieved within a reasonable period of time.

3. The recommendations are to be used only for guidance on possible remedial actions for the protection of the public health in instances of presently existing contamination or of possible future unplanned releases of transuranium elements. They are not to be used by Federal agencies as limits for planned releases of transuranium elements into the general environment

Defininitions.—a. "Critical segment of the exposed population" means that group of persons within the exposed population receiving the highest radiation dose to the pulmonary region of the lung or to the bone.

b. "Rad" is the unit of absorbed dose, defined as the energy imparted to tissue due to ionizing radiation divided by the mass of the tissue. One rad is equal to the absorption of 100 ergs of radiation energy per gram of matter. 1 millirad (mrad)=10^{-3} rad.

c. "Pulmonary lung" means that region of the lung consisting of respiratory bronchioles, alveolar ducts, atria, alveoli, and alveolar sacs. The average total weight of this tissue, including the capillary blood, is assumed to be 570 gms.

d. "Millirad per year to the pulmonary lung" means the equilibrium dose rate following chronic inhalation. This dose rate is calculated by dividing the alpha energy absorbed per year in the pulmonary lung by its mass.

e. "Bone" means osseous tissue. The average total weight of this tissue is assumed to be 5000 grams.

f. "Millirad per year to the bone" means the dose rate attained after 70 years of chronic exposure. This dose rate is calculated by dividing the alpha energy absorbed in the bone during the 70th year by the bone mass.

g. "General environment" means the total terrestrial, atmospheric and aquatic environments outside the boundaries of Federally licensed facilities or outside the boundaries of sites which are under the direct control of a Federal agency.

h. "Curie (Ci)" is the basic unit to describe the intensity of radioactivity in a material. It is equal to 37 billion disintegrations per second.

1 millicurie (mCi)=10^{-3} Ci
1 femtocurie (fCi)=10^{-15} Ci

Dated: November 22, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-34328 Filed 11-29-77; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

RADIO ASTRONOMY SERVICE WORKING GROUP AND BROADCAST SATELLITE SERVICE WORKING GROUP FOR THE 1979 ITU WORLD ADMINISTRATIVE RADIO CONFERENCE

Joint Meeting

NOVEMBER 23, 1977.

A joint meeting of the Radio Astronomy Service Working Group and the Broadcast Satellite Service Working Group for the 1979 General World Administrative Radio Conference is scheduled to be held on Thursday, December 15, 1977, at 1 p.m. in room 8210 of the Commission's offices located at 2025 M Street NW., Washington, D.C.

This joint meeting will be held to discuss mutual problems and possibilities of shared allocations in the 2670 to 2700 MHz band.

The joint advisory committee meeting is open to the general public and any written comments will be accepted before or after the meeting.

For the Federal Communications Commission.

WILLIAM J. TRICARICO,
Acting Secretary.

[FR Doc.77-34282 Filed 11-29-77; 8:45 am]

[6712-01]

SATELLITE BROADCASTING SERVICE GROUP 1979 WORLD ADMINISTRATIVE RADIO CONFERENCE

Schedule of Meeting

NOVEMBER 25, 1977.

Pursuant to Pub. L. 92-463, notice is hereby given of the following meeting.

WARC-79 SATELLITE BROADCASTING SERVICE GROUP

Thursday, December 15, 1977, 9:30 a.m. to 12 Noon, Room 8210, 2025 M Street NW., Washington, D.C.

Chairman: Edward E. Reinhart.
FCC Liaison: Charles H. Breig.

The Agenda will be as follows:

1. Call to order by Chairman and Announcements.
2. Approval of Minutes.
3. Report on CCIR Final Study Group meetings (block A).
4. Report on Bilateral U.S.-Canadian discussions re 1982 RARC.
5. Current Status of 1979 WARC Preparation.
6. Reports from Task Groups.
7. Further Discussion.
8. Next meeting date and adjournment.

The above meeting is open to broadcast industry representatives and interested members of the general public.

For the Federal Communications Commission.

WILLIAM J. TRICARICO,
Acting Secretary.

[FR Doc. 77-34283 Filed 11-29-77; 8:45 am]

[6325-01]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

OPEN COMMITTEE MEETING

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Federal Prevailing Rate Advisory Committee will be held on Thursday, December 15, 1977.

The meeting 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 Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership on the Committee is provided for in section 5347 of the Prevailing Rate Act of 1972 (Pub. L. 92-392).

The Committee's primary responsibility is to review the prevailing rate system and from time to time advise the Civil Service Commission thereon.

At this scheduled meeting, the Committee will consider proposed plans for implementation of the Prevailing Rate Act of 1972 (Pub. L. 92-392), which Law establishes pay systems for Federal prevailing rate employees.

This scheduled meeting will convene in open session with both labor and management representatives attending. During the meeting the labor and management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Chairman of the Civil Service Commission under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Civil Service Commission, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal wage system pay matters felt to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by contacting the Secretary, Federal Prevailing Rate Advisory Committee, Room 1338, 1900 E Street NW., Washington, D.C. 20415, 202-632-9710.

ALBERT F. WIECJOREK,
Secretary, Federal Prevailing Rate Advisory Committee.

NOVEMBER 28, 1977.

[FR Doc. 77-34396 Filed 11-29-77; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

CONSUMER ADVISORY COUNCIL

Meeting of Consumer Advisory Council

Notice is hereby given that the Consumer Advisory Council will meet on Thursday, December 8, 1977. The meeting, which will be open to public observation, will take place in Terrace Room E of the Martin Building beginning at 9:30 a.m. and concluding at approximately 4 p.m. The Martin Building is located on C Street NW., between 20th and 21st Streets in Washington, D.C.

The Council's function is to advise the Board on the exercise of the Board's responsibilities with regard to consumer credit legislation and regulation. It is anticipated that the December 8 meetng of the Council will include consideration of the following topics:

1. Task force report and discussion on organization and procedures of the Council.

2. Report and discussion of results of the Consumer Awareness Survey.

3. Discussion of significant issues relating to the Board's responsibilities under the Community Reinvestment Act.

Brief reports will be made on the status of matters previously discussed by the Council.

Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452-3204.

Board of Governors of the Federal Reserve System, November 23, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 77-34281 Filed 11-29-77; 8:45 am]

[4110-08]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

COMMITTEE ON HEALTH AND ECOLOGICAL EFFECTS OF INCREASED COAL UTILIZATION

Amended Notice of Meetings

Notice is hereby given of a change in the agenda and the room number for the Committee on Health and Ecological Effects of Increased Coal Utilization, December 6-7, 1977, New Executive Office Building, Room 2010, Seventeenth and Pennsylvania Avenue NW., Washington, D.C. 20503, which was published in the FEDERAL REGISTER on November 8, 1977 (42 FR 58205).

The agenda intended for this meeting was to finalize the Committee's report, but it has been changed to "drafting of its report." Also, the meeting room was to have been 2008, but has been changed to 2010.

In addition there will be a meeting of the Committee on Health and Ecological Effects of Increased Coal Utilization on December 15, 1977, New Executive Office Building, Room 2010, Seventeenth and Pennsylvania Avenue NW., Washington, D.C. 20503, to prepare the final report.

The entire session of each meeting will be open to the public from 9 a.m. to adjournment. Attendance by the public will be limited to space available.

The deadline for receipt of written comments on matters being considered by the Committee has been extended from November 29, 1977, to 5 p.m., December 2, 1977. These comments should be addressed to Mr. Al Fry, Executive Secretary of the Committee, Energy Resources Company, Inc., 1701 K Street NW., Suite 605, Washington, D.C. 20006, 202-452-9222.

Dated: November 23, 1977.

SUZANNE L. FREMEAU,
Commitee Management Office, National Institutes of Health.

[FR Doc. 77-34378 filed 11-29-77; 8:45 am]

[4110-08]

Office of Education

REGIONAL OFFICES OF THE BUREAU OF STUDENT FINANCIAL ASSISTANCE

Statement of Organization, Functions, and Delegation of Authority

Part EE, of the Statement of organizations, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare, Office of Education is amended to specify the model organization structure of the Regional Offices of the Bureau of Student Financial Assistance 42 FR 45378 (9/9/77). These units are designated Office of Student Financial Assistance (EEDIS-EEDXS). The model organization consists of four primary program divisions: Certification and Program Review, Claims and Collections, Training and Dissemination, and Compliance. Regional organizations may vary because of the size of the workload; however, the total functions of the four primary program bureaus will be performed regardless of the specific regional organizational structure. One approved alternative would be the combination into a single division of the Certification and Program Review Division and the Training and Dissemination Division. Under another approved alternative the functions of the Compliance Division may be assigned as a staff unit of the Regional Administrator of Student Financial Assistance.

The following statement is to be inserted immediately following the functional statement for the Office of Student Financial Assistance:

The organization of the model regional Office of Student Financial Assistance is as follows:

DIVISION OF CERTIFICATION AND PROGRAM REVIEW

Conducts program reviews of postsecondary educational institutions and lender agencies and institutions participating in student assistance programs, to ascertain compliance with program regulations and effectiveness of program administration; recommends certification of institutions based on conformance to established fiscal and program standards; conducts workshops and reviews and processes annual applications from institutions to participate in grants work, and loan programs; recommends limitation, suspension, or termination of intitutions or programs based on review findings.

DIVISION OF CLAIMS AND COLLECTIONS

Establishes controls over and reviews claims filed by lending institutions for payment of defaulted loans under the Guaranteed Student Loan Program; approves insured claims for payments; contacts borrowers who have defaulted on loan payments and attempts collections; reviews and approves requests for forebearance of payments based on hardships or extenuating circumstances; provides preclaims assistance as requested by lending institutions; and monitors contracts with private organizations for loan collections. Provides data management support for automated systems; maintains control on claims and collections files and, as necessary, provides mail receipt and other information support to the Office.

DIVISION OF TRAINING AND DISSEMINATION

Determines need for, and provides for training of, institutional student financial aid officers and regional staff; disseminates program information to institutions, students, and the general public, on student assistance programs. Arranges for Federal participation in workshops and conferences for institutional financial aid officers; attends professional organization meetings to disseminate technical information on student asssistance programs; participates in other public meetings to provide general program information to students, parents, and other interested parties; prepares responses to inquiries from institutions, the general public, and members of Congress, on student assistance programs.

DIVISION OF COMPLIANCE

Conducts investigative and compliance reviews of problem schools to determine alleged or possible fraud and abuse; prepares documentation in support of cases which may be referred to the Inspector General and/or Department of Justice for criminal and civil action; recommends limitation, suspension, or termination actions based on investigative findings; maintains liaison with regional representatives of the Inspector General, General Counsel, Department of Justice, and other law enforcement or regulatory agencies.

Dated: November 15, 1977.

CHARLES MILLER,
Acting Assistant Secretary for Management and Budget.

[FR Doc. 77-34316 Filed 11-29-77; 8:45 am]

Bureau of Land Management

[NM 32096]

NEW MEXICO

Application

NOVEMBER 21, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Natural Gas Pipeline Company of American has applied for two 4-inch natural gas pipelines right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 32 E.,
Sec. 5, lots 13, 14, 15, and 16.

These pipelines will convey natural gas across 0.914 miles of public land in Lea County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 77-34288 Filed 11-29-77; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[22-41]

CANE AND BEET SUGARS, SIRUPS, AND MOLASSES

Investigation and Hearing

At the request of the President (reproduced herein), the United States International Trade Commission, on November 23, 1977, instituted an investigation under subsection (a) of section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), to determine whether sugars, sirups, and molasses provided for in items 155.20 and 155.30 of part 10A, schedule 1 of the Tariff Schedules of the United States (TSUS), are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price-support operations now being conducted by the U.S. Department of Agriculture for sugar cane or sugar beets, or to reduce substantially the amount of any product being processed in the United States from such domestic sugar cane or sugar beets.

The text of the President's letter of November 11, 1977, to the Commission follows:

Pursuant to section 22 of the Agricultural Adjustment Act, as amended, I have been advised by the Secretary of Agriculture, and I agree with him, that there is reason to believe that certain sugars, sirups, and molasses, provided for in items 155.20 and 155.30

of part 10A, schedule 1 of the Tariff Schedules of the United States, are being or are practically certain to be imported under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support operations for sugar cane and sugar beets, or to reduce substantially the amount of any product being processed in the United States from such domestic sugar cane or sugar beets.

The Secretary has also advised me, pursuant to section 22(b) of the Agricultural Adjustment Act, as amended, that a condition exists requiring emergency treatment with respect to such sugars, sirups, and molasses and has, therefore, recommended that I take prompt action under section 22(b) to impose fees on such sugars, sirups, and molasses. I am today issuing a proclamation imposing import fees on certain sugars, sirups, and molasses, such fees to continue in effect pending the report and recommendation of the United States International Trade Commission and action that I may take thereon. (Proclamation 4538 of November 11, 1977.[1])

The United States International Trade Commission is directed to make an immediate investigation under section 22 of the Agricultural Adjustment Act, as amended, to determine whether the above-described sugars, sirups, and molasses are being, or are practically certain to be, imported under such conditions and in such quantities as to render or tend to render ineffective or materially interfere with the price support operations now being conducted by the Department of Agriculture for sugar cane and sugar beets, or to reduce substantially the amount of any product being processed in the United States from such domestic sugar cane and sugar beets, and to report its findings and recommendations to me at the earliest practicable date.

Hearings. Public hearings in connection with this investigation will be held in New Orleans, La., Minneapolis, Minn., and Washington, D.C., beginning on January 4, January 17, and February 2, 1978, respectively. The time and place of these hearings will be announced later. All interested parties will be given an opportunity to be present, to produce evidence, and to be heard at such hearings. Interested parties desiring to appear at the public hearings should notify the Secretary of the International Trade Commission, in writing, at 701 E Street NW., Washington, D.C. 20436, at least 5 days in advance of the scheduled hearing date. The notification should indicate the name, address, telephone number, and organization of the person filing the request, and the name and organization of the witnesses who will testify. Because of the limited time available, the Commission reserves the right to limit the time assigned to witnesses.

Written submissions. Interested parties may submit written statements of information and views, in lieu of their appearance at the public hearings or they may supplement their oral testimony by written statements of any desired length. In order to be assured of consideration, all written statements, including briefs, should be submitted at the earliest practicable date, but not later than five working days after the conclusion of the public hearings.

With respect to any of the aforementioned written submissions, interested parties should furnish a signed original and nineteen (19) true copies. Business data to be treated as business confidential shall be submitted on separate sheets, each clearly marked at the top "Business Confidential," as provided for in section 201.6 of the Commission's Rules of Practice and Procedure.

By order of the Commission.

Issued: November 25, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc. 77-34327 Filed 11-29-77; 8:45 am]

[1] The regular duties on sugars, sirups, and molasses, provided for in items 155.20 and 155.30 of the TSUS were increased under other authority by Proclamation 4539 also issued on November 11, 1977.

[7020-02]

[Investigation No. 337-TA-39]

CERTAIN LUGGAGE PRODUCTS

Investigation

Notice is hereby given that a complaint was filed with the United States International Trade Commission on October 28, 1977, and an amendment thereto filed on November 11, 1977, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of Airway Industries, Inc., Ellwood City, Pa. 16117, alleging that unfair methods of competition and unfair acts exist in the importation of certain luggage products into the United States or in their sale by reason of the alleged coverage of such articles by the claim of U.S. Letters Patent Des. 242,181. The amended complaint alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. Complainant requests a permanent exclusion from entry into the United States of the imports in question. Complainant also requests exclusion from entry into the United States, except under bond, of the imports in question pending the investigation of this matter.

Having considered the amended complaint, the United States International Trade Commission, on November 23, 1977, ordered—

(1) That, pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine, under subsection (c) whether, on the basis of the allegations set forth in the amended complaint and the evidence adduced, there is a violation or reason to believe there is a violation of subsection (a) of this section in the unauthorized importation of certain luggage products into the United States, or in their sale, by reason of such luggage products allegedly being covered by the claim of U.S. Letters Patent Des. 242,181, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) That, for the purpose of the investigation so instituted, the following persons, alleged to be involved in an unauthorized importation of such article into the United States, or in their sale, are hereby named as respondents upon which the amended complaint and this notice are to be served:

MANUFACTURERS AND/OR EXPORTERS

Chang Cheng Plastic Enterprise Co., Ltd., 12 Chang Nan Road, Changwa City, Taiwan.
Dongmee Trading Company, Ltd., Wonlim B/D (3rd Floor), 175-1, 2-GA, Ulgero, Choong-ku, Seoul, Korea.
Nan Zong Leather Products, 5th Floor, Tai Feng Building, 71, Nanking E. Rd., Sec. 2, Taipei, Taiwan.
Shen-Tai Industry Co., Ltd., No. 301 Sung Chiang Rd., Taipei, Taiwan.
Suh Won Industries, Inc., C.P.O. Box 6118, Seoul, Korea.
Dong-A Sewing Products Company, Ltd., C.P.O. Box 660, Seoul, Korea.
Lih Hwa Industries, Ltd., 5th Floor, No. 34, Nanking E. Road, Sec. 1, Taipei, Taiwan.
Pung Kook Industrial Co., Ltd., C.P.O. Box 5219, Seoul, Korea.
Sam Yunk Chemical Ind. Co., Ltd., Room 205, Grand Building, 17-20, 4 K.A., NIO OAE RO MOON, Chung-ku, Seoul, Korea.
Tsun-Ho Yeh, No. 13 Shuei Ian St., Changhua, Taiwan.
Winn Quality Industry Co., Ltd., 2 Fl. No. 503 Min Chuan East Rd., Taipei, Taiwan.
Yoo Poong Luggage Mfg. Co., Ltd., C.P.O. Box 5194, Seoul, Korea.
Yuan-Fong, I.P.O. Box 59177, Taipei, Taiwan.
Worldmart Industries, Ltd., K.P.O. Box 411, Seoul, Korea.
Youngnam Enterprises Co., Ltd., I.P.O. Box 3779, Seoul, Korea.
San Ho Plastics Fabrication Co., Ltd., 40 Min Chuan West Rd., Taipei, Taiwan.

IMPORTERS

Alexanders, 500 Seventh Avenue, New York, N.Y. 10001.
Henry Rosenfeld Luggage, Suite 8201-4, 350 Fifth Avenue, New York, N.Y. 10001.
Suh Won America, Inc., 3824 Hawthorne Ct., Waukegan, Ill. 60085.
Worldmart Industries, Inc., 1133 Broadway, Suite 1520, New York, N.Y. 10010.
Ambassador Leather Goods, 711 West Broadway, Tempe, Ariz. 85282.
Winn Importing Corp., 6001 N. Clark Street, Chicago, Ill. 60660.
Seward Luggage Manufacturing Co., 434 High Street, Petersburg, Va. 23803.

(3) That, for the purpose of the investigation so instituted, Judge Myron

R. Renick, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby appointed as presiding officer; and

(4) That, for the purpose of the investigation so instituted, David J. Dir, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney.

Responses must be submitted by the named respondents in accordance with section 201.21 of the Commission's Rules of Practice and Procedure, as amended (41 FR 17710, April 27, 1976). Pursuant to sections 210.16(d) and 210.21(a) of the Rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the amended complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefore is shown.

Failure of a respondent to file a timely response to each allegation in the amended complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the amended complaint and of this notice, and will authorize the presiding officer and the Commission, without further notice to the respondent, to find that facts to be as alleged in the amended complaint and this notice and to enter both a recommended determination and a final determination, respectively, containing such findings.

The amended complaint, with the exception of confidential information referred to therein, is available for inspection by interested persons at the Office of the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the New York City office of the Commission, 6 World Trade Center.

By Order of the Commission.

Issued: November 25, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc. 77-34326 Filed 11-29-77; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Antitrust Division

WHOLESALE BAKERIES

Proposed Consent Judgments and Competitive Impact Statements Enjoining Price Fixing and Bid Rigging

Notice is hereby given, pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h), that proposed consent judgments and competitive impact statements as set out below have been filed in the United States District Court for the Middle District of Louisiana, in *United States* v. *Ideal Baking Co. of Paris, Inc.; Cotton Baking Co., Inc.; and Wolf Baking Co., Inc.*, Civil Action No. 75-73; *United States* v. *Huval Baking Co., Inc.; Cotton Bros. Baking Co., Inc.; and Wolf Baking Co., Inc.*, Civil Action No. 75-74; *United States* v. *Colonial Baking Co. of El Dorado; Cotton's Ouachita Bakery, Inc.; and Wolf Baking Co., Inc.*, Civil Action No. 75-75; and *United States* v. *Cotton's, Inc.; Colonial Baking Co. of Gulfport; Huval Baking Co., Inc.; and Wolf Baking Co., Inc.*, Civil Action 75-76. The complaints in these cases alleged that the wholesale baker defendants violated Section 1 of the Sherman Act by fixing prices, reducing and eliminating discounts, and submitting rigged bids for the sale of bakery products in the market areas in question. In Civil Actions No. 75-74 and 75-75, the complaints also alleged that the defendants conspired to restrict the availability of secondary bread in the markets in question. These violations had the effect of raising prices and restraining competition in the sale of baked products. The proposed judgments perpetually enjoin the defendants from entering into any agreement to fix prices or discounts, to rig bids, or to limit the production of bakery products. Defendants are also enjoined from inducing or coercing other producers of bakery products to adopt uniform prices and discounts, or to submit rigged bids, or to limit the produciton of bakery products. The proposed judgment enjoins defendants, for a period of ten years, from communicating to other producers or sellers of bakery products information concerning defendants' future pricing and bidding activities. The proposed competitive impact statements describe the provisions of the proposed judgments and the background of the actions and conclude that the proposed judgments provide all the relief which the Department of Justice sought in its complaints. Public comment is invited on or before January 18, 1978. These comments and the Department of Justice's responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Donald A. Kinkaid, Chief, Atlanta Office, Antitrust Division, Department of Justice, 1776 Peachtree Street NW., Suite 420, Atlanta, Ga. 30309.

Dated: November 18, 1977.

CHARLES F. B. MCALEER,
Assistant Chief, Judgments and Judgment Enforcement Section.

UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF LOUISIANA

United States of America, Plaintiff, v. *Ideal Baking Co., of Paris, Inc., Cotton Baking Co., Inc.*, and *Wolf Baking Co., Inc.*, Defendants.

Civil No. 75-73.

Filed: November 18, 1977.

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act [15 U.S.C. § 16], and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to plaintiff or defendants in this or any other proceeding.

Dated: November 18, 1977.

For the Plaintiff: John H. Shenefield, *Assistant Attorney General;* William E. Swope, Charles F. B. McAleer, Donald A. Kinkaid, J. Albert Kroemer, David A. Harris, *Attorneys, Department of Justice.*

For the Defendants: Miller, Cassidy, Larroca & Lewine, Washington, D.C., *Attorney for Huval Baking Co., Inc.;* Wald, Harkrader & Ross, Washington, D.C., *Attorney for Cotton Bros. Baking Co., Inc.;* Stone, Pigman, Walther, Wittmann & Hutchinson, New Orleans, La., *Attorney for Wolf Baking Company, Inc.;* Breazeale, Sachse & Wilson, Baton Rouge, La., *Attorney for Wolf Baking Co., Inc.*

UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF LOUISIANA

United States of America, Plaintiff, v. *Ideal Baking Co. of Paris, Inc., Cotton Baking Co., Inc.*, and *Wolf Baking Co., Inc.*, Defendants.

Civil No. 75-73.

Filed: November 18, 1977.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on February 28, 1975, and the plaintiff and the defendants, by their respective attorneys, having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein, and without admission by any party with respect to any such issue, and without this Final Judgment constituting evidence or admission by any party with respect to any such issue,

Now, therefore, before the taking of any testimony and without adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby,

Ordered, Adjudged and decreed, as follows:

I

This court has jurisdiction over the subject matter herein and the parties hereto. The complaint states a claim against the defendants upon which relief may be granted under Section I of the Sherman Act, 15 U.S.C. § 1.

II

As used in this Final Judgment:

(A) "Bakery products" shall include, but not be limited to, items such as white sliced bread, whole wheat and other varieties of bread, rolls, buns, specialty items, cake, sweet rolls and other confectionaries;

(B) "Discount" means any percentage or other reduction from the regular or list prices charged by any of the defendants;

(C) "Person" means any individual, partnership, firm, association, corporation or other business or legal entity; and

(D) "Control" means at least a 50 percent direct or indirect ownership interest in the controlled person by the controlling person.

III

The provisions of this Final Judgment are applicable to the defendants and to each of their officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Each defendant is enjoined and restrained from directly or indirectly entering into, adhering to, maintaining or furthering any contract, agreement, understanding, plan, program, combination or conspiracy with any other person engaged in the production and sale of bakery products to:

(1) Fix, determine, maintain or stabilize prices for the sale of bakery products;

(2) Fix, determine, maintain, stabilize or adhere to sepcific or uniform discounts for the sale of bakery products or to limit, reduce, remove or eliminate such discounts;

(3) Submit noncompetitive, collusive or rigged bids or quotations or not to submit any bid or quotation for the sale of bakery products;

(4) Fix, determine, maintain, stabilize, limit or reduce the production or sale of bakery products.

V

Each defendant is enjoined and restrained from directly or indirectly soliciting, inducing or coercing any other person engaged in the production and sale of bakery products to:

(1) Adopt or adhere to uniform or specific prices for the sale of bakery products;

(2) Adopt or adhere to uniform or specific discounts for the sale of bakery products or to limit, reduce, remove or eliminate such discounts;

(3) Refrain from bidding or submitting any price quotation for the sale of bakery products, or to submit a bid or price quotation at a uniform or specific price;

(4) Limit or reduce the production or sale of bakery products.

VI

For a period of ten (10) years from the date of entry of this Final Judgment, each defendant is enjoined and restrained from directly communicating to any other person engaged in the production and sale of bakery products information concerning:

(1) Future prices at which, or terms of conditions upon which, bakery products will be sold or offered for sale by said defendant;

(2) Cons ideration by said defendant of changes or revisions in the prices at which, or the terms or conditions upon which, said defendant sells or offers to sell bakery products;

(3) Whether any bid or price quotation will be submitted by said defendant to any person.

VII

(A) Nothing in this Final Judgment shall prohibit any defendant from:

(1) Entering into or carrying out a bona fide purchase or sale transaction involving such defendant and any other person engaged in the production and sale of bakery products, when such person is either purchasing bakery products on his own behalf or acting as a purchasing agent or group buying representative on behalf of any third person; or

(2) Communicating information to another person engaged in the production and sale of bakery products in the course of, and related to, negotiating for, entering into, or carrying out a transaction as described in Section VII (A) (1).

(B) Nothing in Sections V or VI hereof shall prohibit the transmission, without additional comment or explanation, to another person engaged in the production and sale of bakery products, upon the request of said person, of such defendant's bakery products price list, or any change therein, regularly issued in the course of business, which price list, or said change, had been previously released and circulated to the trade generally.

VIII

The injunctions contained in this Final Judgment shall not apply to relations solely between a defendant and a parent or subsidiary of, or corporation under common control with, such defendant or between the officers, directors, agents and employees thereof.

IX

(A) Each defendant is ordered and directed to furnish within ninety (90) days after the date of entry of this Final Judgment a copy thereof to each of its officers and directors and to each of its agents and employees having sales supervisory and/or pricing responsibility for bakery products.

(B) Each defendant is ordered and directed to furnish a copy thereof to each successor to those officers, directors, agents and employees described in subsection (A) of this Section IX, within thrity (30) days after each such successor is employed by or becomes affiliated with the defendant.

(C) Each defendant is ordered and directed to file with this Court and serve upon the plaintiff within one hundred twenty (120) days from the date of entry of this Final Judgment, and affidavit as to the fact and manner of its compliance with subsection (A) of this Section IX.

X

(A) For the purpose of determining or securing compliance with this Final Judgment, any duly authorized representative of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(1) Access during the office hours of such defendant to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, directors, agents, partners or employees of such defendant, who may have counsel present, regarding any such matters.

(B) A defendant upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at any time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents which is of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

XI

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment or for the modification of any of the provisions herein and for the enforcement of compliance herewith and the punishment of the violation of any of the provisions contained herein.

XII

Entry of this Final Judgment is in the public interest.

Dated: ——————.

——————,
U.S. District Judge.

UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF LOUISIANA

United States of America, Plaintiff, v. *Ideal Baking Co. of Paris, Inc., Cotton Baking Co., Inc., Wolf Baking Co., Inc.*, Defendants.

Civil No. 75-73.

Filed: November 18, 1977.

PROPOSED CONSENT DECREE COMPETITIVE IMPACT STATEMENT

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16(b)), the United States of America hereby files this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

On February 28, 1975, a single count indictment was returned by a Federal grand jury sitting in this district charging the defendants as well as certain of their officers and employees with combining and conspiring to fix maintain, and stabilize prices of bakery products in the Shreveport-Texarkana area in violation of section 1 of the Sherman Act (15 U.S.C. § 1). This was one of four indictments involving four discrete geographical areas returned simultaneously by the grand jury charging these defendants and other corporations and individuals engaged in the production and sale of bakery products in Louisiana and contiguous portions of Texas, Arkansas, and Mississippi with having engaged in conspiracies in violation of the Sherman Act. Simultaneously with the return of the indictments the United States filed four companion civil cases against each of the corporate defendants involved in each of the criminal indictments.

In each of the criminal cases the defendants were charged with having engaged in a conspiracy which continued up until the date of the return of the indictments. Just prior to the return of the indictments (on December 21, 1974), the maximum penalties prescribed for violations of the Sherman Act were increased from a maximum of one year in prison and a $50,000 fine for individuals and a $50,000 fine for corporations (a misdemeanor) to a maximum of three years in prison and $100,000 fine for individuals or $1,000,000 fine for corporations (a felony). Following extensive motions and rulings by the court in connection with the filed indictments, the United States determined that it would be appropriate to file new criminal charges by way of a criminal information making it clear that each of the defendants was charged with having engaged in a conspiracy, the maximum penalties for which would be the lesser penalties described. Thus, on May 2, 1975, four criminal informations were filed by the United States charging the same defendants with having engaged in the same activities as were charged in the indictments; however, the conspiracies were alleged to have continued only up until late 1974—prior to the effective date of the enhanced penalties. Subsequently, all defendants with the exception of Huval Baking Co., Inc., its President, Chairman of the Board, Dr. Frem F. Boustany, Jr., Frem F. Boustany, Sr., respectively, R. Gene Cotton, President of each of the four related Cotton organizations, and Clifford M. Curtis, one of Cotton's former plant managers, pleaded nolo contendere. Upon their pleas of nolo contendere, the individuals were sentenced to suspended prison terms, fines and extended periods of probation. Each of the corporate defendants was fined.

The remaining defendants in the case involving the "Baton Rouge market area" were tried before a jury and found "not guilty" on August 29, 1975. Motions filed in each of the other pending criminal cases involving these defendants resulted in the cases being dismissed on the basis of the double jeopardy clause of the Constitution.

The bakery products involved in the conspiracies alleged include standard and variety types of bread, rolls, buns, and other items generally produced by commercial bakeries. The complaint charges that the defendants conspired to fix the prices of such bakery products, to eliminate or reduce discounts given to purchasers of such products and to rig bids to governmental agencies seeking competitive bids. The area affected by the alleged conspiracy encompasses Shreveport and the surrounding area in northwestern Louisiana, the southwestern corner of Arkansas and the northeastern corner of Texas, including the greater Texarkana area.

The Ideal Baking Co. of Paris, Inc., is a privately owned corporation which currently operates three bakeries in Texas. Its Paris, Tex. plant sells bakery products into the Texarkana portion of the Shreveport-Texarkana market. While it is a member of the Quality Bakers of America Cooperative, in the area covered by this complaint, it sells its bakery products principally under the brand name "Ideal."

Cotton Baking Co., Inc., is one of the five affiliated corporations, all principally owned by members of the Cotton family. Cotton Baking Co., Inc., operates one bakery facility located in Shreveport, La., and sells throughout the Shreveport-Texarkana market. Each of the Cotton companies is a member of the W. E. Long cooperative of independent bakeries and it markets its product principally under the label "Holsum."

Wolf Baking Co., Inc. is a privately owned corporation with headquarters in Baton Rouge, La. Wolf operates three bakery facilities and is a licensee and a member of the Quality Bakers of America Cooperative and markets its product under the name "Sunbeam." Wolf sells its products throughout the Shreveport-Texarkana market.

The Government would have contended at trial that officers and managerial employees of the defendant corporations had a series of meetings which resulted in understandings that each would, from time to time, increase its wholesale price of bakery products to retail grocers and others who were their customers. The Government would also have contended that meetings were held for the purpose of and which resulted in the reduction of the number of discounts being given by these commercial bakers to their customers and in many cases resulted in the elimination of such discounts. It would have further contended that discussions were held between representatives of the various corporations which resulted in agreements as to whether a defendant would submit a bid and the amount which would be bid to governmental agencies, school districts and the like. Total sales of bakery products by the defendant corporations in the Shreveport-Texarkana market were approximately $6 million in 1974.

In its complaint, the Government contended: (1) that the defendants' activities resulted in the price of bakery products being raised and maintained at artificial levels; (2) that competition in the sale of bakery products between the defendant corporations was eliminated; and (3) that purchasers of bakery products were deprived of the benefits of competition.

II. EXPLANATION OF THE PROPOSED CONSENT DECREE

The United States and the defendants have stipulated that the proposed consent judgment may be entered by the court at any time after compliance with the Antitrust Procedures and Penalties Act. The consent judgment provides that there has been no admission by either party with respect to any issue of fact or law. Under provisions of section 2(e) of the Antitrust Procedures and Penalties Act, entry of this judgment is conditioned upon a determination by the court that the proposed judgment is in the public interest.

The proposed consent judgment provides measures that terminate the anticompetitive practices alleged in the complaint. Each defendant is perpetually enjoined from entering into any form of agreement with anyone engaged in the production and sale of bakery products to fix prices, to fix, reduce or eliminate discounts on such products, to submit collusive, non-competitive or rigged bids to anyone seeking such bids, or to limit the production of any bakery products.

Each defendant is also enjoined from attempting to have anyone else engaged in the production and sale of bakery products adopt or adhere to specific prices on bakery products, adopt or adhere to specific discounts or reduce or eliminate such discounts on the sale of bakery products, refuse to bid or bid any particular amount to anyone seeking a competitive bid for the purchase of bakery products or limit the production of any bakery products. Furthermore, the defendants are, for a period of 10 years, enjoined from communicating to any other person engaged in the production and sale of bakery products future prices at which a defendant intends to sell bakery products, any consideration or intention by the defendant to change the price at which he will sell bakery products or his intention to bid or the amount which he intends to bid to any person seeking to buy bakery products on a competitive bid basis.

The defendants must provide each of their employees with any sales supervisory or pricing responsibility a copy of the decree entered in this case, and must furnish each successor to any such employee with a copy of the decree within 30 days of the time that employee is vested with sales supervisory or pricing responsibilities. Each defendant must also file an affidavit of compliance with the decree within 120 days of its entry.

The defendants are not enjoined under the decree from negotiating or entering into a bona fide sale or purchase transaction with a competitor or from sending a competitor a copy of the defendant's price list which has already been released to the trade generally, if such a price list is requested by the competitor. Nor do the provisions of the judgment apply to any transactions or relationships between a defendant and a parent or subsidiary of the defendant, or a corporation which is under common control with the defendant. Thus, intracorporate transactions are exempt from coverage of the decree.

III. SCOPE AND TIME PROVISIONS OF THE PROPOSED JUDGMENT

By its terms, the judgment applies to each defendant and to each of the defendant's officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons who act in concert with any such defendant, provided that such persons have actual notice of the judgment, by personal service or otherwise. The judgment would apply to any defendant's activities wherever they might occur. Thus, it is not limited to the geographic area described within the complaint. The decree is perpetual in its endurance, with the limited exception of Paragraph VI which, for 10 years, enjoins communications concerning the future pricing of bakery products or the intention of bidding or the amount to be bid

to someone seeking to purchase bakery products on a competitive bid basis.

IV. EFFECT OF THE PROPOSED JUDGMENT ON COMPETITION

The relief encompassed in the proposed consent judgment is designed to prevent any continuance or reoccurrence of the activities alleged in the complaint. The prohibitive language of the judgment should insure that prices charged for bakery products, discounts given to purchasers of bakery products, bids submitted to agencies seeking competitive bids, and the products to be marketed by each defendant will be determined independently, without the restraining and artificial influence which resulted from the meetings and agreements in which the defendants engaged.

The judgment provides two methods for determining the defendants' compliance with the judgment. First, the Government is given access, upon reasonable notice, to the records of the defendants, to examine these records for possible violations of the judgment, and to interview officers, directors, agents, partners, or employees of the defendants. Second, the defendants may be required to submit written reports with respect to any matters contained in the proposed judgment.

It is the opinion of the Department of Justice that the proposed consent judgment contains fully adequate provisions to prevent continuance or reoccurrence of the violations of the antitrust laws charged in the complaint. In the Department's view, disposition of the lawsuit without further litigation is appropriate in that the proposed judgment provides all the relief which the Government sought in its complaint; the additional expense of litigation would therefore not result in additional public benefit.

V. ALTERNATIVES TO THE PROPOSED CONSENT JUDGMENT

The Government intiially proposed, but later withdrew, a provision which would have required each defendant to notify all of its customers of the entry of the judgment and the essential terms contained in the judgment. Because at least six class action treble damage suits under Section 4 of the Clayton Act, 15 U.S.C. Section 15, are pending against each of the defendants, it was decided that no substantial effect would result from inclusion of such a notification provision. The pending treble damage actions encompass virtually all classes of purchasers of bakery products, and the State of Louisiana is currently engaged in negotiations with the defendants with a view towards settling any claims that the State might have due to damages which the State suffered because of the defendant's illegal activities.

VI. REMEDIES AVAILABLE TO PRIVATE LITIGANTS

Section 4 of the Clayton Act (15 U.S.C. § 15), provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in Federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorney fees. Entry of the proposed consent judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust actions, nor will it have any effect on pending actions. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), this consent judgment has no prima facie effect in any lawsuits which might be brought against these defendants.

VII. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED JUDGMENT

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may submit written comments to Donald A. Kinkaid, Antitrust Division, U.S. Department of Justice, 1776 Peachtree Street NW., suite 420, Atlanta, Ga. 30309, within the 60-day period provided by the Act. These comments, and the Department's responses to them, will be filed with the court and published in the FEDERAL REGISTER. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed judgment at any time prior to its entry if it should determine that some modification of it is necessary. The proposed judgment provides that the court retains jurisdiction over this action, and the parties may apply to the court for such Orders as may be necessary or appropriate for its modification, interpretation, or enforcement.

VIII. OTHER MATERIALS

No materials and documents of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16(b)), were considered in formulating this proposed judgment, and consequently, none are filed herewith.

J. ALBERT KROEMER,
JACK C. WILLIAMSON,
Attorneys, Antitrust Division,
U.S. Department of Justice.

UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF LOUISIANA

United States of America, Plaintiff, v. *Cotton's, Inc.; Colonial Baking Co. of Gulfport; Huval Baking Co., Inc.; and Wolf Baking Co., Inc.*, Defendants.

Civil No. 75-76.

Filed: November 18, 1977.

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to plaintiff or defendants in this or any other proceeding.

Dated: November 18, 1977.

For the Plaintiff: John H. Shenefield, *Assistant Attorney General;* William E. Swope, Charles F. B. McAleer, Donald A. Kinkaid, J. Albert Kroemer, David A. Harris, *Attorneys, Department of Justice.*

For the Defendants: McWhirter and Gandy, Paris, Tex., *Attorney for Ideal Baking Co. of Paris, Inc.;* Wald, Harkrader & Ross, Washington, D.C., *Attorney for Cotton Baking Co., Inc.;* Stone, Pigman, Walther, Wittmann & Hutchinson, New Orleans, La., *Attorney for Wolf Baking Co., Inc.;* Breazeale, Sachse & Wilson, Baton Rouge, La., *Attorney for Wolf Baking Co., Inc.*

UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF LOUISIANA

United States of America, Plaintiff, v. *Cotton's Inc.; Colonial Baking Co. of Gulfport; Huval Baking Co., Inc.; and Wolf Baking Co., Inc.*, Defendants.

Civil No. 75-76.

Filed: November 18, 1977.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on February 28, 1975, and the plaintiff and the defendants, by their respective attorneys, having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein, and without admission by any party with respect to any such issue, and without this Final Judgment constituting evidence or admission by any party with respect to any such issue,

Now, therefore, before the taking of any testimony and without adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby,

Ordered, adjudged and decreed as follows:

I

This court has jurisdiction over the subject matter herein and the parties hereto. The complaint states a claim against the defendants upon which relief may be granted under Section I of the Sherman Act, 15, U.S.C. § 1.

II

As used in this Final Judgment:

(A) "Bakery products" shall include, but not be limited to, items such as white sliced bread, whole wheat, and other varieties of bread, rolls, buns, specialty items, cake, sweet rolls, and other confectionaries;

(B) "Discount" means any percentage or other reduction from the regular or list prices charged by any of the defendants;

(C) "Person" means any individual, partnership, firm, association, corporation, or other business or legal entity; and

(D) "Control" means at least a 50 percent direct or indirect ownership interest in the controlled person by the controlling person.

III

The provisions of this Final Judgment are applicable to the defendants and to each of their officers, directors, agents, employees, subsidiaries, successors, and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Each defendant is enjoined and restrained from directly or indirectly entering into, adhering to, maintaining, or furthering any contract, agreement, understanding, plan, program, combination, or conspiracy with any other person engaged in the production and sale of bakery products to:

(1) Fix, determine, maintain, or stabilize prices for the sale of bakery products;

(2) Fix, determine, maintain, stabilize, or adhere to specific or uniform discounts for the sale of bakery products or to limit, reduce, remove, or eliminate such discounts;

(3) Submit noncompetitive, collusive, or rigged bids or quotations or not to submit any bid or quotation for the sale of bakery products;

(4) Fix, determine, maintain, stabilize, limit, or reduce the production or sale of bakery products.

V

Each defendant is enjoined and restrained from directly or indirectly soliciting, inducing, or coercing any other person engaged in the production and sale of bakery products to:

(1) Adopt or adhere to uniform or specific prices for the sale of bakery products;

(2) Adopt or adhere to uniform or specific discounts for the sale of bakery products or to limit, reduce, remove, or eliminate such discounts;

(3) Refrain from bidding or submitting any price quotation for the sale of bakery products, or to submit a bid or price quotation at a uniform or specific price;

(4) Limit or reduce the production or sale of bakery products.

VI

For a period of ten (10) years from the date of entry of this Final Judgment, each defendant is enjoined and restrained from directly communicating to any other person engaged in the production and sale of bakery products information concerning:

(1) Future prices at which, or terms or conditions upon which, bakery products will be sold or offered for sale by said defendant;

(2) Consideration by said defendant of changes or revisions in the prices at which, or the terms or conditions upon which, said defendant sells or offers to sell bakery products;

(3) Whether any bid or price quotation will be submitted by said defendant to any person.

VII

(A) Nothing in this Final Judgment shall prohibit any defendant from:

(1) Entering into or carrying out a bona fide purchase or sale transaction involving such defendant and any other person engaged in the production and sale of bakery products, when such person is either purchasing bakery products on his own behalf or acting as a purchasing agent or group buying representative on behalf of any third person; or

(2) Communicating information to another person engaged in the production and sale of bakery products in the course of, and related to, negotiating for, entering into, or carrying out a transaction as described in Section VII(A)(1).

(B) Nothing in Section V or VI hereof shall prohibit the transmission, without additional comment or explanation, to another person engaged in the production and sale of bakery products, upon the request of said person, of such defendant's bakery products price list, or any change therein, regularly issued in the course of business, which price list, or said change, had been previously released and circulated to the trade generally.

VIII

The injunctions contained in this Final Judgment shall not apply to relations solely between a defendant and a parent or subsidiary of, or corporation under common control with, such defendant or between the officers, directors, agents and employees thereof.

IX

(A) Each defendant is ordered and directed to furnish within ninety (90) days after the date of entry of this Final Judgment a copy thereof to each of its officers and directors and to each of its agents and employees having sales supervisory and/or pricing responsibility for bakery products.

(B) Each defendant is ordered and directed to furnish a copy thereof to each successor to those officers, directors, agents and employees described in subsection (A) of this Section IX, within thirty (30) days after each such successor is employed by or becomes affiliated with the defendant.

(C) Each defendant is ordered and directed to file with this Court and serve upon the plaintiff within one hundred twenty (120) days from the date of entry of this Final Judgment, an affidavit as to the fact and manner of its compliance with subsection (A) of this Section IX.

X

(A) For the purpose of determining or securing compliance with this Final Judgment, any duly authorized representative of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(1) Access during the office hours of such defendant to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, directors, agents, partners or employees of such defendant, who may have counsel present, regarding any such matters.

(B) A defendant upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at any time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents which is of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

XI

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment or for the modification of any of the provisions herein and for the enforcement of compliance herewith and the punishment of the violation of any of the provisions contained herein.

XII

Entry of this Final Judgment is in the public interest.

Dated:————————.

————————,
U.S. District Judge.

UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF LOUISIANA

United States of America, Plaintiff, v. *Cotton's Inc.; Colonial Baking Co. of Gulfport; Huval Baking Co., Inc.;* and *Wolf Baking Co., Inc.*, Defendants.

Civil No. 75-76.

Filed: November 18, 1977.

PROPOSED CONSENT DECREE, COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16(b)), the United States of America hereby files this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

On February 28, 1975, a single count indictment was returned by a Federal grand jury sitting in this district charging the defendants as well as certain of their officers and employees with combining and conspiring to fix, maintain, and stabilize prices of bakery products in the Baton Rouge area in violation of Section 1 of the Sherman Act (15 U.S.C. § 1). This was one of four indictments involving four discrete geographical areas returned simultaneously by the grand jury charging these defendants and other corporations and individuals engaged in the production and sale of bakery products in Louisiana and contiguous portions of Texas, Arkansas, and Mississippi with having engaged in conspiracies in violation of the Sherman Act. Simultaneously with the return of the indictments the United States filed four companion civil cases against each of the corporate defendants involved in each of the criminal indictments.

In each of the criminal cases the defendants were charged with having engaged in a conspiracy which continued up until the date of the return of the indictments. Just prior to the return of the indictments (on December 21, 1974), the maximum penalties prescribed for violation of the Sherman Act were increased from a maximum of one year in prison and a $50,000 fine for individuals and a $50,000 fine for corporations (a misdemeanor) to a maximum of three years in prison and $100,000 fine for individuals or $1,000,000 fine for corporations (a felony). Following extensive motions and rulings by the court in connection with the filed indictments, the United States determined that it

would be appropriate to file new criminal charges by way of a criminal information making it clear that each of the defendants was charged with having engaged in a conspiracy, the maximum penalties for which would be the lesser penalties described. Thus, on May 2, 1975, four criminal informations were filed by the United States charging the same defendants with having engaged in the same activities as were charged in the indictments; however, the conspiracies were alleged to have continued only up until late 1974—prior to the effective date of the enhanced penalties. Subsequently, all defendants, with the exception of Huval Baking Company, Inc., its President, Chairman of the Board, Dr. Frem F. Boustany, Jr., Frem F. Boustany, Sr., respectively, R. Gene Cotton, President of each of the four related Cotton organizations, and Clifford M. Curtis, one of Cotton's former plant managers, pleaded nolo contendere. Upon their pleas of nolo contendere, the individuals were sentenced to suspended prison terms, fines, and extended periods of probation. Each of the corporate defendants was fined.

The remaining defendants in the case involving the "Baton Rouge market area" were tried before a jury and found "not guilty" on August 29, 1975. Motions filed in each of the other pending criminal cases involving these defendants resulted in the cases being dismissed on the basis of the double jeopardy clause of the Constitution.

The bakery products involved in the conspiracies alleged include standard and variety types of bread, rolls, buns, and other items generally produced by commercial bakeries. The complaint charges that the defendants conspired to fix the prices of such bakery products, to eliminate or reduce discounts given to purchasers of such products and to rig bids to governmental agencies seeking competitive bids. The area affected by the alleged conspiracy encompasses all of southeastern Louisiana, with the exception of the greater New Orleans metropolitan area, and two counties in Mississippi.

Cotton's Inc., is one of the five affiliated corporations, all principally owned by members of the Cotton family. Cotton's Inc., operates one bakery facility located in Baton Rouge, La., and sells throughout the Baton Rouge market. Each of the Cotton companies is a member of the W. E. Long cooperative of independent bakeries and it markets its products principally under the label "Holsum."

Huval Baking Co., Inc., is currently owned by and operated as a subsidiary of Flowers Industries, Inc., a food-processing company headquartered in Thomasville, Ga., which operates a number of bakery facilities throughout the Southeastern United States. At the time of the conspiracy, Huval was one of two affiliated, privately owned bakeries (the other is Bunny Bread of New Orleans). Huval operates a single bakery facility located in Lafayette, La., and markets its product in the Houma and Morgan City areas of the Baton Rouge market under the brand name "Evangeline Maid."

Colonial Baking Co. of Gulfport is a subsidiary of Campbell-Taggart, Inc., a large food processing company based in Dallas, Tex. Campbell-Taggart operates bakery facilities throughout the United States. Colonial sells bakery products from its single bakery in Gulfport, Miss. in the Slidell, Louisiana area and in the Mississippi portion of the Baton Rouge market under the brand name "Colonial."

Wolf Baking Co., Inc. is a privately owned corporation with headquarters in Baton Rouge, La. Wolf operates three bakery facilities and is a licensee and a member of the Quality Bakers of America Cooperative and markets its product under the name "Sunbeam." Wolf sells its products throughout the Louisiana portion of the Baton Rouge market.

The Government would have contended at trial that officers and managerial employees of the defendant corporations had a series of meetings which resulted in understandings that each would, from time to time, increase its wholesale price of bakery products to retail grocers and others who were their customers. The Government would also have contended that meetings were held for the purpose of and which resulted in the reduction of the number of discounts being given by these commercial bakers to their customers and in many cases resulted in the elimination of such discounts. It would have further contended that discussions were held between representatives of the various corporations which resulted in agreements as to whether a defendant would submit a bid and the amount which would be bid to governmental agencies, school districts and the like. Total sales of bakery products by the defendant corporations in the Baton Rouge market were approximately $18 million in 1974.

In its complaint, the Government contended: (1) that the defendants' activities resulted in the price of bakery products being raised and maintained at artificial levels; (2) that competition in the sale of bakery products between the defendant corporations was eliminated; and (3) that purchasers of bakery products were deprived of the benefits of competition.

II. Explanation of the Proposed Consent Decree

The United States and the defendants have stipulated that the proposed consent judgment may be entered by the court at any time after compliance with the Antitrust Procedures and Penalties Act. The consent judgment provides that there has been no admission by either party with respect to any issue of fact or law. Under provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of this judgment is conditioned upon a determination by the court that the proposed judgment is in the public interest.

The proposed consent judgment provides measures that terminate the anticompetitive practices alleged in the complaint. Each defendant is perpetually enjoined from entering into any form of agreement with anyone engaged in the production and sale of bakery products to fix prices, to fix, reduce or eliminate discounts on such products, to submit collusive, non-competitive or rigged bids to anyone seeking such bids, or to limit the production of any bakery products.

Each defendant is also enjoined from attempting to have anyone else engaged in the production and sale of bakery products adopt or adhere to specific prices on bakery products, adopt or adhere to specific discounts or reduce or eliminate such discounts on the sale of bakery products, refuse to bid or bid any particular amount to anyone seeking a competitive bid for the purchase of bakery products or limit the production of any bakery products. Furthermore, the defendants are, for a period of 10 years, enjoined from communicating to any other person engaged in the production and sale of bakery products future prices at which a defendant intends to sell bakery products, any consideration or intention by the defendant to change the price at which he will sell bakery products or his intention to bid or the amount which he intends to bid to any person seeking to buy bakery products on a competitive bid basis.

The defendants must provide each of their employees with any sales supervisory or pricing responsibility a copy of the decree entered in this case, and must furnish each successor to any such employee with a copy of the decree within 30 days of time that employee is vested with sales supervisory or pricing responsibilities. Each defendant must also file an affidavit of compliance with the decree within 120 days of its entry.

The defendants are not enjoined under the decree from negotiating or entering into a bona fide sale or purchase transaction with a competitor or from sending a competitor a copy of the defendant's price list which has already been released to the trade generally, if such a price list is requested by the competitor. Nor do the provisions of the judgment apply to any transactions or relationships between a defendant and a parent or subsidiary of the defendant, or a corporation which is under common control with the defendant. Thus, intracorporate transactions are exempt from coverage of the decree.

III. Scope and Time Provisions of the Proposed Judgment

By its terms, the judgment applies to each defendant and to each of the defendant's officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons who act in concert with any such defendant, provided that such persons have actual notice of the judgment, by personal service or otherwise. The judgment would apply to any defendant's activites wherever they might occur. Thus, it is not limited to the geographic area described within the complaint. The decree is perpetual in its endurance, with the limited exception of Paragraph VI which, for 10 years, enjoins communications concerning the future pricing of bakery products or the intention of bidding or the amount to be bid to someone seeking to purchase bakery products on a competitive bid basis.

IV. Effect of the Proposed Judgment on Competition

The relief encompassed in the proposed consent judgment is designed to prevent any continuance or reoccurence of the activities alleged in the complaint. The prohibitive language of the judgment should insure that prices charged for bakery products, discounts given to purchasers of bakery products, bids submitted to agencies seeking competitive bids, and the products to be marketed by each defendant will be determined independently, without the restraining and artificial influence which resulted from the meetings and agreements in which the defendants engaged.

The judgment provides two methods for determining the defendants' compliance with the judgment. First, the Government is given access, upon reasonable notice, to the records of the defendants, to examine these records for possible violations of the judgment, and to interview officers, directors, agents, partners or employees of the defendants. Second, the defendants may be required to submit written reports with re-

spect to any matters contained in the proposed judgment.

It is the opinion of the Department of Justice that the proposed consent judgment contains fully adequate provisions to prevent continuance or reoccurrence of the violations of the antitrust laws charged in the complaint. In the Department's view, disposition of the lawsuit without further litigation is appropriate in that the proposed judgment provides all the relief which the Government sought in its complaint; the additional expense of litigation would therefore not result in additional public benefit.

V. ALTERNATIVES TO THE PROPOSED CONSENT JUDGMENT

The Government initially proposed, but later withdrew, a provision which would have required each defendant to notify all of its customers of the entry of the judgment and the essential terms contained in the judgment. Because at least six class action treble damage suits under Section 4 of the Clayton Act, 15 U.S.C. Section 15, are pending against each of the defendants, it was decided that no substantial effect would result from inclusion of such a notificiation provision. The pending treble damage actions encompass virtually all classes of purchasers of bakery products, and the State of Louisiana is currently engaged in negotiations with the defendants with a view towards settling any claims that the State might have due to damages which the State suffered because of the defendant's illegal activities.

VI. REMEDIES AVAILABLE TO PRIVATE LITIGANTS

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in Federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorney fees. Entry of the proposed consent judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust actions, nor will it have any effect on pending actions. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), this consent judgment has no *prima facie* effect in any lawsuits which might be brought against these defendants.

VII. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED JUDGMENT

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may submit written comments to Donald A. Kinkaid, Antitrust Division, U.S. Department of Justice, 1776 Peachtree Street NW., Suite 420, Atlanta, Ga. 30309, within the 60-day period provided by the Act. These comments, and the Department's responses to them, will be filed with the court and published in the FEDERAL REGISTER. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed judgment at any time prior to its entry if it should determine that some modification of it is necessary. The proposed judgment provides that the court retains jurisdiction over this action, and the parties may apply to the court for such Orders as may be necessary or appropriate for its modification, interpretation or enforcement.

VIII. OTHER MATERIALS

No materials and documents of the type described in Section 2(b) of the antitrust Procedures and Penalties Act (15 U.S.C. Section 16(b)) were considered in formulating this proposed judgment, and consequently, none are filed herewith.

J. ALBERT KROEMER,
JACK C. WILLIAMSON,
Attorneys, Antitrust Division, U.S. Department of Justice.

UNITED STATES DISTICT COURT, MIDDLE DISTRICT OF LOUISIANA

United States of America, Plaintiff, v. *Huval Baking Co., Inc.; Cotton Bros. Baking Co., Inc.; and Wolf Baking Co., Inc.*, Defendants.

Civil No. 75-74.

Filed: November 18, 1977.

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be without prejudice to plaintiff or defendants in this or any other proceeding.

Dated: November 18, 1977.

For the Plaintiff: John H. Shenefield, *Assistant Attorney General;* William E. Swope, Charles F. B. McAleer, Donald A. Kinkaid, J. Albert Kroemer, David A. Harris, *Attorneys, Department of Justice.*

For the Defendants: Taylor, Porter, Brooks & Phillips, *Attorney for Colonial Baking Co. of El Dorado;* Wald, Harkrader & Ross, Washington, D.C., *Attorney for Cotton's Ouachita Bakery, Inc.;* Stone, Pigman, Walter, Wittman, & Hutchinson New Orleans, La., *Attorney for Wolf Baking Co., Inc.*

UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF LOUISIANA

United States of America, Plaintiff, v. *Huval Baking Co., Inc.; Cotton Bros. Baking Co., Inc.; and Wolf Baking Co., Inc.*, Defendants.

Civil No. 75-74.

Filed: November 18, 1977.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on February 28, 1975, and the plaintiff and the defendants, by their respective attorneys, having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein, and without admission by any party with respect to any such issue, and without this Final Judgment constituting evidence or admission by any party with respect to any such issue,

Now, therefore, before the taking of any testimony and without adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby,

Ordered, adjudged and decreed, as follows:

I

This court has jurisdiction over the subject matter herein and the parties hereto. The complaint states a claim against the defendants upon which relief may be granted under Section I of the Sherman Act, 15 U.S.C. § 1.

II

As used in this Final Judgment:

(A) "Bakery products" shall include, but not be limited to, items such as white sliced bread, whole wheat and other varieties of bread, rolls, buns, specialty items, cake, sweet rolls and other confectionaries;

(B) "Discount" means any percentage or other reduction from the regular or list prices charged by any of the defendants;

(C) "Person" means any individual, partnership, firm, association, corporation or other business or legal entity; and

(D) "Control" means at least a 50 percent direct or indirect ownership interest in the controlled person by the controlling persons.

III

The provisions of this Final Judgment are applicable to the defendants and to each of their officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Each defendant is enjoined and restrained from directly or indirectly entering into, adhering to, maintaining or furthering any contract, agreement, understanding, plan, program, combination or conspiracy with any other person engaged in the production and sale of bakery products to:

(1) Fix, determine, maintain or stabilize prices for the sale of bakery products;

(2) Fix, determine, maintain, stabilize or adhere to specific or uniform discounts for the sale of bakery products or to limit, reduce, remove or eliminate such discounts;

(3) Submit noncompetitive, collusive or rigged bids or quotations or not to submit any bid or quotation for the sale of bakery products;

(4) Fix, determine, maintain, stabilize, limit or reduce the production or sale of bakery products.

V

Each defendant is enjoined and restrained from directly or indirectly soliciting, inducing or coercing any other person engaged in the production and sale of bakery products to:

(1) Adopt or adhere to uniform or specific prices for the sale of bakery products;

(2) Adopt or adhere to uniform or specific discounts for the sale of bakery products or to limit, reduce, remove or eliminate such discounts;

(3) Refrain from bidding or submitting any price quotation for the sale of bakery products, or to submit a bid or price quotation at a uniform or specific price;

(4) Limit or reduce the production or sale of bakery products.

VI

For a period of ten (10) years from the date of entry of this Final Judgment, each defendant is enjoined and restrained from directly communicating to any other person engaged in the production and sale of bakery products information concerning:

(1) Future prices at which, or terms or conditions upon which, bakery products will be sold or offered for sale by said defendant;

(2) Consideration by said defendant of changes or revisions in the prices at which, or the terms or conditions upon which, said defendant sells or offers to sell bakery products;

(3) Whether any bid or price quotation will be submitted by said defendant to any person.

VII

(A) Nothing in this Final Judgment shall prohibit any defendant from:

(1) Entering into or carrying out a bona fide purchase or sale transaction involving such defendant and any other person engaged in the production and sale of bakery products, when such person is either purchasing bakery products on his own behalf or acting as a purchasing agent or group buying representative on behalf of any third person; or

(2) Communicating information to another person engaged in the production and sale of bakery products in the course of, and related to, negotiating for, entering into, or carrying out a transaction as described in Section VII(A)(1).

(B) Nothing in Sections V or VI hereof shall prohibit the transmission, without additional comment or explanation, to another person engaged in the production and sale of bakery products, upon the request of said person, of such defendant's bakery products price list, or any change therein, regularly issued in the course of business, which price list, or said change, had been previously released and circulated to the trade generally.

VIII

The injunctions contained in this Final Judgment shall not apply to relations solely between a defendant and a parent or subsidiary of, or corporation under common control with, such defendant or between the officers, directors, agents and employees thereof.

IX

(A) Each defendant is ordered and directed to furnish within ninety (90) days after the date of entry of this Final Judgment a copy thereof to each of its officers and directors and to each of its agents and employees having sales supervisory and/or pricing responsibility for bakery products.

(B) Each defendant is ordered and directed to furnish a copy thereof to each successor to those officers, directors, agents and employees described in subsection (A) of this Section IX, within thirty (30) days after each such successor is employed by or becomes affiliated with the defendant.

(C) Each defendant is ordered and directed to file with this Court and serve upon the plaintiff within one hundred twenty (120) days from the date of entry of this Final Judgment, an affidavit as to the fact and manner of its compliance with subsection (A) of this Section IX.

X

(A) For the purpose of determining or securing compliance with this Final Judgment, any duly authorized representative of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(1) Access during the office hours of such defendant to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, directors, agents, partners or employees of such defendant, who may have counsel present, regarding any such matters.

(B) A defendant upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at any time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or ducuments which is of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

XI

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment or for the modification of any of the provisions herein and for the enforcement of compliance herewith and the punishment of the violation of any of the provisions contained herein.

XII

Entry of this Final Judgment is in the public interest.

Dated:————————.

————————,
U.S. District Judge.

UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF LOUISIANA

United States of America, Plaintiff, v. *Huval Baking Co., Inc.; Cotton Bros. Baking Co., Inc.; and Wolf Baking Co., Inc.*, Defendants.

Civil No. 75-74.

Filed: November 18, 1977.

PROPOSED CONSENT DECREE, COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. §16(b)), the United States of America hereby files this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

On February 28, 1975, a single count indictment was returned by a Federal grand jury sitting in this district charging the defendants as well as certain of their officers and employees with combining and conspiring to fix, maintain and stabilize prices of bakery products in the Lafayette-Lake Charles-Alexandria area in violation of Section 1 of the Sherman Act (15 U.S.C. §1). This was one of four indictments involving four discrete geographical areas returned simultaneously by the grand jury charging these defendants and other corporations and individuals engaged in the production and sale of bakery products in Louisiana and contiguous portions of Texas, Arkansas and Mississippi with having engaged in conspiracies in violation of the Sherman Act. Simultaneously with the return of the indictments the United States filed four companion civil cases against each of the corporate defendants involved in each of the criminal indictments.

In each of the criminal cases the defendants were charged with having engaged in a conspiracy which continued up until the date of the return of the indictments. Just prior to the return of the indictments (on December 21, 1974), the maximum penalties prescribed for violations of the Sherman Act were increased from a maximum of one year in prison and a $50,000 fine for individuals and a $50,000 fine for corporations (a misdemeanor), to a maximum of three years in prison and $100,000 fine for individuals or $1,000,000 fine for corporations (a felony). Following extensive motions and rulings by the court in connection with the filed indictments, the United States determined that it would be appropriate to file new criminal charges by way of a criminal information making it clear that each of the defendants was charged with having engaged in a conspiracy, the maximum penalties for which would be the lesser penalties described. Thus, on May 2, 1975, four criminal informations were filed by the United States charging the same defendants with having engaged in the same activitite as were charged in the indictments; however, the conspiracies were alleged to have continued only up until late 1974, prior to the effective date of the enhanced penalties. Subsequently, all defendants with the exception of Huval Baking Co., Inc., its President, Chairman of the Board, Dr. Frem F. Boustany, Jr., Frem F. Boustany, Sr., respectively, R. Gene Cotton, President of each of the four related Cotton organizations, and Clifford M. Curtis, one of Cotton's former plant managers, pleaded nolo contendere. Upon their pleas of nolo contendere, the individuals were sentenced to suspended prison terms, fines, and extended periods of probation. Each of the corporate defendants was fined.

The remaining defendants in the case involving the "Baton Rouge market area" were tried before a jury and found "not guilty" on August 29, 1975. Motions filed in each of the other pending criminal cases involving these defendants resulted in the cases being dismissed on the basis of the double jeopardy clause of the Constitution.

The bakery products involved in the conspiracies alleged include standard and variety types of bread, rolls, buns, and other items generally produced by commercial bakeries. The complaint charges that the defendants conspired to fix the prices of such bakery products, to eliminate or reduce discounts given to purchasers of such products, and to rig bids to governmental agencies seeking competitive bids. The area affected by the alleged conspiracy encompasses all of central and southwestern Louisiana, including the metropolitan areas of Lafayette, Lake Charles, and Alexandria.

Cotton Bros. Baking Co., Inc., is one of the five affiliated corporations, all principally owned by members of the Cotton family. Cotton Bros. Baking Co., Inc., operates one bakery facility located in Alexandria, La., and sells throughout most of the Lafayette-Lake Charles-Alexandria market. Each of the Cotton companies is a member of the W. E. Long cooperative of independent bakeries and it markets its product principally under the label "Holsum."

Huval Bakin Co., Inc., is currently owned by and operated as a subsidiary of Flowers Industries, Inc., a food processing company headquartered in Thomasville, Ga., which operates a number of bakery facilities throughout the Southeaster United States. At the time of the conspiracy, Huval was one of two affiliated, privately owned bakeries (the other is Bunny Bread of New Orleans). Huval operates a single bakery facility in Lafayette, La., and markets its products throughout the Lafayette-Lake Charles-Alexandria area principally under the brand names "Bunny Bread" and "Evangeline Maid."

Wolf Baking Co., Inc., is a privately owned corporation with headquarters in Baton Rouge, La. Wolf operates three bakery facilities and is a licensee and a member of the Quality Bakers of America Cooperative and markets its product under the name "Sunbeam." Wolf sells its products throughout the Lafayette-Lake Charles-Alexandria market.

The Government would have contended at trial that officers and managerial employees of the defendant corporations had a series of meetings which resulted in understandings that each would, from time to time, increase its wholesale price of bakery products to retail grocers and others who were their customers. The Government would also have contended that meetings were held for the purpose of and which resulted in the reduction of the number of discounts being given by these commercial bakers to their customers and in many cases resulted in the elimination of such discounts. It would have further contended that discussions were held between representatives of the various corporations which resulted in agreements as to whether a defendant would submit a bid and the amount which would be bid to governmental agencies, school districts and the like. Similar discussions with respect to limitations on production of cheaper bakery products resulted in agreements limiting the availability of less expensive products. Total sales of bakery products by the defendant corporations in the Lafayette-Lake Charles-Alexandria market were approximately $23 million in 1974.

In its complaint, the Government contended: (1) That the defendants' activities resulted in the price of bakery products being raised and maintained at artificial levels; (2) that competition in the sale of bakery products between the defendant corporations was eliminated; and (3) that purchasers of bakery products were deprived of the benefits of competition.

II. Explanation of the Proposed Consent Decree

The United States and the defendants have stipulated that the proposed consent judgment may be entered by the court at any time after compliance with the Antitrust Procedures and Penalties Act. The consent judgment provides that there has been no admission by either party with respect to any issue of fact or law. Under provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of this judgment is conditioned upon a determination by the court that the proposed judgment is in the public interest.

The proposed consent judgment provides measures that terminate the anticompetitive practices alleged in the complaint. Each defendant is perpetually enjoined from entering into any form of agreement with anyone engaged in the production and sale of bakery products to fix prices, to fix, reduce or eliminate discounts on such products, to submit collusive, non-competitive or rigged bids to anyone seeking such bids, or to limit the production of any bakery products.

Each defendant is also enjoined from attempting to have anyone else engaged in the production and sale of bakery products adopt or adhere to specific prices on bakery products, adopt or adhere to specific discounts or reduce or eliminate such discounts on the sale of bakery products, refuse to bid or bid any particular amount to anyone seeking a competitive bid for the purchase of bakery products or limit the production of any bakery products. Furthermore, the defendants are, for a period of 10 years, enjoined from commnicating to any other person engaged in the production and sale of bakery products future prices at which a defendant intends to sell bakery products, any consideration or intention by the defendant to change the price at which he will sell bakery products or his intention to bid or the amount which he intends to bid to any person seeking to buy bakery products on a competitive bid basis.

The defendants must provide each of their employees with any sales supervisory or pricing responsibility a copy of the decree entered in this case, and must furnish each successor to any such employee with a copy of the decree within 30 days of the time that employee is vested with sales supervisory or pricing responsibilities. Each defendant must also file an affidavit of compliance with the decree within 120 days of its entry.

The defendants are not enjoined under the decree from negotiating or entering into a bona fide sale or purchase transaction with a competitor or from sending a competitor a copy of the defendant's price list which has already been released to the trade generally, if such a price list is requested by the competitor. Nor do the provisions of the judgment apply to any transactions or relationships between a defendant and a parent or subsidiary of the defendant, or a corporation which is under common control with the defendant. Thus, intracorporate transactions are exempt from coverage of the decree.

III. Scope and Time Provisions of the Proposed Judgment

By its terms, the judgment applies to each defendant and to each of the defendant's officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons who act in concert with any such defendant, provided that such persons have actual notice of the judgment, by personal service or otherwise. The judgment would apply to any defendant's activities wherever they might occur. Thus, it is not limited to the geographic area described within the complaint. The decree is perpetual in its endurance, with the limited exception of Paragraph VI which for 10 years, enjoins communications concerning the future pricing of bakery products or the intention of bidding or the amount to be bid to someone seeking to purchase bakery products on a competitive bid basis.

IV. Effect of the Proposed Judgment on Competition

The relief encompassed in the proposed consent judgment is designed to prevent any continuance or reoccurrence of the activities alleged in the complaint. The prohibitive language of the judgment should insure that prices charged for bakery products, discounts given to purchasers of bakery products, bids submitted to agencies seeking competitive bids, and the products to be marketed by each defendant will be determined independently, without the restraining and artificial influence which resulted from the meetings and agreements in which the defendants engaged.

The judgment provides two methods for determining the defendants' compliance with the judgment. First, the Government is given access, upon reasonable notice, to the records of the defendants, to examine these records for possible violations of the judgment, and to interview officers, directors, agents, partners or employees of the defendants. Second, the defendants may be required to submit written reports with respect to any matters contained in the proposed judgment.

It is the opinion of the Department of Justice that the proposed consent judgment contains fully adequate provisions to prevent continuance or reoccurrence of the violations of the antitrust laws charged in the complaint. In the Department's view, disposition of the lawsuit without further litigation is appropriate in that the proposed judgment provides all the relief which the Government sought in its complaint; the additional expense of litigation would therefore not result in additional public benefit.

V. Alternatives to the Proposed Consent Judgment

The Government initially proposed, but later withdrew, a provision which would have required each defendant to notify all of its customers of the entry of the judgment and the essential terms contained in the judgment. Because at least six class action treble damage suits under Section 4 of the Clayton Act, 15 U.S.C. Section 15, are pending against each of the defendants, it was decided that no substantial effect would result from inclusion of such a notification provision. The pending treble damage ac-

tions encompass virtually all classes of purchasers of bakery products, and the State of Louisiana is currently engaged in negotiations with the defendants with a view towards settling any claims that the State might have due to damages which the State suffered because of the defendant's illegal activities.

VI. REMEDIES AVAILABLE TO PRIVATE LITIGANTS

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in Federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorney fees. Entry of the proposed consent judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust actions, nor will it have any effect on pending actions. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), this consent judgment has no *prima facie* effect in any lawsuits which might be brought against these defendants.

VII. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED JUDGMENT

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may submit written comments to Donald A. Kinkaid, Antitrust Division, U.S. Department of Justice, 1776 Peachtree Street NW., suite 420, Atlanta, Ga. 30309, within the 60-day period provided by the Act. These comments, and the Department's responses to them, will be filed with the court and published in the FEDERAL REGISTER. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed judgment at any time prior to its entry if it should determine that some modification of it is necessary. The proposed judgment provides that the court retains jurisdiction over this action, and the parties may apply to the court for such Orders as may be necessary or appropriate for its modification, interpretation or enforcement.

VIII. OTHER MATERIALS

No materials and documents of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. Section 16 (b)) were considered in formulating this proposed judgment, and consequently, none are filed herewith.

J. ALBERT KROEMER,
JACK C. WILLIAMSON,
Attorneys, Antitrust Division, U.S. Department of Justice.

UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF LOUISIANA

United States of America, Plaintiff v. *Colonial Baking Co. of El Dorado; Cotton's Ouachita Bakery, Inc.; and Wolf Baking Co., Inc.*, Defendants.

Civil No. 75-75.

Filed: November 18, 1977.

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. §16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to plaintiff or defendants in this or any other proceeding.

Dated: November 18, 1977.

For the plaintiff: John H. Shenefield, *Assistant Attorney General;* William E. Swope, Charles F. B. McAleer, Donald A. Kinkaid, J. Albert Kroemer, David A. Harris, *Attorneys, Department of Justice.*

For the defendants: Wald, Harkrader & Ross, Washington, D.C., *Attorney for Cotton's, Inc.;* Taylor, Porter, Brooks & Phillips, Baton Rouge, La., *Attorney for Colonial Baking Co. of Gulfport;* Miller, Cassidy, Larroca & Lewin, Washington, D.C., *Attorney for Huval Baking Co., Inc.;* Ston, Pigman, Walther, Wittmann & Hutchinson, *Attorney for Wolf Baking Co., Inc.;* Breazeale, Sachse & Wilson, Baton Rouge, La., *Attorney for Wolf Baking Co., Inc.*

UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF LOUISIANA

United States of America, Plaintiff, v. *Colonial Baking Co. of El Dorado; cotton's Ouachita Bakery, Inc.; and Wolf Baking Co., Inc.*, Defendants.

Civil No. 75-75.

Filed: November 18, 1977

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on February 28, 1975, and the plaintiff and the defendants, by their respective attorneys, having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein, and without admission by any party with respect to any such issue, and without this Final Judgment constituting evidence or admission by any party with respect to any such issue,

Now, therefore, before the taking of any testimony and without adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby,

Ordered, adjudged and decreed as follows:

I

This court has jurisdiction over the subject matter herein and the parties hereto. The complaint states a claim against the defendants upon which relief may be granted under Section I of the Sherman Act, 15 U.S.C. § 1.

II

As used in this Final Judgment:

(A) "Bakery products" shall include, but not be limited to, items such as white sliced bread, whole wheat, and other varieties of bread, rolls, buns, specialty items, cake, sweet rolls, and other confectionaries;

(B) "Discount means any percentage or other reduction from the regular or list prices charged by any of the defendants;

(C) "Person" means any individual, partnership, firm, association, corporation, or other business or legal entity; and

(D) "Control" means at least a 50 percent direct or indirect ownership interest in the controlled person by the controlling person.

III

The provisions of this Final Judgment are applicable to the defendants and to each of their officers, directors, agents, employees, subsidiaries, successors, and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Each defendant is enjoined and restrained from directly or indirectly entering into, adhering to, maintaining, or furthering any contract, agreement, understanding, plan, program, combination, or conspiracy with any other person engaged in the production and sale of bakery products to:

(1) Fix, determine, maintain, or stabilize prices for the sale of bakery products;

(2) Fix, determine, maintain, stabilize, or adhere to specific or unifrom discounts for the sale of bakery products or to limit, reduce, remove, or eliminate such discounts;

(3) Submit noncompetitive, collusive, rigged bids or quotations or not to submit any bid or quotation for the sale of bakery products;

(4) Fix, determine, maintain, stabilize, limit, or reduce the production or sale of bakery products.

V

Each defendant is enjoined and restrained from directly or indirectly soliciting, inducing, or coercing any other person engaged in the production and sale of bakery products to:

(1) Adopt or adhere to uniform or specific prices for the sale of bakery products;

(2) Adopt or adhere to uniform or specific discounts for the sale of bakery products or to limit, reduce, remove, or eliminate such discounts;

(3) Refrain from bidding or submitting any price quotation for the sale of bakery products, or to submit a bid or price quotation at a uniform or specific price;

(4) Limit or reduce the production or sale of bakery products.

VI

For a period of ten (10) years from the date of entry of this Final Judgment, each defendant is enjoined and restrained from directly communicating to any other person engaged in the production and sale of bakery products information concerning:

(1) Future prices at which, or terms or conditions upon which, bakery products will be sold or offered for sale by said defendant;

(2) Consideration by said defendant of changes or revisions in the prices at which, or the terms or conditions upon which, said defendant sells or offers to sell bakery products;

Whether any bid or price quotation will be submitted by said defendant to any person.

VII

(A) Nothing in this Final Judgment shall prohibit any defendant from:

(1) Entering into or carrying out a bona fide purchase or sale transaction involving such defendant and any other person engaged in the production and sale of bakery products, when such person is either purchasing bakery products on his own behalf or acting as a purchasing agent or group buying representative on behalf of any third person; or

(2) Communicating information to another person engaged in the production and sale of bakery products in the course of, and related to, negotiating for, entering into, or carrying out a transaction as described in Section VII(A)(1).

(B) Nothing in Sections V or VI hereof shall prohibit the transmission, without additional comment or explanation, to another person engaged in the production and sale of bakery products, upon the request of said person, of such defendant's bakery products price list, or any change therein, regularly issued in the course of business, which price list, or said change, had been previously released and circulated to the trade generally.

VIII

The injunction contained in this Final Judgment shall not apply to relations solely between a defendant and a parent or subsidiary of, or corporation under common control with, such defendant or between the officers, directors, agents, and employees thereof.

IX

(A) Each defendant is ordered and directed to furnish within ninety (90) days after the date of entry of this Final Judgment a copy thereof to each of its officers and directors and to each of its agents and employees having sales supervisory and/or pricing responsibility for bakery products.

(B) Each defendant is ordered and directed to furnish a copy thereof to each successor to those officers, directors, agents, and employees described in subsection (A) of this Section IX, within thirty (30) days after each such successor is employed by or becomes affiliated with the defendant.

(C) Each defendant is ordered and directed to file with this Court and serve upon the plaintiff within one hundred twenty (120) days from the date of entry of this Final Judgment, an affidavit as to the fact and manner of its compliance with subsection (A) of this Section IX.

X

(A) For the purpose of determining or securing compliance with this Final Judgment, any duly authorized representative of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(1) Access during the office hours of such defendant to all books, ledgers, acounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, directors, agents, partners, or employees of such defendant, who may have counsel present, regarding any such matters.

(B) A defendant upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at any time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents which is of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

XI

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such futher orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment or for the modification of any of the provisions herein and for the enforcement of compliance herewith and the punishment of the violation of any of the provisions contained herein.

XII

Entry of this Final Judgment is in the public interest.

Dated: ——————.

——————,
U.S. District Judge.

UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF LOUISIANA

United States of America, Plaintiff, v. *Colonial Baking Co. of El Dorado; Cotton's Ouachita Bakery, Inc.; and Wolf Baking Co., Inc.*, Defendants.

Civil No. 75-75.

Filed: November 18, 1977.

PROPOSED CONSENT DECREE, COMPETITIVE IMPACT STATEMENT

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. §16(b)), the United States of America hereby files this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

On February 28, 1975, a single count indictment was returned by a Federal grand jury sitting in this district charging the defendants as well as certain of their officers and employees with combining and conspiring to fix, maintain, and stabilize prices of bakery products in the Monroe area in violation of section 1 of the Sherman Act (15 U.S.C. §1). This was one of four indictments involving four discrete geographical areas returned simultaneously by the grand jury charging these defendants and other corporations and individuals engaged in the production and sale of bakery products in Louisiana and contiguous portions of Texas, Arkansas, and Mississippi, with having engaged in conspiracies in violation of the Sherman Act. Simultaneously with the return of the indictments the United States filed four companion civil cases against each of the corporate defendants involved in each of the criminal indictments.

In each of the criminal cases the defendants were charged with having engaged in a conspiracy which continued up until the date of the return of the indictments. Just prior to the return of the indictments (on December 21, 1974), the maximum penalties prescribed for violations of the Sherman Act were increased from a maximum of one year in prison and a $50,000 fine for individuals and a $50,000 fine for corporations (a misdemeanor) to a maximum of three years in prison and $100,000 fine for individuals or $1,000,000 fine for corporations (a felony). Following extensive motions and rulings by the court in connection with the filed indictments, the United States determined that it would be appropriate to file new criminal charges by way of a criminal information making it clear that each of the defendants was charged with having engaged in a conspiracy, the maximum penalties for which would be the lesser penalties described. Thus, on May 2, 1975, four criminal informations were filed by the United States charging the same defendants with having engaged in the same activities as were charged in the indictments; however, the conspiracies were alleged to have continued only up until late 1974—prior to the effective date of the enhanced penalties. Subsequently, all defendants with the exception of Huval Baking Co., Inc., its President, Chairman of the Board, Dr. Frem F. Boustany, Jr., Frem F. Boustany, Sr., respectively, R. Gene Cotton, President of each of the four related Cotton organizations, and Clifford M. Curtis, one of Cotton's former plant managers, pleaded nolo contendere. Upon their pleas of nolo contendere, the individuals were sentenced to suspended prison terms, fines and extended periods of probation. Each of the corporate defendants were fined.

The remaining defendants in the case involving the "Baton Rouge market area" were tried before a jury and found "not guilty" on August 29, 1975. Motions filed in each of the other pending criminal cases involving these defendants resulted in the cases being dismissed on the basis of the double jeopardy clause of the Constitution.

The bakery products involved in the conspiracies alleged include standard and variety types of bread, rolls, buns, and other items generally produced by commercial bakeries. The complaint charges that the defendants conspired to fix the prices of such bakery products, to eliminate or reduce discounts given to purchasers of such products and to rig bids to governmental agencies seeking competitive bids. The area affected by the alleged conspiracy encompasses northwestern Louisiana and one county in Arkansas.

Cotton's Ouachita Bakery, Inc., is one of the five affiliated corporations, all principally owned by members of the Cotton family. Cotton's Ouachita Bakery, Inc., operates one bakery facility located in Monroe, La.,

and sells throughout the Monroe market. Each of the Cotton companies is a member of the W. E. Long cooperative of independent bakeries and it markets its product principally under the label "Holsum."

Colonial Baking Co., of El Dorado, is a subsidiary of Campbell-Taggart, Inc., a large food processing company based in Dallas, Tex. Campbell-Taggart operates bakery facilities throughout the United States. Colonial sells bakery products from its single facility in El Dorado, Ark., in the Arkansas part of the Monroe market and in the Ruston, Bastrop, and Farmerville areas in northcentral Louisiana under the brand name "Colonial."

Wolf Baking Co., Inc., is a privately owned corporation with headquarters in Baton Rouge, La. Wolf operates three bakery facilities and is a licensee and a member of the Quality Bakers of America Cooperative and markets its product under the name "Sunbeam." Wolf sells its products throughout the Monroe market.

The Government would have contended at trial that officers and managerial employees of the defendant corporations had a series of meetings which resulted in understandings that each would, from time to time, increase its wholesale price of bakery products to retail grocers and others who were their customers. The Government would also have contended that meetings were held for the purpose of and which resulted in the reduction of the number of discounts being given by these commercial bakers to their customers and in many cases resulted in the elimination of such discounts. It would have further contended that discussions were held between respresentatives of the various corporations which resulted in agreements as to whether a defendant would submit a bid and the amount which would be bid to governmental agencies, school districts and the like. Similar discussions with respect to limitations on production of cheaper bakery products resulted in agreements limiting the availability of less expensive products. Total sales of bakery products by the defendant corporations in the Monroe market were approximately $8 million in 1974.

In its complaint, the Government contended: (1) That the defendants' activities resulted in the price of bakery products being raised and maintained at artificial levels; (2) that competition in the sale of bakery products between the defendant corporations was eliminated; and (3) that purchasers of bakery products were deprived of the benefits of competition.

II. EXPLANATION OF THE PROPOSED CONSENT DECREE

The United States and the defendants have stipulated that the proposed consent judgment may be entered by the court at any time after compliance with the Antitrust Procedures and Penalties Act. The consent judgment provides that there has been no admission by either party with respect to any issue of fact or law. Under provisions of section 2(e) of the Antitrust Procedures and Penalties Act, entry of this judgment is conditioned upon a determination by the court that the proposed judgment is in the public interest.

The proposed consent judgment provides measures that terminate the anticompetitive practices alleged in the complaint. Each defendant is perpetually enjoined from entering into any form of agreement with anyone engaged in the production and sale of bakery products to fix prices, to fix, reduce or eliminate discounts on such products, to submit collusive, non-competitive or rigged bids to anyone seeking such bids, or to limit the production of any bakery products.

Each defendant is also enjoined from attempting to have anyone else engaged in the production and sale of bakery products adopt or adhere to specific prices on bakery products, adopt or adhere to specific discounts or reduce or eliminate such discounts on the sale of bakery products, refuse to bid or bid any particular amount to anyone seeking a competitive bid for the purchase of bakery products or limit the production of any bakery products. Furthermore, the defendants are, for a period of 10 years, enjoined from communicating to any other person engaged in the production and sale of bakery products future prices at which a defendant intends to sell bakery products, any consideration or intention by the defendant to change the price at which he will sell bakery products or his intention to bid or the amount which he intends to bid to any person seeking to buy bakery products on a competitive bid basis.

The defendants must provide each of their employees with any sales supervisory or pricing responsibility a copy of the decree entered in this case, and must furnish each successor to any such employee with a copy of the decree within 30 days of the time that employee is vested with sales supervisory or pricing responsibilities. Each defendant must also file an affidavit of compliance with the decree with 120 days of its entry.

The defendants are not enjoined under the decree from negotiating or entering into a bona fide sale or purchase transaction with a competitor or from sending a competitor a copy of the defendant's price list which has already been released to the trade generally, if such a price list is requested by the competitor. Nor do the provisions of the judgment apply to any transactions or relationships between a defendant and a parent or subsidiary of the defendant, or a corporation which is under common control with the defendant. Thus, intracorporate transactions are exempt from coverage of the decree.

III. SCOPE AND TIME PROVISIONS OF THE PROPOSED JUDGMENT

By its terms, the judgment applies to each defendant and to each of the defendant's officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons who act in concert with any such defendant, provided that such persons have actual notice of the judgment, by personal service or otherwise. The judgment would apply to any defendant's activities wherever they might occur. Thus, it is not limited to the geographic area described within the complaint. The decree is perpetual in its endurance, with the limited exception of Paragraph VI which, for 10 years, enjoins communications concerning the future pricing of bakery products or the intention of bidding or the amount to be bid to someone seeking to purchase bakery products on a competitive bid basis.

IV. EFFECT OF THE PROPOSED JUDGMENT ON COMPETITION

The relief encompassed in the proposed consent judgment is designed to prevent any continuance or reoccurrence of the activities alleged in the complaint. The prohibitive language of the judgment should insure that prices charged for bakery products, discounts given to purchasers of bakery products, bids submitted to agencies seeking competitive bids, and the products to be marketed by each defendant will be determined independently, without the restraining and artificial influence which resulted from the meetings and agreements in which the defendants engaged.

The judgment provides two methods for determining the defendants' compliance with the judgment. First, the Government is given access, upon reasonable notice, to the records of the defendants, to examine these records for possible violations of the judgment, and to interview officers, directors, agents, partners or employees of the defendants. Second, the defendants may be required to submit written reports with respect to any matters contained in the proposed judgment.

It is the opinion of the Department of Justice that the proposed consent judgment contains fully adequate provisions to prevent continuance or reoccurrence of the violations of the antitrust laws charged in the complaint. In the Department's view, disposition of the lawsuit without further litigation is appropriate in that the proposed judgment provides all the relief which the Government sought in its complaint; the additional expense of litigation would therefore not result in additional public benefit.

V. ALTERNATIVES TO THE PROPOSED CONSENT JUDGMENT

The Government initially proposed, but later withdrew, a provision which would have required each defendant to notify all of its customers of the entry of the judgment and the essential terms contained in the judgment. Because at least six class action treble damage suits under section 4 of the Clayton Act, 15 U.S.C. section 15, are pending against each of the defendants, it was decided that no substantial effect would result from inclusion of such a notification provision. The pending treble damage actions encompass virtually all classes of purchasers of bakery products, and the State of Louisiana is currently engaged in negotiations with the defendants with a view towards settling any claims that the State might have due to damages which the State suffered because of the defendant's illegal activities.

VI. REMEDIES AVAILABLE TO PRIVATE LITIGANTS

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in Federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorney fees. Entry of the proposed consent judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust actions, nor will it have any effect on pending actions. Under the provisions of section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), this consent judgment has no prima facie effect in any lawsuits which might be brought against these defendants.

VII. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED JUDGMENT

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may submit written comments to Donald A. Kinkaid, Antitrust Division, U.S. Depart-

ment of Justice, 1776 Peachtree Street NW., Suite 420, Atlanta, Ga. 30309, within the 60-day period provided by the Act. These comments, and the Department's responses to them, will be filed with the court and published in the FEDERAL REGISTER. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed judgment at any time prior to its entry if it should determine that some modification of it is necessary. The proposed judgment provides that the court retains jurisdiction over this action, and the parties may apply to the court for such Orders as may be necessary or appropriate for its modification, interpretation or enforcement.

VIII. OTHER MATERIALS

No materials and documents of the type described in section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. section 16(b)) were considered in formulating this proposed judgment, and consequently, none are filed herewith.

J. ALBERT KROEMER,
JACK C. WILLIAMSON,
Attorneys, Antitrust Division,
U.S. Department of Justice.

[7520-01]

NATIONAL CAPITAL PLANNING COMMISSION

[NCPC File No. 1619]

CITIZEN PARTICIPATION AND INTERGOVERNMENTAL LIAISON

Amended Procedures

At its November 3, 1977 meeting, the National Capital Planning Commission adopted amendments to its Procedures for Citizen Participation and Intergovernmental Liaison. The Procedures, as amended, read as follows:

I. *District Element of the Comprehensive Plan for the National Capital*[1]*—Federal Interest Review*[2]—A. *Citizen Participation.* (Comments on the effect of the District element or amendment on the Federal establishment and/or on Federal interests in the National Capital Region.)

Notice shall be sent to a list of organizations and individuals (hereinafter called "NCPC mailing list"), who have requested in writing such notice, that NCPC will review and act on a District element or amendment thereto. The notice shall solicit written comments prior to and oral comments at an open session Commission meeting.

B. *Intergovernmental Liaison.* Referral to affected Federal agencies for review and written comments.

II. *Federal Elements of the Comprehensive Plan for the National Capital*[1]*—Preparation*—A. *Citizen Participation.* Notice shall be sent to the NCPC mailing list that NCPC is circulating a draft statement of goals, objectives, criteria and alternative policies for review and comment. The notice shall solicit written comments prior to and oral comments at an open session Commission meeting.

B. *Intergovernmental Liaison.* 1. Data gathering from interested and affected agencies as required.

2. Coordination with interested and affected agencies regarding staff drafts for each element.

3. Referral of relevant Comprehensive Plan materials to the following for informal review:

(a) Appropriate Federal authorities;
(b) Appropriate District authorities;
(c) Metropolitan Washington Council of Governments (hereinafter "COG") and through COG to local governments;
(d) Local planning agencies;
(e) State clearinghouses; and
(f) Regional and subregional authorities.

III. *Federal Elements and Amendments to Comprehensive Plan for the National Capital*[1]—A. *Citizen Participation.* Notice shall be given to the NCPC mailing list that NCPC will review and act on a Federal element or amendment thereto. The notice shall solicit written comments prior to and oral comments at an open session Commission meeting.

B. *Intergovernmental Liaison.* Referral as relevant to the following for review and written comments:

1. Appropriate Federal Authorities;[3]
2. Appropriate District Authorities;[3]
3. COG (and through COG to local governments);
4. Local planning agencies;
5. State clearinghouses; and
6. Regional and subregional authorities.

IV. *Federal and District Plans and Projects*[4]—Agency Preparation—A. *Citizen Participation if Agency has Citizen Participation Process.* Agency to advise NCPC at earliest possible time of citizen participation; NCPC staff to participate in process as appropriate and where feasible to encourage agencies to provide for citizen participation as agencies develop their plans.

B. *Intergovernmental Liaison.* 1. Data gathering by agency as required—NCPC informed.

2. Coordination by NCPC with appropriate authorities in conjunction with sponsoring agency (early consultation).

V. *Federal and District Plans and Projects*[4]*—Commission Plan and Project Review*—A. *Citizen Participation.* (Comments and statements on District plans and projects, except "in lieu of zoning" matters, on the effect of the plan or project on the Federal establishment and/or on Federal interests in the National Capital Region.)

Notice shall be sent to the NCPC mailing list that NCPC will review and act on such plan or project. The notice shall solicit written comments prior to and oral comments at an open session Commission meeting.

B. *Intergovernmental Liaison.* Referral to all or some of the following:

	By Agency	By Commission
1. State governments.	Required by A-95[5,6,7].	
2. COG	Required by A-95[5,6].	Pursuant to agreement with COG.[8]
3. Subregional agencies.		Pursuant to sec. 5(d) of Planning Act outside D.C.
4. Local governments (a) Executive administrative, (b) Legislative.		Through COG pursuant to informal agreement between COG and NCPC.
5. Local planning agencies.		Pursuant to sec. 5(d) of Planning Act outside D.C.

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[1]The Comprehensive Plan for the National Capital consists of (1) "Federal elements" prepared and adopted by the National Capital Planning Commission (hereinafter "NCPC") and (2) "District elements," adopted by the Council of the District of Columbia and reviewed by NCPC. When District elements are reviewed by NCPC, the criterion used is the effect of the District element on the Federal establishment and/or Federal interests in the National Capital Region (referred to as a "Federal interest review"). These procedures provide for citizen participation in connection with (1) Federal interest review of District elements pursuant to Sec. 2 of the National Capital Planning Act of 1952, as amended (hereinafter "Planning Act") (see I); (2) preparation by NCPC of Federal elements pursuant to Sec. 4 of the Planning Act (see II); and (3) adoption by NCPC of Federal elements also pursuant to Sec. 4 of the Planning Act (see III).

[2]Section 2(a)(4)(A) of the Planning Act permits only 60 days for initial NCPC review and Federal interest determination.

[3]Sec. 4(e) of the Planning Act directs NCPC to refer proposed Comprehensive Plan elements to appropriate Federal and District of Columbia authorities for comment and recommendation prior to adoption.

[4]The preparation of plans and projects of Federal and District agencies involves two planning processes. The first is the sponsoring agency's own process established by that agency (see IV). The second is NCPC's review of those plans (see V). Consistent with the objectives of the District of Columbia Self-Government and Governmental Reorganization Act, NCPC has limited its review of most District plans and projects to a "Federal interest review". Accordingly, citizen comments on such plans and projects should be correspondingly limited. There is, however, no such limitation on District projects in the central area of the District of Columbia as concurrently defined by NCPC and the Council of the District of Columbia to which the District's Zoning Regulations are not applicable and for which approval by NCPC "in lieu of zoning" is required. Nor is there any limitation on citizen comments on Federal plans and projects.

	By Agency	By Commission
6. Other jurisdictions		

[5]Section 2 of Part II of Attachment A to Office of Management and Budget Circular No. A-95 (Revised) requires Federal agencies to establish procedures for consultation with governors, state and areawide clearinghouses, and local elected officials on planning and construction of Federal buildings, installations and public works and with respect to projects in the National Capital Region, to undertake such consultation in cooperation with NCPC.

[6]Except for District plans, referral is presently by NCPC.

[7]No referral to D.C.

[8]Master plans outside of D.C. only.

VI. *Federal Capital Improvements Program*[9]*—Preparation—A. Intergovernmental Liaison.* 1. Data gathering from interested and affected agencies.

2. Coordination with interested and affected Federal agencies regarding agency capital budget and program submissions.

3. Coordination with relevant local, State and regional capital budgets and programs.

VII. *Federal Capital Improvements Program*[9]*—Adoption—A. Citizen Participation.* Notice shall be sent to the NCPC mailing list that NCPC is circulating a draft program for review and comment. The notice shall solicit written comments prior to and oral comments at an open session Commission meeting.

B. *Intergovernmental Liaison.* Referral of draft program as relevant to the following:

1. Appropriate Federal authorities;
2. Appropriate District authorities;
3. COG (and through COG to local governments);
4. Local planning agencies;
5. State clearinghouses; and
6. Regional and subregional authorities.

VIII. *Zoning.*[10]*—A. Citizen Participation.* (Comments and statements on (1) the effect of zoning proposals on the Federal establishment and/or on Federal interests in the National Capital Region and/or (2) their consistency with the comprehensive plan).

Notice shall be sent to the NCPC mailing list that NCPC will review and act on (1) Zoning Commission referrals, after public hearing, of proposed Zoning Commission actions pursuant to statute and (2) recommendations or requests for NCPC participation in cases before the Zoning Commission and the Board of Zoning Adjustment at or before public hearings thereon. The notice shall solicit written comments prior to and oral comments at an open session Commission meeting.

B. *Intergovernmental Liaison.* Referral to affected Federal agencies.

DANIEL H. SHEAR,
Secretary.

NOVEMBER 23, 1977.

[FR Doc. 77-34310 Filed 11-29-77; 8:45 am]

[9]NCPC is responsible for preparing and recommending a Federal capital improvements program for the National Capital Region that identifies and describes proposed Federal land acquisition and development proposals within the Region for the next six years (see VII). A draft program is prepared by the staff, circulated to Federal agencies for comment, and then adopted by NCPC after receipt of citizen comments.

[10]NCPC may participate in the Zoning Commission process either prior to the Zoning Commission hearing or after such hearing; in the latter case, the proposed action of the Zoning Commission is before the NCPC for its review (see VIII).

[7537-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT ON THE ARTS; MUSEUM PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Museum Panel will occur on December 14, and 15, 1977, in Washington, D.C. The meeting will be held in the First Floor Conference Room of the Shoreham Building, 806 15th Street Northwest, Washington, D.C.

A portion of this meeting will be open to the public on December 14, 1977, from 10 a.m. to 5 p.m., and December 15, 1977, from 10 a.m. to 11 a.m., on a space available basis. The discussion will focus on policy issues.

The remaining sessions of this meeting on December 15, 1977, from 11 a.m. to 1 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(B) of section 552(b) of Title 5, United States Code.

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 202-634-6378.

DONALD L. CASE,
Acting Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities, Administrative Services Officer.

[FR Doc. 77-34317 Filed 11-29-77; 8:45 am]

[7537-01]

NATIONAL ENDOWMENT FOR THE ARTS; VISUAL ARTS CRAFTS EXHIBITION AID AND WORKSHOPS PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Crafts Exhibition Aid and Workshops Panel will occur on December 14, 15, and 16, 1977, in Washington, D.C.; each day the meeting will begin at 9:30 a.m., and will adjourn at 5:30 p.m. The meeting will be held in Columbia Plaza, room 1340, 2401 E Street NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c)(4). (6) and 9(B) of section 552 of Title 5, United States Code.

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 202-634-6378.

DONALD L. CASE,
Acting Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities, Administrative Services Officer.

[FR Doc. 77-34318 Filed 11-29-77; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

RESOURCE CENTER FOR SCIENCE AND ENGINEERING PROGRAM

Final Guidelines

The National Science Foundation announces the opening of the Resource Center for Science and Engineering Program for FY 1978. The

closing date for receipt of proposals is February 17, 1978. Final guidelines for the Program follow.

WALTER L. GILLESPIE,
Division Director, Science Education Resources Improvement.

GUIDE FOR THE PREPARATION OF PROPOSALS; RESOURCE CENTER FOR SCIENCE AND ENGINEERING PROGRAM

NATIONAL SCIENCE FOUNDATION, DIVISION OF SCIENCE EDUCATION RESOURCE IMPROVEMENT, WASHINGTON, D.C. 20550

Stage one proposal dates: Receipt date: February 17, 1978; notification date: mid-March 1978.

Stage two proposal dates: Receipt date: May 19, 1978.

Announcement of selection of resource center site: Early September 1978.

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I. EXCERPT FROM FISCAL YEAR 1978 NSF AUTHORIZATION LAW

The fiscal year budget for the Resource Center for Science and Engineering program is approximately $2.6 million.

The following is an excerpt from the fiscal year 1978 NSF authorization law (Pub. L. 95-99) regarding the Resource Center for Science and Engineering program, section 6 (a), (b):

SEC. 6(a). The National Science Foundation shall establish a Resource Center for Science and Engineering to be located at an educational institution which—

(1) Enrolls substantial numbers of minority students, students from low-income families, or both;

(2) Is geographically located near one of more population centers of low-income families or minority groups;

(3) Demonstrates a commitment to encouraging and assisting minority students or students from low-income families or both; and

(4) Has an existing or developing capacity to offer doctoral programs in science and engineering.

(b) The Center established under this section shall—

(1) Support basic research and acquisition of necessary research facilities and equipment;

(2) Serve as a regional resource in science and engineering for the community which the Center serves; and

(3) Develop joint educational programs with nearby pre-college and undergraduate institutions which enroll a substantial number of minority students or students from low-income families.

ACKNOWLEDGMENT AND DISCLAIMER

An acknowledgement of NSF support must be made in connection with the publication of any material based on or developed under a project supported by NSF to the effect that: "This (material) was prepared with the support of National Science Foundation Grant No. ——." Any materials, books, monographs, proceedings of symposia, or similar publications supported by an NSF grant must contain a statement, immediately following the acknowledgement that contains an expression of the following: "Any opinions, findings, conclusions or recommendations expressed (herein) are those of the author(s) and do not necessarily reflect the views of the National Science Foundation."

II. PROPOSAL AND SELECTION PROCESS

STAGE ONE

February 17—Receipt of proposals at Foundation.

February 23-24—Panel review.

Mid-March—Notification date of results of panel and staff review.

STAGE TWO

May 19—Receipt of final proposals from selected 6 stage one applicants.

May 25-26—Panel review.

June 5-14—Site visits to top 3 ranking institutions.

Early September announcement of selection of Resource Center.

III. PROGRAM DESCRIPTION

INTRODUCTION

The Resource Center for Science and Engineering (RCSE) program is a successor to the fiscal year 1977 minority centers for graduate education in science and engineering program. In fiscal year 1978, the Foundation is authorized and directed to support the establishment of one resource center as characterized in the legislative excerpt on the inside front cover of this guide. Subject to the availability of funds, it is the Foundation's intent to establish additional centers over a period of time.

GENERAL PURPOSE AND OBJECTIVES

The Resource Center for Science and Engineering program is designed to promote increased participation in science and engineering by minorities and persons from low-income families (see below for definitions).

The program seeks to expand the options in science and engineering of minority students and students from low-income families by assisting eligible institutions in their efforts:

To increase their number of applications from such students.

To increase the number of doctorates in science received by these students.

To provide such students with role models in science and research opportunities with established scientists.

To provide faculty associated with the Resource Center with academic research career options and to increase their scholarly productivity.

In fiscal year 1978 support will be provided for the establishment of a single center geographically located near one or more population centers of minority groups or low-income families which will (1) support basic research, (2) serve as a regional resource in science and engineering, and (3) develop joint educational programs with nearby pre-college and undergraduate institutions enrolling substantial numbers of minority students or students from low-income families.

Science as defined for the purposes of this program includes the biological, engineering, mathematical, physical, and social sciences, the history and philosophy of science, and interdisciplinary fields which are comprised of overlapping areas among two or more sciences (e.g., biophysics, geochemistry, biochemistry).

DESCRIPTION OF THE CENTER CONCEPT

Applicant institutions are expected to develop proposals based upon this guide for the establishment of a Resource Center that is regional in function with activities appropriate to the institutional and community context in which the Center would exist.

A Resource Center must serve a variety of functions for the various constituents of the region in which it is located. For the minority student or the student from a low-income family, a Resource Center should:

Provide access to established scientists on its faculty.
Offer a variety of quality science programs.
Have faculty and programs reflecting sensitivity to the needs of ethnic minority students or students from low-income families.
Have demonstrated strength in the performance of basic research.
Possess a demonstrable history for the admission and retention through graduation of minority students or students from low-income families.

Have visible and functional minority faculty to serve as role models for its minority students.
Possess substantial support programs including counseling, guidance, financial, and tutorial assistance.
Provide a favorable student atmosphere for developing self interests and for learning.

For the minority faculty member at the grantee institution, a Resource Center should:

Have a demonstrated commitment to minority faculty as evidenced by its past, present, and projected future record with respect to their hiring, promotion, and tenure.
Provide optimum conditions for research by and the professional development of its faculty.

For the academic community at the grantee institution, a Resource Center should:

Facilitate information exchange between its various science departments.
Coordinate activities among its departments and university administration as they relate to the specific needs and benefit of minority students or students from low-income families.

For the nearby community, a Resource Center should:

Enhance information exchange between academia and the lay community.
Function as a forum through which local scientific needs and interests can be expressed.
Serve as a medium for on-going, long-term inquiry and monitoring of research activities relevant to the scientific needs and priorities of the community.
Encourage the most talented students in the local community to consider choosing careers in science and engineering.

TYPES OF SUPPORT

In general, support may be provided in this program for a variety of activities in science research or science education, not excluded elsewhere in this Guide, which will aid the grantee in developing its capacity to function as a Resource Center as described in previous sections.

Supportable activities may include, but are not limited to, the purchase of scientific instructional or research equipment and supplies, research assistantships for students; library additions; strengthening of existing curricula; addition of graduate level science faculty; visiting scientists; student attendance at professional meetings; minor renovation of physical facilities; efforts to increase communication and facilitate scientific interchange between the Resource Center and neighboring undergraduate institutions with substantial enrollments of minority students or students from low-income families; development of outreach and educational programs for the community(ies) which it serves and for nearby pre-college institutions which enroll a substantial number of minority students or students from low-income families; and the use of consultants in planning and evaluation efforts.

Activities may also include cooperative programs with industry, faculty, and student exchange programs, workshops, institutes, and programs to increase the awareness by students, their parents, and teachers concerning the diversity of and opportunities for science careers. These examples should be considered as illustrative and not as limiting or required components of projects.

ELIGIBILITY AND LIMITATIONS

Institutions eligible to submit proposals in fiscal year 1978 to the Resource Center Program are graduate degree granting institutions, or groups of institutions of higher education involving at least one graduate degree granting institution, which enroll substantial numbers of minority students, students from low-income families, or both.[1]

In addition, the following criteria, set forth in the legislation as characteristics of a Resource Center, must be addressed in the proposals for evaluation by reviewing panelists:

Are geographically located in or near one or more population centers of low-income families or minority groups.
Have a demonstrated commitment to encouraging and assisting minority students or students from low-income families, or both.
Have an existing or developing capacity to offer doctoral programs in science and engineering and currently offer at least the master's degree in three or more areas of science.
Are willing to support basic research and the acquisition of necessary research facilities and equipment.
Are willing to serve as a regional resource in science and engineering for the nearby community of minority groups or low-income families.
Are willing to develop joint educational programs with nearby pre-college and undergraduate institutions which enroll a substantial number of minority students or students from low-income families.

A group of institutions submitting a cooperative or consortium proposal in the program must, when considered as a single entity, satisfy the criteria listed above.

A proposal for the establishment of the Center is expected to involve several science disciplines as opposed, for example, to involving only mathematics or only engineering.

The grant request should be for approximately $2.6 million to be expended over a three to five year period.

Assurance of renewal support of the Center to be established in this Program is not possible. Therefore, any proposed achievements primarily dependent upon Foundation support should be attainable within the grant period. This does not exclude, of course, the inclusion of proposed achievements dependent upon institutional or other external support which may be attainable during or following the grant period. Proposals should describe long range plans for the Resource Center, including how the institution proposes to maintain the Center after NSF funding cases.

A proposal must address the needs of the principal minority or low-income groups in the region that the Center would be serving, for it is unlikely that, within the foreseeable future, more than one Center will be established within a given region.

An institution, whether submitting a proposal on its own behalf or as a part of a group of institutions, is eligible to submit or participate in only one proposal. Participation in the Resource Center Program does not in any way affect an institution's eligibility to submit proposals or receive support from other Foundation programs.

TYPES OF PROPOSALS

Proposals may be submitted by any eligible institution or eligible group of institutions in Stage One of the Resource Center selection process. Final proposals will be accepted in Stage Two from institutions represented in the six ranking proposals of Stage One. These proposals are expected to contain revisions of the original proposals, based upon reviewer and staff comments. Only proposals from these six institutions will be reviewed in Stage Two.

Final proposals may generally differ in content from initial proposals in the following ways:

Extent of narrative and budget details; Extent of supportive documents; Curiculum vitae for consultants; Information on other areas identified in reviewer and staff comments; and Information on current and proposed projects and on previous NSF awards.

The preparation and submission of each type of proposal is discussed in subsequent sections of this Guide.

Institutions planning to submit Stage One proposals should complete and mail the Intent to Submit Card

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[1] *Definitions.—Substantial.*—at least 800 full-time minority students and/or students from low-income families, including undergraduate, and graduate, at least 50 of whom must be enrolled beyond the junior level in the natural or physical sciences or engineering and at least 50 of whom must be enrolled beyond the junior level in the social sciences.

Minority.—includes Alaskan Natives, American Indians, Blacks, Mexican-Americans, Puerto Ricans, and/or other disadvantaged ethnic minorities who are under-represented in science and engineering. A proposing institution's minority enrollment may be predominantly a single minority group or a combination of the minority groups described above.

Low-Income Family.—A family whose adjusted family income is less than $7,500.

found on the Back Cover of this Guide by January 6, 1978, or as soon thereafter as possible.

IV. Preparation and Submission of Initial Proposals—Stage One

PROPOSAL FORMAT AND CONTENT

Proposals must contain the following in the order listed:

Cover sheet; Estimated budget sheet; Institutional data sheet; Narrative; Curriculum vitae of key project personnel; and Local review statement.

Forms for the Cover Sheet, Estimated Budget Sheet, and the Institutional Data Sheet are exhibited in the Appendix. These forms should be reproduced and used in the preparation of proposals.

BUDGET

Estimated budget figures are permissible in Stage One. Budget guidelines and exclusions are discussed under General Fiscal Information below.

NARRATIVE

The Narrative should not exceed twenty (20) double spaced pages, typed on one side only. It should set forth the proposed plan for the establishment of a Resource Center designed to accomplish Program objectives as reflected in this Guide and in the Program's authorizing legislation which is reproduced on the Inside Front Cover.

Specific topics which should be discussed in the Narrative include the following:

Appropriateness/eligibility of institution as a resource center.—Describe how applicant meets each of the eligibility criteria outlined above. Summarize evidence of past, present, and future commitment to encouraging minority students and/or students from low-income families. Give a brief description of how the proposed plan was developed. Provide justification for this institution as the appropriate site for the Center.

Project objectives, strategy, and activities.—Describe project objectives, their relevance to stated Program objectives, and the proposed strategy for accomplishing them. Discuss the activities which collectively comprise the project plan. For each activity, indicate (a) the appropriateness for undertaking it, (b) how it contributes to attaining project objectives, and (c) how it complements other components of the plan.

Organization/management and work/monitoring/evaluation plan.—Describe briefly how the project will be organized and managed including a summary description of relevant skills of key personnel involved in the project. Present a timetable giving major milestones envisioned for the project as well as a procedure for monitoring project progress. Outline an evaluation plan for determining whether project objectives are being accomplished.

Expected outcomes.—Describe the overall expected outcomes of the project, and its potential impact upon the institution, the student groups to be served, and the nearby community.

Plan for continuation.—Discuss a general plan for integrating project activities of a continuing nature into the institution(s)' educational program and budget after Foundation support ceases.

Curriculum Vitae for Key Project Personnel should be appended to the Narrative.

LOCAL REVIEW STATEMENT

A local review statement signed by the chief executive officer of the institution must be appended to the proposal. This statement should indicate how the proposed project relates to overall institutional goals, the institution's general support for the proposed effort and its willingness to provide the necessary institutional resources for successful project implementation. This statement must clearly indicate the institution's willingness to cooperate in special monitoring requirements necessary in a project from which regular feedback must be obtained for future program planning. See below for a discussion of NSF monitoring and evaluation of the project.

In the case of a proposal submitted by a group of institutions, a local review statement must be included from each of the participating institutions.

MATERIALS REQUIRED

Fifteen (15) copies of the proposal (including the Signature Copy) along with three (3) copies of the catalog of the graduate institution(s) involved in the proposal are required.

Proposals and catalogs should be mailed in a single package to:

Central Processing Section for Resource Center in Science and Engineering Program, Division of Science Education Resources Improvement, National Science Foundation, Washington, D.C. 20550.

Each copy of a proposal should be on standard (8½" by 11") paper, printed on one side only, and stapled only in the upper left hand corner with no covering or binding material.

To facilitate prompt acknowledgment of the arrival of the package at its destination, the proposer should cut out the two postcards for Stage One initial proposals from the Back Cover of this Guide, fill them in to identify the proposal, address one card to the project director and the other to the official authorized to sign the Cover Sheet, and attach them firmly to the Signature Copy of the Cover Sheet.

RECEIPT DATE AND PROJECTED NOTIFICATION DATE

All proposals must be received in the Foundation by 5 p.m. EST on February 17, 1978. No exceptions will be made to this requirement. Proposers will be notified of the outcome of the proposal review process about mid-March, 1978. Prior to this notification, no information can be given on the probable outcome of any proposal.

V. Preparation and Submission of Final Proposals—Stage Two

Final proposals will be accepted from the institutions submitting the six ranking proposals in Stage One. They are expected to be revisions of the proposals originally submitted, based upon reviewer and staff comments. General differences betwen initial proposals and final proposals are discussed above.

While final proposals are revisions, they must be self-contained since they will be the subjects of a separate review.

PROPOSAL FORMAT AND CONTENT

Final proposals must contain the following in the order listed:

Cover sheet for final proposals; Proposal budget sheet—NSF form 1030; Budget details and justification; Institutional data sheet; Information on current or proposed projects; Summary information on previous NSF awards; Abstract; Narrative; Curriculum vitae of key project personnel and consultants; and Local review statement.

Forms for the Cover Sheet, Proposal Budget Sheet (NSF Form 1030) and the Institutional Data Sheet are exhibited in the Appendix. These forms should be reproduced and used in the preparation of final proposals.

BUDGET DETAILS AND JUSTIFICATION

Immediately following the Budget Sheet, details and justification must be provided for each major budget category.

INFORMATION ON CURRENT OR PROPOSED PROJECTS

Each proposal must list all current projects, in addition to the proposed project, to which the senior personnel have committed a portion of their time, whether or not salary for the person involved is included in the budgets of the various projects. This information should include the titles and dates of current grants or contracts, the source of funds, annual budget levels, and the person-months devoted to each project by each of the senior personnel.

The proposal must also provide analogous information for all other proposed projects which are being considered by, or which will be submitted in

the near future to, other possible sponsors including other Foundation programs. Concurrent submission of a proposal to other organizations will not prejudice its review by the Foundation.

SUMMARY INFORMATION ON PREVIOUS NSF AWARDS

An institution, whether submitting an individual proposal or participating in a proposal submitted by a group of institutions, that has received any previous grant of more than $100,000 from the National Science Foundation within the last 3 years must prepare a brief summary statement containing the following information for each such grant:

A. Grant number, title, date, and amount.

B. Summary of objectives and activities.

If any of these awards relate specifically to minority students or students from low-income families, then evidence of success in attaining the objectives of each such award should be given.

ABSTRACT

The Abstract, of no more than two pages in length, should present a synopsis of the proposed plan for the establishment of the Resource Center. If the proposed project is funded, the Abstract will be available to the public. The Abstract should therefore be written in language which can be understood by the general public.

NARRATIVE

The Narrative should be no more than 50 pages in length. Specifically, each of the topics discussed in the Narrative of initial proposals from Stage One and described above should be addressed in detail. Major questions or deficiencies of the initial proposal which were identified in the review process should be addressed under the appropriate Narrative topic.

CURRICULUM VITAE

Curriculum Vitae of Key Personnel and Consultants should be appended to the Narrative.

LOCAL REVIEW STATEMENT

A Local Review Statement as described under Stage One proposals must be included for the final proposal.

MATERIALS REQUIRED

Fifteen (15) copies of the final proposal (including the Signature Copy) are required. Proposals should be mailed in a single package to:

Central Processing Section for Resource Center for Science and Engineering Program, Division of Science Education Resources Improvement, National Science Foundation, Washington, D.C. 20550.

Each copy of a proposal should be on standard (8½" by 11") paper, printed on one side only, and stapled only in the upper left hand corner with no covering or binding material.

To facilitate prompt acknowledgement of the arrival of the package at its destination, the proposer should cut out the two postcards for Stage Two final proposals from the Back Cover of this Guide, fill them in to identify the proposal, address one card to the project director and the other to the official authorized to sign the Cover Sheet, and attach them firmly to the Cover Sheet of the Signature Copy. When ther package arrives, the date of receipt and an assigned proposal number will be stamped on the card before it is returned, so that thereafter the proposer and the Foundation may refer to this proposal number in correspondence about the proposal.

RECEIPT DATE AND PROJECTED AWARD DATE

All final proposals must be received in the Foundation by 5 p.m. EDT on May 19, 1978. No exceptions will be made to this requirement. The projected Award Date is in early September, 1978.

Proposers should submit written notification of any developments, following submission of the proposal, that might significantly affect the proposed plan. The Program staff will contact proposers if additional information is required. All final decisions will be announced by written notification to the project director and to officials of the proposing institution. Prior to this notification, no information can be given on the probability of support for any proposal.

VI. Evaluation Criteria and Procedure

The excellence of Foundation supported activities is heavily dependent upon advice received from the scientific and educational communities. Proposals will be reviewed competitively at each stage by panels which include representation of minority scientists and educators and other persons knowledgeable of minority or low-income communities to be served as well as by Foundation Staff. All proposals will be examined to determine the applicant's eligibility for participation in the Program on the basis of the criteria listed in a previous section.

At each stage, proposals will be evaluated according to the following criteria:

Congruence with program goals.—How relevant are the objectives of the proposed project to stated Program goals?

Demonstrated commitment to encouraging and assisting minority students or students from low-income families, or both.—What is the institution's past record (recruitment, retention, number of graduates) regarding such students? Provision of role models as reflected in past record (hiring, retention, promotion, tenure) with respect to minority faculty? Support facilities (counseling, financial aid, tutorial assistance)? Financing (institutional funding vs. external funding) of programs for minority students of students from low-income families? What are its future plans with respect to all of the above?

Institution's potential as the center location.—Has the proposing institution identified significant ways in which it would be able to serve as a resource in science and engineering to nearby population centers of minority groups or low-income families and to neighboring pre-college and undergraduate institutions with substantial enrollments of students from minority groups or low-income families? Has the institution made a compelling case for why it would be best suited to serve as the Center site? Is there a significant indication of institutional commitment for the proposed plan and its continuation? Are the institution's physical facilities adequate for implementation of the project?

Appropriateness and adequacy of the plan for the proposed objectives.—How appropriate are the proposed activities to the proposed objectives? Is the proposed plan likely to achieve the stated objectives?

Adequacy of organization/management and work/monitoring/evaluation plan.—Are the skills and experience of key project personnel appropriate for the implementation of the proposed project? Do the teaching and administrative arrangements made for project personnel provide them with adequate time to devote to the project? Is the time schedule described in the proposal appropriate? Are the milestones listed realistic? Is the described monitoring/evaluation plan acceptable?

Impact potential of project on the institution and/or nearby minority and/or low-income community.—Is the likely gain by the institution and the nearby minority community or community of low-income families from the implementation of the proposed project substantial?

Overall scientific and educational value of the project.—Do the techniques and approaches proposed reasonably reflect what is known to be effective in science education? Are the approaches proposed appropriate to the needs of the student populations to be served? Is there potential transferability of the various aspects of the project to other institutions? Are the proposed activities in basic research reasonable and appropriate to the institutional setting?

Panelists will be instructed to place greater emphasis upon the following:

The proposed objectives and activities of the plan; Demonstrated commitment (past, present, and projected); to encouraging and assisting minority students or students from low-income families, or both; Institution's potential as the resource center location; and Impact potential or project on the institution and the nearby minority and or low-income community.

Six applicants will be invited to submit revised proposals for review in the second stage of the Resource Center selection process. In determining which proposers will participate in the second stage, selection will be made in merit order. In cases of proposals with substantially equal merit, as determined by the merit review process, use may be made of other criteria such as geographical or disciplinary distribution of funds, distribution of awards among appropriate typed of institutions, or other criteria determined to be consistent with Foundation policy and legislative intent.

PRE-AWARD SITE VISITS

It is expected that a five member team composed of recognized scientists and educators and others knowledgeable of institutional planning/budgeting, and Foundation Staff will make two-day site visits to each of the three top applicants resulting from the Stage Two review process. These visits will be primarily for the purpose of consulting with proposed key project personnel, institutional officials, faculty, and other appropriate persons to resolve, to the extent possible, any major questions regarding the applicant's proposed plan and its appropriateness as the site of the Resource Center.

Applicants will receive written notification of the status of their proposals at the various stages.

VII. General Requirements/ Information for All Proposals

ACCESS TO PEER REVIEW INFORMATION

After final decisions have been announced, the Foundation will, upon request, inform the project director of the reasons for its decision on the proposal. Verbatim copies of reviews, not including the identity of the reviewer, will be made available to respective project directors upon specific request.

CONFIDENTIAL ASPECTS OF PROPOSALS AND AWARDS

When a proposal results in a grant, it becomes a part of the record of the Foundation's transaction, available to the public upon specific request. Information that the Foundation and the grantee mutually agree to be of a privileged nature will be held in confidence to the extent permitted by law; therefore, any information that the applicant wishes to have the Foundation consider as privileged should be clearly marked as such and sent in a separate statement, two copies of which should accompany the proposal.

A proposal that does not result in a grant may be retained by the Foundation. Such a proposal will be released only: (1) with the consent of the proposer; or (2) to the extent required by law. A proposal may be withdrawn at any time prior to final action thereon by the Foundation.

ASSURANCE OF COMPLIANCE WITH CIVIL RIGHTS ACT

If the applicant institution has not filed an Assurance of Compliance with Title VI of the Civil Rights Act of 1964, as required by NSF regulations, pertinent forms and a copy of the regulations may be obtained by writing to the Foundation's Division of Grants and Contracts. The required Assurance Form, when completed by the institution, should be submitted to the Division of Grants and Contracts. Once an Assurance form has been submitted by the applicant organization, it covers all proposals subsequently submitted by any department or other unit of that organization. Individual Assurance Forms are not necessary for each application or for each proposal. If there is some question as to whether an institution has filed an Assurance of Compliance, the institution's business office should be consulted.

In the case of cooperative projects, the grantee must receive from the cooperating colleges, universities, or other subrecipients an Assurance of Compliance with Title VI of the Civil Rights Acts of 1964 or written notification that such Assurance of Compliance has been previously filed with the U.S. Department of Health, Education, and Welfare or with the National Science Foundation. Copies of the Assurance of Compliance Form to be used by the subrecipient will be supplied by the Division of Grants and Contracts upon request; completed forms or written notifications are to be retained by the grantee for the tenure of the grant.

NSF MONITORING AND EVALUATION OF RESOURCE CENTER AWARD

Proposers should be aware that the Foundation shall monitor and evaluate the Resource Center project. Thus proposers should be prepared to cooperate with evaluators eventually retained by the foundation as well as to cooperate in any special monitoring requirements which might be established.

INDIRECT COSTS

Reimbursement for indirect costs may be requested up to the amount that corresponds to the rate approved for the institution. The Business Officer of an institution should contact the Policy and Cost Analysis Branch of the Foundation's Division of Grants and Contracts at 202/632-7545 if information regarding an approved rate is needed. In the case of a cooperative proposal in which a proposing institution has agreed to administer a grant on behalf of a group of institutions, it is assumed that the agreement has included appropriate arrangements for the equitable coverage of the indirect costs of each of the institutions involved. All budgetary policy matters are governed by the specific provisions of this Guide and by the terms set forth in the grant instrument.

GENERAL FISCAL INFORMATION

Budget Guidelines.—See above for limitations on grant duration and size. Proposals are expected to involve a diversity of activities, as opposed to being one-dimensional, therefore, no single budgetary request (e.g., equipment, faculty, and staff salaries, renovation, etc.) should comprise more than 35 percent of the total support requested.

Specific exclusions exist for requesting Foundation support.

NSF funds will not be provided for:

Student scholarships or fellowships (but student wages for special activities in the project are permitted as are student research assistantships);

Augmenting the salary rate for faculty members pursuing regularly assigned duties or to support any other ongoing regular activity at the institution; or

The construction of major new buildings. This does not preclude Foundation support for such remodeling or renovation of existing facilities as may be required to carry out activities which are a part of the proposed Resource Center.

Support may be requested for direct costs of the project including, but not limited to, the following: faculty and student participants in summer workshops related to the project, "replacements" during the academic year for faculty members engaged in further study or work on course or curriculum revision, costs of clerical and technical support directly related to project activities, undergraduate and graduate assistants involved in project activities, purchase of instructional, scientific, or basic research equipment essential to the project, travel expenses directly related to project activities, fees, and expenses for consultants, and salaries for new full-time science faculty who are part of the plan.

Funds may be requested to provide faculty replacements for the project director or for key faculty members engaged in project activities. The following methods for handling such cases are suggested:

(a) If the faculty member is given released time by the institution during

the academic year, either for the full year or a fraction thereof (e.g., one semester, or one or more quarters), the institution should continue to provide the faculty member's usual salary and benefits in the normal way, and request funds to provide a replacement for the faculty member during this period and for the extent to which the faculty member is involved in project activities.

(b) Support requested for faculty activity in the summer may not exceed two-ninths of a faculty member's current academic year salary for full-time involvement for an 8-week period. Support for shorter periods of time or for part-time involvement should be proportionately reduced. Requests for support for student assistants engaged in project activities should be at the approved rate in effect at the institution.

If staff benefits are treated as an item of direct cost, funds to provide these benefits may be requested at the rate normally in effect for the institution. If staff benefits are treated as an item of indirect cost in the negotiation of the institution's Indirect Cost Rate, funds for staff benefits may not be requested.

VIII. Guide for Operation of Project

CONDITIONS OF THE GRANT

In the Resource Center for Science and Engineering Program a grant is awarded to a recognized academic institution or organization, known as the grantee, rather than to the individuals submitting the proposal. The grant establishes a cooperative relationship between NSF and the grantee in which:

(a) NSF agrees to provide financial support to help defray the costs of the project under the conditions of the grant.

(b) The official named in the grant letter agrees, on behalf of the grantee institution or organization, to the performance of the project, to the prudent management of the funds provided by the grant, and to the provisions of the grant.

(c) Liaison between the grantee institution and NSF on all scientific, educational, technical, and budget matters pertaining to the project is maintained by the project director and the NSF Resource Center for Science and Engineering Program staff. Liaison between the grantee institution and NSF on fiscal matters is maintained by the grantee's business officer and the NSF Division of Grants and Contracts and/or the Division of Financial and Administrative Management.

NSF GRANTS

The grant letter, signed by the NSF Grants Officer, constitutes official notification of Foundation support. The grant letter is addressed to the appropriate official of the grantee institution with copies to the project director and the business officer of the institution.

Incorporated into the grant is the approved budget. The grant provides authority to the grantee to commit funds for support of the project at any time between the effective date and the expiration date of the grant. As stated in the grant letter, a grant in the Resource Center for Science and Engineering Program must be administered in accordance with this Guide and the grant conditions as specified in the award instrument. The grant is made in support of the plan described in the approved proposal, and shall be carried out in conformance with that plan, subject to changes made by mutual consent of the grantee and NSF staff. Any change in the plan, the procedures or activities for implementing the plan, project director, of personnel charged with responsibility for any major component of the project requires the prior written approval of NSF staff.

Any request for an extension of the grant period without additional funds in order to complete work required under the grant should be initiated in writing and be received by the NSF Program Officer at least 45 days prior to the expiration date of the grant and must be countersigned by the project director and an authorized institutional official.

ROLE OF THE PROJECT DIRECTOR

It is expected that the project director will represent the institution or group of institutions in its dealings with the Foundation on substantive matters relating to the grant. He or she is responsible for all aspects of the day-to-day administration of the project—for insuring that funds are expended for purposes and at rates specified in the grant instrument, for guiding personnel employed in the project, for continually re-evaluating project plans and results with a view toward determining if and when unforeseen developments require minor or major changes, for providing liaison with the Foundation, and for timely preparation and submission of required reports (other than fiscal reports).

All correspondence regarding the operation of the project and any requests for modifications must be prepared and signed by the project director, with the exception of correspondence requesting a change in project director which must originate with the administrative head of the institution.

Since the project director bears primary reponsibility for the success of the project, the incumbent should be replaced only for pressing reasons. When it appears that such a change is necessary, the administrative head of the institution or an official authorized to sign for him or her shall write the Foundation, setting forth the reasons requiring the change, the name of the person being nominated, and include a brief vita showing his or her qualifications for conducting this project. No change in project director shall be effective without written confirmation from the Foundation.

PROJECT REPORTS

Interim Reports.—During the first year of operation, interim reports must be submitted by the project director to the RCSE program staff on a quarterly basis. For the remaining duration of the award, interim reports must be submitted to the program staff on an annual basis at the end of the academic year. Interim reports should cover such matters as (1) progress to date in comparison with the project schedule, (2) results to date of the on-going monitoring/evaluation process, (3) problems encountered and methods used in solving them, and (4) circumstances or considerations which might significantly affect subsequent phases of the project. Interim reports should not include requests for NSF approval for major changes. Such requests should in all cases be the subject of separate correspondence.

Final Technical Report and Summary of Completed Project.—Two copies of each report must be submitted by the project director to the NSF Division of Grants and Contracts within 90 days following the expiration of the grant. The final technical report is to contain a brief summary of activities and accomplishments of the project. The summary of completed project should include a brief (approximately 300 words) description of the project. The description must be self-contained so as to be intelligible to the nonscientist. Generally, the grantee should indicate the project's objectives and scope, the techniques or approaches used, and its major findings and implications. The grantee should bear in mind that this Summary of Completed Project may be used, together with the project summary prepared by NSF at the time of the award, to answer inquiries by nonscientists as to the nature and significance of projects which the Foundation supports.

Financial Status Report.—This report (Standard Form 269) replaces the NSF Education Grand Budget and Fiscal Report (NSF Form 235). Within 90 days after the expiration of the grant, the original and two copies of the report must be submitted to the NSF Division of Grants and Contracts. The Standard Form 269 must be signed by the business officer or other authorized certifying official on at least the original with his name, title, telephone number, and date shown on all copies.

APPENDIX

Cover Sheet

Resource Center for Science and Engineering Program

(Circle Type of Project
Institutional, Cooperative, Consortium)

1. Institution: _____

Address: _____

_____
(City, State. Zip Code)

Highest Degree Offered in Science: _____

2. Student Population Data: List Current Student Enrollment as indicated.

a. Minority* Student Enrollment by Race/Ethnicity

_____American Indian _____Black _____Puerto Rican

_____Alaskan Native _____Mexican American _____Total Minority*

b. Enrollment of Students from Low-Income* Families, not included in (a): _____

c. Total Student Enrollment : _____

3. Project Director: _____

Address: _____
(Department)

_____
(Institution)

_____
(City, State, Zip Code)

Telephone: _____ _____
(Area Code)

4. Discipline(s) Included in Project _____

_____

5. Proposed Duration of Project: ..... _____
(Months)

6. Proposed Starting Date of Project: ..... _____
(Month, Year)

7. Total Estimated Support Requested .....$____

_____ _____
Typed Name of Project Director Signature (Date)

_____ _____
Typed Name of Official authorized to sign for the proposed grantee institution Signature (Date)

*See Program Guide for Definition

Cover Sheet

Resource Center for Science and Engineering Program

(Circle Type of Project
Institutional, Cooperative, Consortium)

1. Institution: _____

Address: _____

_____
(City, State. Zip Code)

Highest Degree Offered in Science: _____

2. Student Population Data: List Current Student Enrollment as indicated.

a. Minority* Student Enrollment by Race/Ethnicity

_____ American Indian _____ Black _____ Puerto Rican

_____ Alaskan Native _____ Mexican American _____ Total Minority*

b. Enrollment of Students from Low-Income* Families, not included in (a): _____

c. Total Student Enrollment : _____

3. Project Director: _____

Address: _____
(Department)

_____
(Institution)

_____
(City, State, Zip Code)

Telephone: _____ _____
(Area Code)

4. Discipline(s) Included in Project _____

_____

5. Proposed Duration of Project: ..... _____
(Months)

6. Proposed Starting Date of Project: ..... _____
(Month, Year)

7. Total Support Requested .....$___

_____ _____
Typed Name of Project Director Signature (Date)

_____ _____
Typed Name of Official authorized to sign for the proposed grantee institution Signature (Date)

*See Program Guide for Definition

Estimated Budget Sheet - Stage One Proposals

Estimate amounts required in each of the following major categories:

A. SALARIES, WAGES, AND STAFF BENEFITS ..... $_____
(Include professional and support staff and student assistants)

B. PERMANENT EQUIPMENT ..... $_____

C. OTHER DIRECT COSTS ..... $_____
List major categories with estimates:

1._____ $_____

2._____ $_____

3._____ $_____

D. INDIRECT COSTS $_____

E. TOTAL COSTS OF PROJECT..... $_____

F. TOTAL SUPPORT REQUESTED FROM NSF ..... $_____

SUMMARY PROPOSAL BUDGET

EXHIBIT II-4

PAGE 1 OF 2 PAGES

	ORGANIZATION AND ADDRESS				FOR NSF USE ONLY PROPOSAL NO. DURATION (MONTHS)	
	PRINCIPAL INVESTIGATOR/PROJECT DIRECTOR				PROPOSED	REVISED
	A. SENIOR PERSONNEL (LIST BY NAME; SHOW NUMBERS OF PEOPLE IN BRACKETS; SALARY AMOUNTS MAY BE LISTED ON SEPARATE SCHEDULE) GPM 205.1b	NSF FUNDED MAN MONTHS CAL.	ACAD.	SUMR.	FUNDS REQUESTED BY PROPOSER	FUNDS GRANTED BY NSF (IF DIFFERENT)
NSF USE	1. P.I./P.D.				$	$
	2. CO P.I./P.D.				$	$
	3. CO P.I./P.D.				$	$
	4. CO P.I./P.D.				$	$
	5. CO P.I./P.D.				$	$
11115	6. ( ) ← SUBTOTALS A1 - A5 →				$	$
	FACULTY AND OTHER SENIOR ASSOCIATES (ATTACH EXTRA SHEET IF NECESSARY)					
	7.				$	$
	8.				$	$
	9.				$	$
	10.				$	$
	11.				$	$
11117	12. ( ) ← SUBTOTALS A7 - A11 →				$	$
	B. OTHER PERSONNEL (LIST NUMBERS IN BRACKETS)					
11141	1. ( ) POSTDOCTORAL ASSOCIATES				$	$
11149	2. ( ) OTHER PROFESSIONALS				$	$
11150	3. ( ) GRADUATE STUDENTS				$	$
11152	4. ( ) UNDERGRADUATE STUDENTS				$	$
11182	5. ( ) SECRETARIAL - CLERICAL				$	$
11183	6. ( ) TECHNICAL, SHOP, OTHER				$	$
	TOTAL SALARIES AND WAGES (A+B)				$	$
11200	C. FRINGE BENEFITS (IF CHARGED AS DIRECT COSTS)				$	$
	TOTAL SALARIES, WAGES AND FRINGE BENEFITS (A+B+C)				$	$
	D. EQUIPMENT (LIST ITEMS AND DOLLAR AMOUNTS FOR EACH ITEM)					
23181	TOTAL EQUIPMENT				$	$
	E. MATERIALS AND SUPPLIES					
32630					$	$
	F. DOMESTIC TRAVEL					
42111					$	$
	G. FOREIGN TRAVEL (LIST DESTINATION AND AMOUNT FOR EACH TRIP; GPM 731)					
42112					$	$

EXHIBIT II-4 con.
PAGE 2 OF 2 PAGES

SUMMARY PROPOSAL BUDGET

PROPOSAL NO.

52500	H. PUBLICATION COSTS/PAGE CHARGES	$	$
62315	I. COMPUTER (ADPE) SERVICES	$	$
	J. CONSULTANT SERVICES (IDENTIFY CONSULTANTS BY NAME AND AMOUNT; GPM 516)		
		$	$
	K. PARTICIPANT SUPPORT COSTS, IF ALLOWED BY PROGRAM GUIDE (ITEMIZE) GPM 518		
	1. STIPENDS $		
	2. TRAVEL $		
	3. SUBSISTENCE $		
	4. OTHER - SPECIFY $		
	5. TOTAL PARTICIPANT COSTS (K1 + K2 + K3 + K4)	$	$
	L. ALL OTHER DIRECT COSTS (List items and dollar amounts. Details of subcontracts, including work statements and budget, should be explained in full in proposal.)		
	$		
	$		
	$		
	$		
65001	TOTAL OTHER DIRECT COSTS	$	$
	M. TOTAL DIRECT COSTS (A THROUGH L)	$	$
	N. INDIRECT COSTS (Specify rate(s) and base(s) for on/off campus activity. Where both are involved, identify itemized costs included in on/off campus bases in remarks.)		
74100	TOTAL INDIRECT COSTS	$	$
	O. TOTAL DIRECT AND INDIRECT COSTS (M + N)	$	$
74500	P. LESS RESIDUAL FUNDS (If for further support of current project; GPM 252 and 253)	$	$
75000	Q. AMOUNT OF THIS REQUEST (O MINUS P)	$	$

REMARKS

NOTE: SIGNATURES REQUIRED ONLY FOR REVISED BUDGET (GPM 233). THIS IS REVISION NO.

SIGNATURE OF PRINCIPAL INVESTIGATOR/PROJECT DIRECTOR	DATE OF SIGNATURE	TYPED OR PRINTED NAME AND TITLE
SIGNATURE OF AUTHORIZED ORGANIZATIONAL REPRESENTATIVE	DATE OF SIGNATURE	TYPED OR PRINTED NAME AND TITLE

FOR NSF USE ONLY

INDIRECT COST RATE VERIFICATION			PROGRAM OFFICER APPROVAL
Date Checked	Date of Rate Sheet	Signature	

Grant Number	Amend No.	Institution	Organization	Fund Acct.	Program	Object	

	Proposal Number	Dur.	Chg.	Award Date	Proposed Amount	Prpsd. Dur.	

INSTITUTIONAL DATA (Required of Stage One and Two Proposals)

NAME OF INSTITUTION

	Total for Inst.	Total for Nat. & Phy. Sci.	Total for Soc. Sci.	Total for Eng.	MINORITY* DATA: Total for Inst.	MINORITY* DATA: Total for Nat. & Phy. Sci.	MINORITY* DATA: Total for Soc. Sci.	MINORITY* DATA: Total for Eng.	DATA ** ON STUDENTS FROM LOW-INCOME FAMILIES NOT INCLUDED IN MINORITY DATA: Total for Inst.	Total for Nat. & Phy. Sci.	Total for Soc. Sci.	Total for Eng.
1. Faculty (F.T.E.)												
# on Tenure												
2. Undergraduate Student Body (F.T.E.)												
3. Graduate Student Body (F.T.E)												
4. Undergraduate Degrees Awarded Last AY												
5. Graduate Degrees Awarded Last AY-Master's Level Only												
6. Graduate Degrees Awarded Last AY-Doctorate Level Only												
7. Educational and General Budget												
8. Average Faculty Salary												
9. No. of Library Volumes												

* See Footnote on Page for definition of "Minority" (This section should be completed only if student group to be served consists primarily of minority students)

** See Footnote on Page for definition of low-income families (This section should be completed only if student group to be served consists primarily of non-minority students from low-income families)

[FR Doc. 77-34170 Filed 11-29-77; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON SEISMIC ACTIVITY

Meeting

The ACRS Subcommittee on Seismic Activity will hold an open meeting on December 15, 1977, in Room 1046, 1717 H Street NW., Washington, D.C. 20555, to discuss the problems which have arisen in the application of appendix A, 10 CFR 100, "Seismic and Geologic Siting Criteria for Nuclear Power Plants."

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977, page 56972, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff.

The agenda for the subject meeting shall be as follows:

THURSDAY, DECEMBER 15, 1977

8:30 A.M. UNTIL THE CONCLUSION OF BUSINESS

The Subcommittee may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the executive session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff and their consultants pertinent to this review. The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Dr. Richard P. Savio, telephone 202-634-1920, between 8:15 a.m. and 5 p.m., e.s.t.

Dated: November 23, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 77-34307 Filed 11-29-77; 8:45 am]

[7590-01]

[Docket No. 50-255]

CONSUMERS POWER CO.

Proposed Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendment to provisional operating license No. DPR-20, issued to Consumers Power Co. (the licensee), for operation of the Palisades plant (the facility), located in Van Buren County, Mich.

The amendment would change various aspects of the Palisades plant augmented steam generator inservice inspection program regarding the required frequency of inspection and the tubes to be included in inspection samples. The amendment would also allow the installation of Inconel-600 sleeves inside degraded tubes as an alternate to plugging.

Prior to issuance of the proposed amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By December 30, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject provisional operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by, the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of the FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to M. I. Miller, Esquire, Isham, Lincoln & Beale, Suite 4200, One First National Plaza, Chicago, Ill. 60670, and J. L. Bacon, Esquire, Consumers Power Co., 212 West Michigan Avenue, Jackson, Mich. 49201, the attorneys for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated November 10, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Mich. 49006.

Dated at Bethesda, Md., this 25th day of November 1977.

For the Nuclear Regulatory Commission.

ALFRED BURGER,
Acting Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 77-34402 Filed 11-29-77; 8:45 am]

[7590-01]

[Docket No. 50-10]

COMMONWEALTH EDISON CO.

Request for Extension of ECCS Exemption

The Commonwealth Edison Co. (the licensee) is authorized by facility operating license No. DPR-2 to operate a nuclear power reactor identified as Dresden nuclear power station unit No. 1 (the facility) at the licensee's Dresden nuclear power station, located in Grundy County, Ill., at steady state power levels up to 700 MWt.

On August 21, 1975, the U.S. Nuclear Regulatory Commission (the Commission), granted the licensee an exemption from the requirements of section 50.46 of 10 CFR Part 50 of the Commission's regulations relating to emergency core cooling system (ECCS) design considerations, but not from the specific performance requirements of the final acceptance criteria (FAC). That exemption gave the licensee until December 31, 1977, to comply with the requirements of and underly-

ing 10 CFR 50.46 with respect to the design and diversity of the facility's emergency systems or the diversity of emergency power sources.

Notice is hereby given that the Commission has received and is considering a request dated July 8, 1977, from the licensee for an extension of the date of compliance from December 31, 1977, to December 31, 1978, of the previous exemption issued on August 21, 1975.

The licensee has filed, along with its exemption extension request and in support thereof, a number of affidavits. The affidavits provide details on the need for the extension, costs for replacement power, and the additional action that the licensee is taking to further protect the health and safety of the public during the extension period. The licensee asserts that the additional measures to improve ECCS reliability, the affidavits, and other items discussed in the application demonstrate that for this facility, the public interest favors the extension.

The exemption extension may be granted by the Director, Nuclear Reactor Regulation upon a finding pursuant to 10 CFR § 50.12 that such exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest.

The operating limitations set forth in the licensee's submittal in accordance with 10 CFR § 50.46(a)(2)(iv) are no longer effective. Since that submittal, a new core has been approved for use in operation of the facility having different fuel thermal and hydraulic characteristics, which have necessitated a revised ECCS performance evaluation, and revised ECCS-based operating limitations. Consequently, the procedural requirements of 10 CFR § 50.46(a)(2)(vi) are not applicable to the requested exemption extension.

The Director of Nuclear Reactor Regulation finds that it is appropriate to provide interested persons with an opportunity to comment on the exemption extension request similar to that provided by the Commission in connection with the prior requests. The Director therefore invites the submission of views and comments by interested persons concerning the extension request and the proposed action. Such views and comments should be submitted in writing, addressed to the Director, Division of Operating Reactors, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, not later than December 15, 1977.

This notice applies only to that portion of the licensee's request dated July 8, 1977, relating to extension of the August 21, 1975, exemption. That portion of the July 8 application relating to modification of the reactor protection system and fire protection system is the subject of a "Notice of Proposed Issuance of Amendment of Facility Operating License" published in the FEDERAL REGISTER on November 11, 1977 (42 FR 58801).

A copy of the request for exemption extension dated July 8, 1977, and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Washington, D.C., this 28 day of November 1977.

For the Nuclear Regulatory Commission.

EDSON G. CASE,
Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 77-34468 Filed 11-29-77; 8:45 am]

[7710-12]

POSTAL SERVICE

PRIVACY OF INFORMATION

Systems of Records

AGENCY: U.S. Postal Service.

ACTION: Final notice of systems of records.

SUMMARY: This document makes final the previously published notice of five records system changes.

EFFECTIVE DATE: November 30, 1977.

ADDRESS: Records Office, U.S. Postal Service, Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:
Mr. John E. Finlay (202) 245-4142.

SUPPLEMENTAL INFORMATION: In the FEDERAL REGISTER of September 30, 1977 (42 FR 53497), the Postal Service, in addition to publishing the annual notice of systems of records, announced the deletion of four systems of records and published for comment an initial notice of several records system changes. The Postal Service stated that it had (1) discovered two previously unannounced systems of records; (2) determined that the implementation of National Express Mail Service will require the creation of a new system of records; (3) decided to combine into a single consolidated system two records systems previously described separately; (4) rewritten the description of two other records systems to make them more accurate, and (5) decided to provide notice of the existence of routine uses for several systems of records. No comments regarding the records system changes were received. Accordingly, after a review of the proposed text, the Postal Service has determined to give final notice of the following record changes:

(PART 1) NOTICE OF TWO EXISTING SYSTEMS

This document presents final statements of the existence and character of two additional systems of records not previously mentioned in a published notice. USPS 120.098 is now being included as the result of a reevaluation of records maintenance practices while USPS 200.010 was originally omitted due to administrative oversight. These systems are designated: (a) USPS 120.098 Personnel Records—Office of Workers' Compensation Program (OWCP) Record Copies. (b) USPS 200.010 Non-Mail Monetary Claims—Relocation Assistance Claims.

(PART 2) CREATION OF ADDITIONAL SYSTEM

The implementation of Express Mail Service, which has been tested for several years, on a national basis, requires the establishment of a new system of records designated: USPS 160.030—Special Mail Services—Express Mail Service Insurance Claims for Loss, Delay and Damage. The records are required so that a customer's claim for loss, delay or damage can be pursued and resolved.

(PART 3) CONSOLIDATION OF TWO SYSTEMS

The Postal Service, primarily for ease of reference, has determined it is necessary to consolidate the descriptions of two record systems previously reported separately. The description of USPS 130.030—Philately—Philatelic Automatic Distribution Service (PADS), should be combined with the notice of USPS 130.040—Philately—Philatelic Product Sales and Distribution. The Postal Service also determined that the description should be expanded in order to provide a more complete picture of the scope of information maintained.

(PART 4) GENERAL NOTIFICATION OF TWO SYSTEM DESCRIPTIONS

The Postal Service has rewritten the description of two other previously reported record systems solely for the purpose of more closely aligning the descriptions to current organizational structure and functions. The records systems affected are USPS 160.010—Special Mail Services—Registered Mail Inquiry for Delivery and/or Application for Indemnity, and USPS 160.020—Special Mail Services—Request for Payment of Postal Insurance (Claim) Records.

(PART 5) ROUTINE USES

The Postal Service is giving final notice of the existence of several longstanding routine uses. The notice of these routine uses and the systems to which they apply follow.

Transfer of information to the Civil Service Commission: The Civil Service

Commission (CSC) requires the Postal Service to provide information about its employees for the CSC Central Personnel Data File (CPDF).

The CPDF is used primarily for the generation of statistics pertaining to the Federal work force. Details pertaining to the further purposes and uses of the CPDF may be acquired from the Civil Service Commission. Although the following routine use is presently a part of another related Postal Service system of records, it has been determined to also include the use in USPS 050.020, Finance Records-Payroll System, at this time: 24. To provide data for the automated Central Personnel Data File (CDPF) maintained by the U.S. Civil Service Commission.

Transfer of inactive personnel folders to the General Services Administration: If an employee separates from the Postal Service and does not immediately become employed by the Federal Government, his Official Personnel Folder is transferred to inactive storage. The General Services Administration provides a central storage facility for these inactive personnel folders. This continuing practice is reflected in the following routine use for USPS 120.070, Personnel Records-General Personnel Folders (Official Personnel Folders and Records Related Thereto): 15. Inactive folders are transferred to the GSA National Personnel Records Center for permanent storage.

Disclosure of employee medical information: Two routine uses are being included in USPS 120.090, Personnel Records-Medical Records.

a. The following routine use reflects the practice of obtaining professional medical assistance from private physicians when a Postal Service medical officer is either unavailable or the employee requests this action. These physicians provide medical services in connection with matters involving employment related health and physical condition. The routine use reads as follows: 8. Records in this system may be disclosed to a private physician or other medical personnel retained by the Postal Service to provide medical services in connection with an employee's health or physical condition which is related to his or her employment.

b. The Postal Inspection Service provides for physical examinations to inspectors through a contract with an outside medical service organization. This organization performs the examinations and submits the results to the Postal Service for the purpose of determining the individual's fitness for duty. The routine use reads as follows: 9 May be disclosed to an outside medical service when that organization performs the physical examinations and submits the evaluations to the Postal Service pursuant to a contract with the USPS as part of an established Postal Service health program; for the purpose of determining a postal employee's fitness for duty.

Disclosure of employee records: Two routine uses are being included in USPS 120.190, Personnel Records—Supervisor's Personnel Records.

a. It has been determined that records from this system may properly be released to a labor organization when needed to administer its duties as the representative of postal employees. The routine use reads as follows:

3. Disclosure of records of discipline may be further made to a labor organization pursuant to the National Labor Relations Act upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

b. When the Postal Service completes an adverse action against an employee, a record of that fact is included in the Official Personnel Folder (OPF). Since part of the information included in the OPF is derived from USPS 120.190, it is necessary that this system reflects the possible uses which might occur from such a transfer. The routine use reads:

4. Records of discipline may become part of USPS 120.070 and would therefore be subject to disclosure under the routine uses of that system of records.

Transfer of records to inactive storage: In addition to the above routine uses, the following use must be included in the description of several systems because the Postal Service has traditionally sent inactive records to Federal Records Centers for storage before their destruction. The Postal Service published a broad statement of this use in the introductory section of its previous annual systems notices.

010.040, 010.080, 030.010, 030.020, 050.020, 050.040, 060.010, 060.020, 070.010, 080.010, 080.020, 120.035, 120.090, 120.130, 120.150, 150.025, 160.010, 160.020, 180.010

The applicable routine use follows: Inactive records may be transferred to a GSA Federal Records Center for storage prior to destruction.

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc 77-34351 Filed 11-29-77; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[No. 538]

Assignment of Hearings

NOVEMBER 25, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 141747 (Sub-No. 3), Donald Engle & James Engle, d.b.a. Engle Brothers Farms, now assigned December 13, 1977 at Memphis, Tenn. is cancelled and application dismissed.

No. MC 140389 (Sub-No. 17), Osborn Transportation, Inc., now assigned December 12, 1977, at San Francisco, Calif. is postponed indefinitely.

No. MC 514 (Sub-No. 5), United Warehouse & Transfer, Inc., now assigned December 14, 1977, at Nashville, Tenn. is canceled and application dismissed.

MC 123048 (Sub-352), Diamond Transportation System, Inc., now being assigned January 25, 1978 for continued hearing at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 126473 (Sub-No. 30), Harold Dickey Transport, Inc., now being assigned March 7, 1978 (1 day) for hearing at Chicago, Illinois, in a hearing room to be later designated.

MC 133689 (Sub-No. 135), Overland Express, Inc., now being assigned March 8, 1978 (1 day) for hearing at Chicago, Ill., in a hearing room to be later designated.

MC 119619 (Sub-No. 110), Distributors Service Co., Inc., now being assigned March 9, 1978 (2 days) for hearing at Chicago, Ill., in a hearing room to be later designated.

MC 119789 (Sub-No. 360), Caravan Refrigerated Cargo, Inc., now being assigned March 13, 1978 (1 day) for hearing at Chicago, Ill., in a hearing room to be later designated.

MC 51146 (Sub-No. 501), Schneider Transport, Inc., now being assigned March 13, 1978 (2 days) for hearing at Chicago, Ill., in a hearing room to be later designated.

MC 113678 (Sub-No. 684), Curtis, Inc., now being assigned March 16, 1978 (2 days) for hearing at Chicago, Ill., in a hearing room to be later designated.

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

[FR Doc. 77-34337 Filed 11-29-77; 8:45 am]

[7035-01]

[Notice No. 153TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 21, 1977.

The follo wing are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field

official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2095 (Sub-No. 8TA), filed October 27, 1977. Applicant: KEIM TRANSPORTATION, INC., 420 North Sixth, RFD 2, Box 10, Sabetha, Kans. 66534. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Bldg., 700 Kansas Avenue, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum and gypsum products, and materials and supplies* used in the installation and distribution thereof, from the plantsite and warehouse of Georgia-Pacific Corp., located at or near Blue Rapids, Kans., to Maricopa County, Ariz., for 180 days. Applicant states it does not intend to tack or interline. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Georgia-Pacific Corp., Gypsum Division, 1062 Lancaster Avenue, Rosemont, Pa. 19010. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 147 Federal Building and U.S. Courthouse, 444 Southeast Quincy, Topeka, Kans. 66683.

No. MC 22195 (Sub-No. 172TA), filed November 1, 1977. Applicant: DAN DUGAN TRANSPORT CO., 41st and Grange Avenue, P.O. Box 946, Sioux Falls, S. Dak. 57101. Applicant's representative: F. Fred Fischer, 41st and Grange Avenue, Sioux Falls, S. Dak. 57105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, from Alexandria, Minn., to points in North Dakota and South Dakota, for 180 days. Supporting shipper(s): Agrico Chemical Co., P.O. Box 3166, Tulsa, Okla. 74101. J. J. Stefanec, Director, Transportation Legislation and Research. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, room 455 Federal Building, Pierre, S. Dak. 57501.

No. MC 30605 (Sub-No. 162TA) (correction), filed September 28, 1977, published in the FEDERAL REGISTER issue of October 19, 1977, and published as corrected this issue. Applicant: THE SANTA FE TRAIL TRANSPORTATION CO., P.O. Box 56, Wichita, Kans. 67202. Applicant's representative: Silvbr, Rosen, Fischer & Stecher, 256 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Houston, Tex., including Houston Commercial Zone and Dallas, Tex., from Houston via Interstate Highway 45 to Dallas, and return via the same route, serving no intermediate points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (90) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, Kans. 67202. The purpose of this republication is to indicate the correct zip code in applicant's address and to indicate applicant's request for regular routes authority in lieu of irregular route authority as previously published.

No. MC 45656 (Sub-No. 21TA), filed October 28, 1977. Applicant: ANDERSON TRUCK LINE, INC., 531 West Harper Avenue, P.O. Drawer 191, Lenoir, N.C. 28645. Applicant's representative: Ephraim and Polydorff, 1250 Connecticut Avenue, NW., suite 600, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture and furniture parts*, from points in North Carolina counties of Alexander, Burke, Caldwell, Catawba, Iredell, Lincoln, McDowell, Mitchell, and Rutherford to points in Alabama and damaged or rejected shipments on return, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (8) eight statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Terrell Price, District Supervisor, Interstate Commerce Commission, 800 Briar Creek Road, Mart Office Building, room CC516, Charlotte, N.C. 28205.

No. MC 51146 (Sub-No. 537TA), filed October 28, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, 2661 South Broadway, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal poultry feed, prepared* (except in bulk), from the facilities of Doane Products Co., located at or near Muscatine, Iowa, to points in Maryland, Pennsylvania, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, and the District of Columbia, for 180 days. Supporting shipper(s): Doane Products Co., Box 879, Joplin, Mo. 64801. (Kenneth W. Nash) Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 52704 (Sub-No. 159TA), filed October 28, 1977. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", Opelika Highway, Lafayette, Ala. 36862. Applicant's representative: Archie B. Culbreth, 1252 West Peachtree Street NW., Suite 246, Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Newsprint, groundwood papers, printing paper and woodpulp*, from the plantsite of Bowater Southern Paper Corp., at Calhoun, Tenn., to points in Maryland, New Jersey, New York, and Pennsylvania, and (2) *paper core tubes, materials, equipment and supplies* used in the manufacture of the commodities described in (1) above (except in bulk), from points in Maryland, New Jersey, New York and Pennsylvania, to the plantsite of Bowater Southern Paper Corp., at Calhoun, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Support-

ing shipper(s): Bowater Southern Paper Corp., Calhoun, Tenn. 37309. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmington, Ala. 35203.

No. MC 50069 (Sub-No. 525TA), filed November 1, 1977. Applicant: REFINERS TRANSPORT & TERMINAL CORP., 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: William P. Fromm (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum lubricating oil*, in bulk, in tank vehicles, from Detroit, Mich., and/or Cleveland, Ohio, to Redwing, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sun Oil Co. of Pennsylvania, P.O. Box 920, Toledo, Ohio 43693. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 60014 (Sub-No. 55TA) (Correction), filed August 5, 1977, published in the FEDERAL REGISTER issue of September 19, 1977, and republished in the FEDERAL REGISTER issue of October 11, 1977, and republished as corrected this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit or pipe, cements, containing asbestos fibre and fittings therefor*, from the plantsite of Cement Asbestos Products Co. (subsidiary of ASARCO Inc.), at or near Ragland, Ala., to all points in the states of Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Michigan, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shipper: Cement Asbestos Products Co., Subsidiary ASARCO Inc., 611 Olive Street, Suite 1755, St. Louis, Mo. 63101. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222. The purpose of this republication is to include the State of Mississippi as a destination State.

No. MC 67419 (Sub-No. 4TA), filed November 4, 1977. Applicant: PHILIP STINGER, INC., Northeast Corner of 35th and Moore Streets, Philadelphia, Pa. 19145. Applicant's representative: Raymond A. Thistle, Jr., Four Penn Center Plaza, Suite 1012, Philadelphia, Pa. 19103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials and supplies and supplies and materials* used in the manufacture thereof, from Philadelphia, Pa., to points in the states of Connecticut, Maine, Massachusetts, New Hampshire, New York, Ohio, Rhode Island, Vermont, Virginia, West Virginia, North Carolina, and South Carolina, and the return of returned merchandise under a continuing contract, or contracts, with The Celotex Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Celotex Corp., 1500 North Dale Mabry, Tampa, Fla. 33607. Send protests to: Monica A. Blodgett, Transportation Consumer Specialist, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 103051 (Sub-No. 412TA), filed November 3, 1977. Applicant: FLEET TRANSPORT CO., INC., 934 44th Avenue North, P.O. Box 90408, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone, P.O. Box 90408, Nashville, Tenn. 37209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica sand*, in bulk, in tank or hopper-type vehicles, from Marston, N.C., to Bessemer, Ala., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dowell, Division of Dow Chemical Co., P.O. Box 21, Tulsa, Okla. 74102. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 106074 (Sub-No. 52TA), filed November 3, 1977. Applicant: B AND P MOTOR LINES, INC., P.O. Box 727, Forest City, N.C. 28043. Applicant's representative: George W. Clapp, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass fiber, glass fiber rovings, yarn and strand, glass fiber mats and matting, glass fiber fabric, and glass fiber waste*, from the plantsites and facilities of PPG Industries, Inc., at or near Lexington and Shelby, N.C., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, Washington, and Wyoming, for 180 days. Supporting shipper(s): PPG Industries, Inc., One Gateway Center, Pittsburgh, Pa. 15222. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, N.C. 28205.

No. MC 108633 (Sub-No. 13TA) (Correction), filed September 12, 1977, published in the FEDERAL REGISTER issue of October 11, 1977, and republished as corrected this issue. Applicant: BARNES FREIGHT LINE, INC., P.O. Box 369, Bankhead Highway, Carrollton, Ga. 30117. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Road, N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, those requiring special equipment because of size or weight, Classes A and B explosives, and household goods as defined by the Commission), between Birmingham, Ala., and Memphis, Tenn., from Birmingham, Alabama over U.S. Highway 78 to Quin, Ala., thence over U.S. Highway 278 to U. S. Highway 45 and Alternate U.S. Highways 45-278 to Tupelo, Miss., thence over U.S. Highway 78 and Tennessee State Highway 4, to Memphis, Tenn., and return, serving all intermediate points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper(s): There are approximately 23 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protest to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, Ga. 30309. The purpose of this republication is to correct the territorial description.

No. MC 111545 (Sub-No. 242TA), filed November 4, 1977. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, 1425 Franklin Road SE., Marietta, Ga. 30065. Applicant's representative: Robert E. Born, P.O. Box 6426, Station A, Marietta, Ga. 30065. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing less than 15,000 pounds, from the facilities of Bomag Division of Koehring, Inc., at Springfield, Ohio, to points in California, Florida, Georgia, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Wisconsin, for 180 days. Supporting shipper: Bomag Division of Koehring, Inc., 1210 Canton Street, Springfield, Ohio 45501. Send protest to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree

Street NW., Room 300, Atlanta, Ga. 30309.

No. MC 113587 (Sub-No. 7TA), filed November 2, 1977. Applicant: WARD RUGH, INC., P.O. Box 68, Ellensburg, Wash. 98926. Applicant's representative: Michael D. Duppenthaler, 607 Third Avenue, Suite 515, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Kraft paper clippings, in bales, and empty containers returning*, restricted to movements having a subsequent movement by water, between the plantsite and facilities of Weyerhaeuser Co., located at or near Union Gap, Wash., and Seattle, Wash., for 180 days. Applicant has also filed an underlying ETA seeking up to 15 days of operating authority. Supporting shipper: Weyerhaeuser Co., P.O. Box 1322, Yakima, Wash. 98907. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 113651 (Sub-No. 234TA), filed November 2, 1977. Applicant: INDIAN REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, Ind. 47305. Applicant's representative: Daniel C. Sullivan, Singer & Sullivan, 10 South LaSalle Street, suite 1600, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Spencer Foods, Inc., located at or near Schuyler, Nebr., to points in Florida, for 180 days. Supporting shipper: Spencer Foods, Inc., P.O. Box 1228, Spencer, Iowa 51301. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, suite 113, Fort Wayne, Ind. 46802.

No. MC 113651 (Sub-No. 235TA), filed November 3, 1977. Applicant: INDIAN REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, Ind. 47305. Applicant's representative: George E. Batty, P.O. Box 552, Riggin Road, Muncie, Ind. 47305. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and frozen inedible meats* (except commodities in bulk), from Shelbysville, Ind., to Jefferson, Wisc., St. Joseph, Mo., and Topeka, Kans., restricted to traffic originating at the facilities of Bausback Fertilizer Co., at or near Shelbysville, Ind., for 180 days. Supporting shipper: Bausback Fertilizer Co., Old Franklin Road, Shelbysville, Ind. 46176. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 343 West Wayne Street, suite 113, Fort Wayne, Ind. 46802.

No. MC 114211 (Sub-No. 327TA), filed November 1, 1977. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, 324 Manhard Street, Waterloo, Iowa 50704. Applicant's representative: Daniel Sullivan, Suite 1600, 10 South LaSalle, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board*, from the facilities of Champion International Corp., near Oxford, Miss., to points in Arkansas, Kansas, Nebraska, Texas, and Oklahoma, for 180 days. Supporting shipper: Champion International Corp., Knightsbridge Drive, Hamilton, Ohio 45020. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 118838 (Sub-No. 15TA), (Correction) filed September 28, 1977, and published in the FEDERAL REGISTER issue of October 21, 1977, and published as corrected this issue. Applicant: GABOR TRUCKING, INC., R.R. No. 4, Detroit Lakes, Minn. 56501. Applicant's representative: Richard P. Anderson, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phosphates, polymers, trace minerals, silica, chemicals and mineral oils* (except in bulk, in tank vehicles), from Wood River, Joliet, Napierville, Springfield, LaSalle and Chicago, Ill., Portland, Oreg., Houston, Tex., Quincy, Wash., Gabbs and Luning, Nev., and Beaver County, Pa., and to ports of entry on the U.S.-Canada boundary line located in North Dakota, Montana, and Washington, for furtherance to points in Manitoba, Saskatchewan, Alberta, and British Columbia. Restrictions: (1) Restricted to traffic moving for the account of MacKenzie & Fiemann, Ltd., of Vancouver, British Columbia, and (2) restricted to traffic moving in foreign commerce, for 180 days. supporting shipper: MacKenzie & Fiemann, Ltd., 970 Malkin Avenue, Vancouver, British Columbia, Canada. V6A. 2K8. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102. The purpose of this republication is to correct the territorial description.

No. MC 123157 (Sub-No. 35TA), filed November 1, 1977. Applicant: CTI, P.O. Drawer 397, 11115 North Casa Grande Highway, Rillito, Ariz. 85246. Applicant's representative: A. Michael Bernstein, 1441 East Thomas Road, Phoenix, Ariz. 85014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flyash*, in bulk, from the site of the Southern California Edison Power (Mohave Power Station) in Clark County, Nev., approximately 3 miles south of Davis Dam, to points in Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Western Ash Co., 3640 South 19th Avenue, Phoenix, Ariz. 85036. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 North First Avenue, Phoenix, Ariz. 85025.

No. MC 123407 (Sub-No. 408 TA), filed October 3, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cabinet doors and drawer and drawer fronts* from Falls City, Nebr., to points in Colorado, Illinois, Indiana, Minnesota, Ohio, Oregon, Texas, Utah, and Wisconsin; and (2) *Materials and supplies used in the production of cabinet doors and drawer fronts* from points in Arkansas, Illinois, Indiana, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Pennsylvania, Texas, West Virginia, and Wisconsin to Falls City, Nebr., for 180 days. Applicant has also filed an underlying ETA seeking up to 30 days of operating authority. Supporting shipper: Aztec Woodcraft, Inc., P.O. Box 154, Falls City, Nebr. 68355. Send protests to: Mrs. Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 123476 (Sub-No. 28TA), filed November 4, 1977. Applicant: CURTIS TRANSPORT, INC., P.O. Box 385, 3616 Jeffco Boulevard, Arnold, Mo. 63010. Applicant's representative: David G. Dimit (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded plastic products* (except in bulk, in tank vehicles), from the facilities utilized by Dow Chemical Co. at or near Bay City, Mich., and East Camden, Ark., to points in that part of the United States on and east of U.S. Highway 85, for 180 days. Supporting shipper(s): Dow Chemical Co., 690 Building, Midland, Mich. 48640. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Com-

mission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, Mo. 63101.

No. MC 123651 (Sub-No. 3TA), filed October 31, 1977. Applicant: LA BARGE TRUCKING CO., INC., 2605 South West Temple, Salt Lake City, Utah 84115. Applicant's representative: Guy C. Decker III, Box 357, La Barge, Wyo. 83123. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products*, from Evanston, Wyo., to Summit, Davis, Utah, Salt Lake, and Weber Counties, Utah, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wasatch Forest Products, Inc., P.O. Box 748, Evanston, Wyo. 92930. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 105, Federal Building and Court House, 111 South Wolcott, Casper, Wyo. 82601.

No. MC 124078 (Sub-No. 759TA), filed November 4, 1977. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, Wis. 53246. Applicant's representative: Richard Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry clay, in bulk, in tank vehicles, from Wrens, Ga., to Cincinnati, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): W. R. Grace & Co., P.O. Box 2117, Baltimore, Md. 21203 (L. L. Clabaugh). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.*

No. MC 124078 (Sub-No. 760TA), filed November 4, 1977. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Propane*, in bulk, in shipper owned or leased tank vehicles, from Conway, Kans., and Petal, Miss., to the plantsites of the Proctor & Gamble Co. at Ivorydale-St. Bernard, Ohio.; Lexington, Ky.; Macon, Ga.; and Portsmouth, Va., for 180 days. Supporting shipper(s): The Proctor & Gamble Co., P.O. Box 599, Cincinnati, Ohio 45201 (Mr. Wm. J. Payne). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 128527 (Sub-No. 94TA), filed October 31, 1977. Applicant: MAY TRUCKING CO. P.O. Box 398, Payette, Idaho 83661. Applicant's representative: C. Marvin May, P.O. Box 398, Payette, Idaho 83661. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale, retail, and chain discount stores, and *equipment, materials, and supplies* used in the conduct of such business, from points in California, Reno and Sparks, Nev., to the facilities of Bi-Mart Stores, Inc., located at/or near Eugene, Springfield, Corvallis, Albany, North Bend, Ashland, Roseburg, Grants Pass, Klamath Falls, Bend, Medford, Pendleton, McMinnville, and Ontario, Oreg.; and Yakima, Wash., for 180 days. Applicant does not intend to tack or interline authority. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Bi-Mart Co., 145 North Cleveland, Eugene, Oreg. 97402. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 West Fort Street, Box 07, Boise, Idaho 83724.

No. MC 129631 (Sub-No. 57TA), filed November 3, 1977. Applicant: PACK TRANSPORT, INC., 3975 South 300 West Street, Salt Lake City, Utah 84107. Applicant's representative: G. D. Davidson, 3975 South 300 West Street, Salt Lake City, Utah 84107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rigid urethane foam boards*, from North Salt Lake, Utah, to Colorado, New Mexico, and points in and east of Carbon, Fremont, and Park Counties, Wyo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Apache Foam Products Co., 20 East Union Avenue, North Salt Lake, Utah 84054. (Henry F. Hekker, Plant Manager). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 129927 (Sub-No. 3TA), filed November 4, 1977. Applicant: JAMERSON BROTHERS TRUCKING CO., INC., P.O. Box 205, Appomattox, Va. 24522. Applicant's representative: Richard J. Lee, 4070 Falstone Road, Richmond, Va. 23234. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, and articles, materials, supplies, and equipment*, used in the manufacture, sales, distribution, and erection thereof, between the plantsite of Lynchburg Steel & Specialty Co. at or near Lynchburg and Monroe, Va., and the plantsite of Montague-Betts Co., Inc., at or near Lynchburg, Va., on the one hand, and, on the other, points in Kentucky, Maryland, North Carolina, Pennsylvania, Ohio, Tennessee, Virginia, West Virginia, and the District of Columbia, under a continuing contract, or contracts, with Lynchburg Steel & Speciality Co., and Montague-Betts Co., Inc., for 180 days. Supporting shipper(s): Lynchburg Steel & Specialty Co., Route 29, North, Monroe, Va. 24574. Montague-Betts Co., Inc., 1619 Wythe Road, Lynchburg, Va. 24505. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 133119 (Sub-No. 126TA), filed November 3, 1977. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, P.O. Box 206, Akron, Iowa 51001. Applicant's reprsentative: A. J. Swanson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen pizza*, from Joplin, Mo., to Fort Worth, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Pillsbury Co., Emmett Keenan, Distribution Manager, 608 Second Avenue, South, Mail Station M268, Minneapolis, Minn. 55402. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 133377 (Sub-No. 12TA), filed November 2, 1977. Applicant: COMMERCIAL SERVICES, INC., 114 Memorial Road, Storm Lake, Iowa 50588. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as per sections A and C, appendix I, 61 MCC 209 and 766 (except hides and commodities in bulk), from Lyons, Nebr., to points in Colorado, restricted to traffic originating at the plant site and storage facilities of Premier Boneless Meats at Lyons, Nebr., and destined to points in Colorado, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Premier Boneless Meats, Inc., Charles Lytle General Manager, Vice President, Box 565, Lyons, Nebr. 68038. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 133708 (Sub-No. 30TA), filed November 4, 1977. Applicant: FIKSE

BROS., INC., 12647 East South Street, Artesia, Calif. 90701. Applicant's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Suite 606, Los Angeles, Calif. 90017. Authority sought to operate as a *comnon carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bulk, from Oceanside, Calif., to points in Arizona and Nevada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Stanley Hendrickson, Crystal Silica Company, P.O. Box 1280, Oceanside, Calif. 92054. Send protests to: Walter W. Strakosch District Supervisor, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Street, Los Angeles, Calif. 90012.

No. MC 134477 (Sub-No. 191TA) (partial correction), filed September 22, 1977, published in the FEDERAL REGISTER, issue of October 21, 1977, and republished as corrected this issue. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Tom Fischbach (same address as applicant). NOTE.—The purpose of this partial correction is to show applicant's correct address; Schanno Transportation, Inc., 5 West Mendota Road, West St. Paul, Minn. 55118, in lieu of Schanno Transportation, Inc., 9041 Executive Park Drive, suite 110, Building 100, Knoxville, Tenn. 37919, which was previously published in error. The rest of the publication remains the same.

No. MC 136168 (Sub-No. 21TA), filed November 2, 1977. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 280, Marshall, Mo. 65340. Applicant's representative: Donald L. Stern, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise* dealt in by wholesale, retail, chain grocery, and food business houses, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plant and warehouse facilities of Kraft, Inc., at Springfield, Mo., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Kansas, Kentucky, Louisiana, Mississippi, New Mexico, Oklahoma, South Carolina, North Carolina, Tennessee, Texas, and Virginia, restricted to traffic originating at the above-named origin and destined to the above-named destination states, under a continuing contract, or contracts, with Kraft, Inc., for 180 days. Supporting shipper(s): Kraft, Inc., 500 Peshtigo Court, Chicago, Ill. 60690. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo.

No. MC 136501 (Sub-No. 2TA), filed November 2, 1977. Applicant: CARDOSI CONTRACT REFRIGERATED EXPRESS, INC., 5885 Jet Way Drive, Arlington, Tenn. 38002. Applicant's representative: Bill R. Davis, 2814 New Spring Road, suite 101, Emerson Center, Atlanta, Ga. 30339. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in containers, from Humboldt and Jackson, Tenn., to points in the United States (including Alaska, but excluding Hawaii), under a continuing contract, or contracts, with Pure Packed Foods, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pure Packed Foods, Inc., 5885 Jet Way Drive, Arlington, Tenn. 38002. Send protests to: Floyd A. Johnson District Supervisor, Interstate Commerce Commission, 100 North Main Building, suite 2006, 100 North Main Street, Memphis, Tenn. 38103.

No. MC 139485 (Sub-No. 3TA) (Correction), filed September 22, 1977, published in the FEDERAL REGISTER issue of October 13, 1977, and republished as corrected this issue. Applicant: TRANS CONTINENTAL CARRIERS, 169 E. Liberty Avenue, Anaheim, Calif. 92803. Applicant's representative: David P. Christianson, Knapp, Stevens, Grossman & Marsh, 1800 United California Bank Building, 707 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Polyester body filler (car repair materials)*, from Stark County (Canton), Ohio, to Los Angeles County and Martines, Calif., under a continuing contract, or contracts, with U.S. Chemical & Plastics Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): U.S. Chemical & Plastics Co., 1446 Tuscarawas West, Canton, Ohio 44706. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012. The purpose of this republication is to correct the wording of the application.

No. MC 140768 (Sub-No. TA), filed November 3, 1977. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, N.J. 08835. Applicant's representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating material* (except in bulk), (1) from the plantsite of Fibreboard Corporation at or near Grambling, La., to points in Alabama, Georgia, South Carolina, North Carolina, Virginia, West Virginia, Kentucky, Tennessee, Illinois, Indiana and Ohio; and (2) from the plantsite of Fibreboard Corporation at or near Fruita, Colo., to points in Alabama, Georgia, South Carolina, North Carolina, Virginia, West Virginia, Kentucky, Tennessee, Illinois, Indiana and Ohio, for 180 days. Applicant has also filed an underlying emergency temporary authority for up to 90 days of operating authority. Supporting shipper: Fibreboard Corporation, 55 Francisco Street, P.O. Box 3611, San Francisco, Calif. 94119. Send protest to: Robert S. H. Vance, District Supervisor, 9 Clinton Street, Room 618, Newark, N.J. 07102.

No. MC 141033 (Sub-No. 32 TA), filed November 4, 1977. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 E. Salt Lake Avenue, P.O. Box 1257, City of Industry, Calif. 91749. Applicant's representative: James I. Mendenhall, P.O. Box 1257, City of Industry, Calif. 91749, and R. A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpet padding*, from Dallas, Tex., to points in the United States in and west of Minnesota, Iowa, Missouri, Arkansas and Miss., (except Texas, Alaska, and Hawaii), restricted to the transportation of traffic originating at the plantsites and facilities of General Felt Industries, Inc., of Dallas, Tex., for 180 days. Supporting shipper(s): Fred Vinas General Felt Industries, Inc., 10726 Doric Street, Dallas, Tex. 75220. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 141097 (Sub-No. 11 TA), filed October 14, 1977. Applicant: CAL-TEX, INC., 3051 Capri Lane, Costa Mesa, Calif. 92626. Applicant's representative: Greg P. Stefflre, suite 1724, Broadway Plaza Building, 700 S. Flower Street, Los Angeles, Calif. 90017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic yarn, synthetic fiber, and materials and supplies* used in the manufacture and sale thereof, between the facilities of Dow Badische Co. located at or near Augusta, Chatsworth, Dalton, Fitzgerald, Rossville, and Sylvania, Ga.; Booneville, Charlotte, Gastonia, and Mebane, N.C.; Allendale, Anderson, Greenville, and Trenton, S.C., on the one hand, and, on the other, points in Oklahoma, Texas, and California, under a continuing contract or contracts with Dow Badische Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dow Ba-

dische Co., Drawer D, Williamsburg, Va. 23185. Send protests to: District Supervisor, room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 142606 (Sub-No. 3 TA), filed November 4, 1977. Applicant: WESCO TRANSPORTATION, INC., 2222 West Garvey, suite L, West Covina, Calif. 91790. Applicant's representative: William J. Monheim, 13710 E. Whittier Boulevard, P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts*, from Leitchfield, Ky., to points in Colorado, Connecticut, Illinois, Iowa, Louisiana, Maryland, Massachusetts, Minnesota, New Jersey, New York, Oklahoma, Pennsylvania, Texas and Wis., under a continuing contract, or contracts, with Hoover-Seng Company Division of Hoover Ball and Bearing Co., for 180 days. Supporting shipper(s): Hoover-Seng Co. Division of Hoover Ball and Bearing Co., P.O. Box 451, Georgetown, Ky. 40324. Send protests to: Edward Henry, District Supervisor, Interstate Commerce Commission, room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 142941 (Sub-No. 7TA), filed November 2, 1977. Applicant: SCARBOROUGH TRUCK LINES, 1313 North 25th Avenue, Phoenix, Ariz. 85009. Applicant's representative: Lewis P. Ames, Phil B. Hammond, Shimmel, Hill, Bishop & Gruender, 10th Floor, 111 West Monroe, Phoenix, Ariz. 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packinghouse products*, (except in bulk), from the plantsite and facilities of Peter Eckrich & Sons located at or near Allen, Mich., to Tulsa, Okla.; Oklahoma City, Okla.; and points in Arizona and Texas; Kansas City, Kans.; and Kansas City, Mo.; Topeka, Kans., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Peter Eckrich & Sons, Inc., 3515 Hobson Road, Fort Wayne, Ind. 46805. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, room 2020 Federal Building, 230 North First Avenue, Phoenix, Ariz. 85025.

No. MC 143545 (Sub-No. 2TA) (Correction) filed August 16, 1977, published in the FEDERAL REGISTER issue of September 19, 1977, and republished as corrected this issue. Applicant: BLACK ANGUS, INC., P.O. Box 8780, Jackson, Miss. 39204. Applicant's representative: Morton E. Kiel, suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in or used by a manufacturer or distributor of chemicals (except in bulk), from Chicago and Waukegan, Ill.; Gretna, La.; Memphis, Tenn.; Buffalo, N.Y.; Gulfport, Miss.; Pittsburgh, Pa.; Spruce Pine, N.C.; Aiken, S.C.; and Mobile, Ala., to Torrance, Calif., for 180 days. Supporting shipper(s): The C. P. Hall Co., 444 Alaska Avenue, Torrance, Calif. 90503. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, room 212, 145 East Amite Building, Jackson, Miss. 39201. The purpose of this republication is to include Gretna, La. as an origin point.

No. MC 143629 TA (Correction), filed August 23, 1977, published in the FEDERAL REGISTER issue of October 4, 1977, and republished as corrected this issue. Applicant: R. E. OERMAN, d.b.a. R. E. OERMAN ROAD SERVICE & TOWING, R.D. No. 22 Box 150, York, Pa. 17402. Applicant's representative: R. E. Oerman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wrecked and disabled motor vehicles*, (2) *replacements vehicles for wrecked or disabled motor vehicles*, between York, Pa., and 25 miles thereof, on the one hand, and, on the other, pints in Delaware, Maryland, New Jersey, New York, Ohio, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shipper(s): (1) Shipley Humble, 550 King St., York, Pa. 17403. (2) Anchor Motor Freight, Inc., Box 527, York, Pa. 17405. (3) The Mason Dixon Lines, Inc., 3376 Apple Ford Way, York, Pa. 17402. (4) Ryder Truck Rental, 550 E. 10th Avenue, York, Pa. 17402. (5) York Truck Rental, 1116 Roosevelt Avenue, York, Pa. 17402. (6) Beverage Transportation Co., Inc., 625 Eberts Lane, York, Pa. 17405. (7) Miller's Motor Freight, Inc., 1100 Lafayette Street, York, Pa. 17404. (8) Food Transport, Inc., R.D. No. 1 Box 28, Thomasville, Pa. 17364. Send protests to: Charles F. Meyers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Harrisburg, Pa. 17108. The purpose of this republication is to show the second commodity description.

No. MC 143676 (Sub-No. 1TA) (correction), filed September 15, 1977, published in the FEDERAL REGISTER issue of October 4, 1977, and republished as corrected this issue. Applicant: DAS, INC., 2153 Patridge Place, Cedar Point, Suffolk, Va. 23433. Applicant's representative: Blair P. Wakefield, suite 1001, First & Merchants Bank Building, Norfolk, Va. 23510. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pelletized peanut shells*, in bulk, in dump vehicles, from Aulander, N.C., to Chesapeake, Norfolk, Portsmouth, Suffolk, Virginia Beach, Newport News, and Hampton, Va. (Norfolk and its commercial zone), under a continuing contract, or contracts, with Inter Proteine S.A., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Inter Proteine S.A., 15 Avekrieg, Geneva, Switzerland (United States agent), United Feed Co., Little Rock, Ark. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, room 10-502, Federal Building, 400 North 8th Street, Richmond, Va. 23240. The purpose of this republication is to add the rest of the territorial description to this proceedings.

No. MC 143691 (Sub-No. 2TA), filed October 26, 1977. Applicant: PONY EXPRESS COURIER CORP., P.O. Box 4313, Atlanta, Ga. 30302. Applicant's representative: John Guandolo, MacDonald and McInerney, 1000 Sixteenth Street NW., Washington, D.C. 20036, and Francis J. Mulcany, P.O. Box 4313, Atlanta, Ga. 30302. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments, audit and date processing media and business records* (except currency and negotiable instruments) and microfilm, microfiche, microforms, and related items as used in the business of banks and banking institutions, between Lincoln County, Nebr., on the one hand, and, on the other, Kit Carson, Logan, Morgan, Phillips, Sedgewick, Washington, Weld, and Yuma Counties, Colo., under a continuing contract, or contracts, with National Bank of Commerce, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): National Bank of Commerce, Omaha, Nebr. 68501. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., room 300, Atlanta, Ga. 30309.

No. MC 143814 (Sub-No. 1TA), filed November 2, 1977. Applicant: MAYLAND STONE, INC., P.O. Box 646, Spruce Pine, N.C. 28777. Applicant's representative: George W. Clapp, 109 Hartsville Street, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed olivine stone*, in bulk, in dump vehicles, from the plantsite of Northwest Olivine Co. at or near Burnsville, N.C., to Knoxville, Tenn., for subsequent movement by water, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Northwest Olivine Co.,

Drawer N, Green Mountain, N.C. 28740. Send protests to: Terrell Price, District Supervisor, Interstate Commerce Commission, 800 Briar Creek Road, room CC516, Charlotte, N.C. 28205.

No. MC 143825 (Sub-No. 1TA), filed October 31, 1977. Applicant: CHILDS MOVING & STORAGE, INC., 451 Redland Road, Homestead, Fla. 33030. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used Household goods*, restricted to the transportation of traffic having a prior or subsequent movement in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic between points in Florida, for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Delcher Intercontinental Moving Service, Inc., P.O. Box 10880, 4219 Central Avenue, St. Petersburg, Fla. 33733. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, Miami, Fla. 33166.

No. MC 143930TA, filed November 4, 1977. Applicant: WY-TEX LIVESTOCK TRUCKING, INC., 720 South Roland, Spearman, Tex. 79081. Applicant's representative: Jerry D. Hayes, 1112 Wilmeth Drive, Spearman, Tex. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Livestock feeds and feed ingredients*, between points in Arkansas, Arizona, Colorado, Kansas, Nebraska, New Mexico, Oklahoma, Texas, and Wyoming, under a continuing contract, or contracts, with Wy-Tex Livestock, Inc., for 180 days. Supporting shipper(s): Wy-Tex Livestock, Inc., Box 844, Spearman, Tex. 79081. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395, Herring Plaza, Amarillo, Tex. 79101.

No. MC 143931TA, filed November 1, 1977. Applicant: ALFONSO V. MANGIONE, 510 South Main Street, Pittston, Pa. 18640. Applicant's representative: Joseph F. Hoary, 121 South Main Street, Taylor, Pa. 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from Exeter, Shamokin, and Trevorton, Pa., to the facilities of GAF Corp. at Binghamton, N.Y., under a continuing contract, or contracts, with Falcon Coal, Inc., and Crystal Coal, Inc., for 150 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Falcon Coal, Inc., and Crystal Coal, Inc., Pittston, Pa. 18640. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 143934TA, filed October 31, 1977. Applicant: HARRISON'S MOVING & STORAGE CO., INC., 710 Seventh Street, Portsmouth, Va. 23704. Applicant's representative: Blair Wakefield, Suite 1001, First & Merchants Bank Building, Norfolk, Va. 23510. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods, unaccompanied baggage, and personal effects*, as defined by the Commission, between points and places in the cities of Norfolk, Portsmouth, Chesapeake, Suffolk, Virginia Beach, Hampton, Newport News, and Williamsburg, Va., and the counties of York, James City, Accomack, and Northampton, Va., restricted to (1) traffic having a prior or subsequent movement in containers, beyond points authorized and (2) pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dellon E. Coker, Chief Regulatory Law Office, Office of the Staff Judge Advocate, Department of the Army, Washington, D.C. 20310; Reliance Forwarding Corp., 575 North Nova Road, Ormond Beach, Fla. 32074. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10-502 Federal Building, 400 North 8th Street, Richmond, Va. 23240.

No. MC 143935TA, filed November 2, 1977. Applicant: SILVERS BROTHERS CONTRUCTION CO., P.O. Box 373, Pisgah Forest, N.C. 28768. Applicant's representative: George W. Clapp, P.O. Box 836, 109 Hartsville Street, Taylors, S.C. 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed olivine stone*, in bulk, in dump vehicles, from the plantsite of Northwest Olivine Co. at or near Burnsville, N.C., to Knoxville, Tenn., for subsequent movement by water, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Northwest Olivine Co., Drawer N, Green Mountain, N.C. 28740. Send protests to: Terrell Price, District Supervisor, Interstate Commerce Commission, 800 Briar Creek Road, Room CC-516, Charlotte, N.C. 28205.

By the Commission.

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

[FR Doc. 77-34334 Filed 11-29-77; 8:45 am]

[7035-01]

[Notice No. 155TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

November 25, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3 These rules provide that on original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

As copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Motor Carriers of Property

No. MC 42710 (Sub-No. 14TA), filed November 7, 1977. Applicant: BEN'S TRANSFER & STORAGE CO., INC., P.O. Box 190, 1780 Second Street, Baker, Oreg. 97814. Applicant's representative: Wm. A. Rengert (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry pozzolan* in bulk, from Lime, Oreg., to points in Lincoln County, Mont., for 180 days. Applicant

has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Oregon Portland Cement Co., 111 SE. Madison Street, Portland, Oreg. 97214. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 52579 (Sub-No. 167TA), filed November 7, 1977. Applicant: GILBERT CARRIER CORP. 1 Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Wearing apparel on hangers,* from points and places in the states of North Carolina, South Carolina, Georgia, and Florida to Washington, D.C., and its commercial zone, for 180 days. Supporting shipper: Clipper Mist., Inc., Londontown Boulevard, Eldersburg, Md. 21784. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.

No. MC 59367 (Sub-No. 111TA), filed November 7, 1977. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, 3584-5th Ave., South, Fort Dodge, Iowa 50501. Applicant's representative: Thomas F. Leahy, Jr., 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs,* from the facilities of Terminal Ice & Cold Storage Co., Bettendorf, Iowa to Denver and Grand Junction, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Terminal Ice & Cold Storage Co., P.O. Box 928, Betendorf, Iowa 52766. Send protests to: Herbert W. Allen, District Supervisor, Burau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 104589 (Sub-No. 35TA), filed November 8, 1977. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 374, Eustis, Fla. 32726. Applicant's representative: Richard S. Baugh (same address as applicant). Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs,* from Cade and Lozes, La., to points in Alabama, Florida, Georgia, Mississippi, and Tennessee, under a continuing contract, or contracts, with Bruce Foods Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bruce Foods Corp., P.O. Drawer 1030, New Iberia, La. 70560. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 107295 (Sub-No. 865TA), filed November 8, 1977. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Duane Zehr, P.O. Box 146, Farmer City, Ill. 61842. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Buildings, building panels, building parts,* and *materials, accessories,* and *supplies* used in the installation, erection, and construction of buildings, building panels, and building parts (except commodities in bulk), from the plantsite and storage facilities of Butler Manufacturing Co. located at or near Annville, Pa., to points in Colorado, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Wisconsin, Michigan, Illinois, Indiana, Mississippi, Alabama, Georgia, South Carolina, and Florida for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Butler Manufacturing Co., 1020 South Henderson Street, Galesburg, Ill. 61401. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 108119 (Sub-No. 73TA), filed November 9, 1977. Applicant: E. L. MURPHY TRUCKING CO., P.O. Box 43010, 3303 Sibley Memorial Highway, St. Paul, Minn. 55164. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Cast iron valves and hydrants, and parts, attachments and accessories* therefor, from Beaumont, Tex., to points in the United States that are in and west of the States of Louisiana, Arkansas, Missouri, Illinois, and Michigan, for 180 days. Supporting shipper: American Darling Valve & Manufacturing Co., 3350 Hollywood Street, Beaumont, Tex. 77704. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC 109689 (Sub-No. 316TA) (correction), filed October 11, 1977, published in the FEDERAL REGISTER issue of November 9, 1977, and republished as corrected this issue. Applicant: W. S. HATCH CO., 643 South 800 West, Woods Cross, Utah 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Sulphuric acid,* in bulk, from Miami, Ark., to Henderson, Nev., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Phillips Petroleum Co., 146 Phillips Bldg, Annex, Bartlesville, Okla. 74004. (J. E. Majors Director Refined Products Distribution.) Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah. 84138. The purpose of this republication is to indicate the city of Miami, Ariz., in lieu of Miami, Fla., which was previously published in error.

No. MC 110988 (Sub-No. 352TA), filed November 11, 1977. Applicant: SCHNEIDER TANK LINES, INC., 4321 West College Avenue, Giltedge Bldg., Appleton, Wis. 54911. Applicant's representative: Paul C. Schneider (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Cupric* chloride, in rubber-line tanks, from Cedar Rapids, Iowa to Elyria, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southern California Chemical Co., Inc., 17415 East Jefferson, Union, Ill. 60180, (James W. Andrews). Send protests to: Mrs. Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, room 619, Milwaukee, Wis. 53202.

No. MC 112617 (Sub-No. 378TA), filed November 4, 1977. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, 1292 Fern Valley Road, Louisville, Ky. 40219. Applicant's representative: Charles R. Dunford (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Salt and salt Products,* from the facilities of Cargill, Inc., at or near Clarksville, Ind., to points in Kentucky, Indiana, and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mr. John Labriola, General Transportation Manager, Salt Department No. 21, P.O. Box 9300, Minneapolis, Minn. 55440. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 113678 (Sub-No. 708TA), filed November 9, 1977. Applicant: CURTIS, INC., P.O. Box 16004, Stockyards Station, Denver, Colo. 80216.

Applicant's representative: Roger M. Shaner, 4810 Pontiac Street, Denver, Colo. 80022. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk), from Albuquerque, N. Mex., to points in Idaho, Oregon, Montana, Washington, Wyoming, and Colorado (except Denver and Colorado Springs, Colo.), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Carbie Food Products, Inc., 5801 Kircher Boulevard, NE., Albuquerque, N. Mex. 87109. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, Colo. 80202.

No. MC 113678 (Sub-No. 709TA), filed November 9, 1977. Applicant: CURTIS, INC., P.O. Box 16004, Stockyards Station, Denver, Colo. 80216. Applicant's representative: Roger M. Shaner, 4810 Pontiac Street, Denver, Colo. 80022. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except in bulk), and (2) *dairy products* (except in bulk), (1) from points in Wisconsin, to Denver and Colorado Springs, Colo., and (2) from Faribault, Minn., to Denver, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Food Products Co., 2024 Market Street, Denver, Colo. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, Colo. 80202.

No. MC 115331 (Sub-No. 433TA), filed November 10, 1977. Applicant: TRUCK TRANSPORT INC., 29 Clayton Hills Lane, St. Louis, Mo. 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, Ill. 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Zinc Oxide*, in bulk, in tank vehicles, from Hillsboro, Ill. to LaPalatte, Nebr., for 180 days. Supporting shipper: Eagle-Picher Industries, Inc., P.O. Box 1328, Joplin, Mo. 64801. Send protests to: District Supervisor, J. P. Werthmann, Interstate Commerce Commission, Bureau of Operatrions, Room 1465, 210 North 12th Street, St. Louis, Mo. 63101.

No. MC 116110 (Sub-No. 22TA), filed November 7, 1977. Applicant: P. C. WHITE TRUCK LINE, INC., P.O. Box 1488, Dothan, Ala. 36301. Applicant's representative: Bruce E. Mitchell, Serby & Mitchell, P.C., 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *brushes, brooms, and sweepers and related materials, equipment and supplies*, used in the manufacture of brushes, brooms, and sweepers, between Glasgow, Ky., Panama City, Fla., and Aurora, Ill., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), for a period of 180 days. Restriction: Restricted to the transportation of traffic originating at or destined to the facilities of National Brush Co., at or near Glasgow, Ky., Panama City, Fla., and Aurora, Ill. Supporting shipper: Mr. Robert Hauth, National Brush Co., 101 West Illinois Avenue, Aurora, Ill. 60507. For 180 days. Supporting shipper: National Brush Co., 101 West Illinois Avenue, Aurora, Ill. 60507. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 116145 (Sub-No. 10TA) (correction), filed October 18, 1977, published in the FEDERAL REGISTER issued of November 11, 1977, and republished as corrected this issue. Applicant: G. G. PARSONS TRUCKING CO., P.O. Box 1085, North Wilkesboro, N.C. 28659. Applicant's representative: James E. Savitz, suite 145, 4 Professional Drive, Gaithersburg, Md. 20760. Authority sought to operate as a *contract, carrier*, by motor vehicle, over irregular routes, transporting: *New furniture* from the facilities of Cochrane Furniture Company, Inc., located at or near Lincolnton, N.C. to points in Arizona, California, Idaho, Colorado, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, and Montana, under a continuing contract with Cochrane Furniture Co., Inc., West Harvard Furniture Co., Cochrane Furniture Co., Inc., for 180 days. Supporting shipper(s): Cochrane Furniture Co., Inc., Box 220 Lincolnton, N.C. 28092, Cochrane Furniture Co., Inc., 628 West Kenwood Ave., Roseburg. Oreg. 97470. West Harvard Furniture Co., 2558 West Harvard Boulevard, Roseburg, Oreg. 97470. The purpose of this republication is to indicate the state of Wyoming, which was previously omitted in error.

No. MC 116204 (Sub-No. 11TA), filed November 4, 1977. Applicant: VAN E. HAMLETT, P.O. Box 8009, Osage Street, Nashville, Tenn. 37208. Applicant's representative: Roland M. Lowell, 618 United American Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pellets, resins and granules, fiberglass and mineral filler*, being transported in shipper's trailers, from Franklin, Tenn., and its commercial zone, to Crestline, Ohio, Syracuse, N.Y., Gaffney, S.C., and Hopkinsville, Ky., and points in the commercial zones of the above, under a continuing contract or contracts with Plas-Com, Inc., for 180 days. Supporting shipper: Plas-Com, Inc., Alpha Drive, Franklin, Tenn. 37064. Send protests to Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, suite A-422, U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 116280 (Sub-No. 19TA), filed October 31, 1977. Applicant: W. C. McQUAIDE, INC., 153 Macridge Avenue, Johnstown, Pa. 15904. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, coated paper, carbon paper, tickets, autographic register paper and paper forms*, from Fredericksburg, Va., to the Township of Bethel, Berks County, Pa., from the Township of Bethel, Berks County, Pa., to points in Pennslyvania, and from Honesdale, Pa., to Fredericksburg, Va., and vice versa, for 180 days. Supporting shipper(s): Moore Business Forms, Inc., 900 Buffalo Avenue, Niagara Falls, N.Y. 14302. Send protests to: Richard C. Gobbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 119789 (Sub-No. 44TA), filed November 8, 1977. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 7th Avenue South, P.O. Box 24507, Seattle, Wash. 98108. Applicant's representative: Michael D. Duppenthaler, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Albuquerque, N. Mex., to Portland, Oreg., commercial zone and Seattle, Wash., commercial zone, for 180 days. Supporting shipper: Caribe Foods, 5801 Kircher NE., Albuquerque, N. Mex. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

No. MC 123255 (Sub-No. 126TA), filed November 10, 1977. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded plastic products* (except commodities in bulk), from the facilities utilized by the Dow Chemical Co. at or near Bay City, Mich., and East Camden, Ark., to points in the United States on and east of U.S. Highway No. 85, for 180

days. Supporting shipper: Dow Chemical Co., 690 Building, Midland, Mich. 48640. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building, and U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 124896 (Sub-No. 37TA), filed November 1, 1977. Applicant: WILLIAMSON TRUCK LINES, INC., P.O. Box 3485, Wilson, N.C. 27893. Applicant's representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meats and packinghouse products*, for Wilson Foods Corp., from the plantsite and warehouse facilities of Wilson Foods Corp., at Albert Lea, Minn., to points in Alabama, Florida, Georgia, North Carolina, and South Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wilson Foods Corp., 4545 Lincoln Boulevard, Oklahoma City, Okla. 73105. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 125777 (Sub-No. 201TA), filed November 8, 1977. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, Ind. 46403. Applicant's representative: Allan C. Zuckerman, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stone, sand, granite, and rock*, in dump vehicles, between Death Valley, Calif., Lathrop Wells, Nev., and Tucson, Ariz., on the one hand, and, on the other, all points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Anaconda Co., Patricia Rueger, Transportation Analyst, 660 Bannock Street, Denver, Colo. 80204. Send protests to: Transportation Assistant Patricia Roscoe, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 126539 (Sub-No. 34TA), filed November 10, 1977. Applicant: KATUIN BROS., INC., 102 Terminal Street, P.O. Box 1127, Dubuque, Iowa 52001. Applicant's representative: Carl E. Munson, 469 Fischer Building, Dubuque, Iowa 52001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of Terminal Ice & Cold Storage, at or near Bettendorf, Iowa, to points in Ohio, for 180 days. Supporting shipper: Lamb-Weston, Division of Amfac Foods, Inc., P.O. Box 23517, Portland, Oreg. 97223. Send protests to: Herbert W. Allen,District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 127539 (Sub-No. 63TA), filed November 8, 1977. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108 54th Avenue East, Tacoma, Wash. 98421. Applicant's representative: Michael D. Duppenthaler, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products and toppings*, in vehicles equipped with mechanical refrigeration, from Sacramento, San Francisco, San Leandro, Oakland, and Willows, Calif., to Portland, Oreg., Bellevue, Seattle, and Spokane, Wash., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Pacific Cheese Co., Inc., 1700 16th Street, San Francisco, Calif.; Safeway Stores, Inc., 2240 Filbert Street, Oakland, Calif. 94607; Dreyers Ice Cream, 828 Montague, San Leandro, Calif. 94618. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

No. MC 133105 (Sub-No. 2TA), filed October 18, 1977. Applicant: ROBERT A. JONES AND JOHN W. JONES, a partnership, d.b.a. J AND J TRANSFER, P.O. Box 2201, 600 Lumpkin Blvd., Columbus, Ga. 31902. Applicant's representative: C. E. Walker, P.O. Box 1085, No. 8 Eleventh Street, Columbus, Ga. 31902. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated boxes and materials and supplies* used in manufacturing, processing, and distribution of corrugated boxes, between the plantsite of Westvaco Corp., in Columbus, Ga., on the one hand, and, on the other, all points and places in the following Alabama Counties: Autauga, Barbour, Bibb, Bullock, Butler, Calhoun, Chambers, Chilton, Clay, Cleburne, Coffee, Coosa, Covington, Crenshaw, Dale, Dallas, Elmore, Geneve, Henry, Houston, Jefferson, Lee, Lowndes, Macon, Montgomery, Perry, Pike, Randolph, Russell, Saint Claire, Shelby, Talladega, and Tallapoosa, under a continuing contract, or contracts, with Westvaco Corp., for 180 days. Supporting shipper: Westvaco Corp., 299 Park Avenue, New York, N.Y. 10017. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree St. NW., Rm. 300, Atlanta, Ga. 30309.

No. MC 134349 (Sub-No. 23TA), filed November 7, 1977. Applicant: B.L.T. CORP., 405 Third Avenue, Brooklyn, N.Y. 11215. Applicant's representative: Eugene M. Malkin, suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paint drying catalysts; toxic and/or corrosive pesticides and fungicides; paint additives; ketoximes; and mercury, cobalt and lead compounds* (except in bulk), from Newark, N.J., to Largo and Miami, Fla., Stone Mountain, Ga., New Orleans, La., Cleveland, Miss., Greensboro, N.C., Memphis, Tenn., Brownsville, Dallas, Houston, and Hurst, Tex., and Milford, Va., under a continuing contract or contracts with Troy Chemical Corp., of Newark, N.J., for 180 days. Applicant has also filed an underlying emergency temporary authority seeking up to 90 days of operating authority. Supporting shipper: Troy Chemical Corp., One Avenue L, Newark, N.J. 07105. Send protests to Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 134806 (Sub-No. 48TA), filed November 14, 1977. Applicant: B-D-R TRANSPORT, INC., P.O. Box 1277, Brattleboro, Vt. 05301. Applicant's attorney: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, D.C. 20014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal alloy rings and forgings*, from points in San Bernardino County, Calif. to points in Connecticut, for 180 days, under a continuing contract with Pratt & Whitney Aircraft Group United Technologies Corp. Supporting shipper: Bruce Belcher, Supervisor of Transportation of Pratt & Whitney Aircraft Group United Technologies Corp., 400 Main Street, East Hartford, Conn. 06108. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, Montpelier, Vermont 05602.

No. MC 136904 (Sub-No. 22TA), filed November 11, 1977. Applicant: WORSTER-MICHIGAN, INC., R.D. No. 1, Gay Road, North East, Pa. 16428. Applicant's representative: Joseph F. MacKrell, 23 West Tenth Street, Erie, Pa. 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, (except in bulk), from the plantsite of Banquet Foods, Corps., at Wellston, Ohio, to the plantsites and storage facilities of Banquet Foods, Corp., located at Macon, Marshall, and Carrollton, Mo., restricted to traffic originating at the named origin and destined to the named destinations for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority.

Supporting shipper: Banquet Foods Corp., 100 North Broadway, St. Louis, Mo. 63102. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsbugh, Pa. 15222.

No. MC 138157 (Sub-No. 43TA) (correction), filed September 18, 1977, published in the FEDERAL REGISTER issue of October 11, 1977, and republished as corrected this issue. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, Chattanooga, Tenn. 37410. Applicant's representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, Tenn. 37412. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting and yarn* from the facilities of Berven Carpets Corp., Berven Rug Mills and Veridye Corp., Fresno, Calif., to points in Bartow, Catoosa, Cherokee, Chattooga, Dade, Fannin, Floyd, Gilmer, Gordon, Murray, Pickens, Walker, and Whitfield Counties, Ga., and Dallas, Tex., and Chattanooga, Tenn. Restricted to traffic originating at the named origin and destined to the named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Berven Rug Mills, Inc., 2600 Ventura Avenue, Fresno, Calif. 93717. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203. The purpose of this republication is to add the counties of Dallas, Tex., and Chattanooga, Tenn., which was previously omitted in error.

No. MC 141871 (Sub-No. 7TA) (Correction), filed October 3, 1977, published in the FEDERAL REGISTER issue of October 25, 1977, and republished as corrected this issue. Applicant: WNI, INC., 8700 Southwest Elligsen Road, Wilsonville, Oreg. 97070. Applicant's representative: Robert L. Cross (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum foil and stretch wrap holders*, from Clearfield and Lewiston, Utah, to points in Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming; (2) *equipment, materials, and supplies* used in the manufacture and distribution of aluminum foil and stretch wrap holders, from points in the above-named destination states to Clearfield and Lewiston, Utah, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Presto Products, Inc., P.O. Box 2399, Appelton, Wis. 54911. Send protests to: District Supervisor, A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 Southwest Yamhill Street, Portland, Oreg. 97204. The purpose of this republication is to indicate the State of Idaho in lieu of Indiana, which was previously published in error.

No. MC 143804TA (Correction), filed October 3, 1977, published in the FEDERAL REGISTER issue of October 31, 19077, and republished as corrected this issue. Applicant: RAYDEE TRANSPORTATION, INC., 1 Hackensack Avenue, Kearny, N.J. 07032. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Non-edible animal, vegetable, fish and mineral oils* (except in bulk, in tank vehicles), from Newark, N.J., and points in its commercial zone to points in Pennsylvania, Maryland, Delaware, West Virginia, Ohio, Indiana, Illinois, Wisconsin, Virginia, and California, under a continuing contract, or contracts, with Atlas Refinery, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Atlas Refinery, Inc., 142 Lockwood Street, Newark, N.J. 07105. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102. The purpose of this republication is to indicate the State of Virginia, which was previously omitted in error.

No. MC 143907TA, filed October 25, 1977. Applicant: ALL STATE MESSENGER AND DELIVERY SERVICE, INC., 2400 Wilson Boulevard, Arlington, Va. 22201. Applicant's representative: Edward F. Schiff, 1100 Madison Office Building, 1155 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Business or office machine parts, supplies, devices and units* used in connection therewith, between the facilities of International Business Machines Corp., located in the Washington, D.C. Commercial Zone, on the one hand, and, on the other (1) the following points and places: Shenandoah, Albemarle, Culpeper, Spotsylvania, Henrico, York, Rockingham, Loudoun, Prince William, James City, Prince George, Stafford, Chesterfield, and Frederick Counties and Newport News, Norfolk, and Petersburg, all in the Commonwealth of Virginia; and (2) the following points and places; Anne Arundel, Allegany, Washington, St. Mary's, Baltimore, Frederick, Charles, Montgomery, and York Counties, all in the State of Maryland, for 180 days. Supporting shipper(s): International Business Machines Corp., P.O. Box 10, Princeton, N.J. 08540. Send protests to: Interstate Commerce Commission, 12th and Constitution Avenue NW., Room 1413, District Supervisor Hersman, Washington, D.C. 20423.

By the Commission.

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

[FR Doc. 77-34335 Filed 11-29-77; 8:45 am]

[7035-01]

[Exemption under provision of rule 19 of the Mandatory Car Service Rules ordered in Ex Parte No. 241: Exemption No. 141]

CAR SERVICE EXEMPTION

To all railroads: It appearing, that the railroad named below owns numerous plain gondola cars less than 61-ft.; that under present conditions there are surpluses of these cars on its lines; that return of these cars to the owner would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owner; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars, less than 61-ft. in length, described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 405, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "GB", which are less than 61-ft. in length, and which bear the reporting marks listed below, may be used without regard to the requirements of Car Service Rules 1 and 2.

Maryland and Delaware Railroad Reporting Marks: MDDE.

Effective November 15, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., November 8, 1977.

For the Interstate Commerce Commission.

JOEL E. BURNS,
Agent.

[FR Doc. 77-34336 Filed 11-29-77; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01]

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[M-80, amdt. 2; 11/23/77]

CIVIL AERONAUTICS BOARD.

REVISED AND ADDITIONS TO THE DECEMBER 1, 1977 AGENDA

TIME AND DATE: 10 a.m., December 1, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1. Ratification of items adopted by notation.

(Original.) 1a. Proposed transfer of auditors from Bureau of Enforcement to Bureau of Accounts and Statistics.

ROUTINE ITEMS

All items listed under the "Routine" heading will be adopted by one motion unless any Member of the board requests that any specific item, or items, be removed from this list and be discussed and voted upon separately. Action by one motion will conserve time and permit focus on other-than-routine matters.

2. Docket 31418, Reductions in U.S.-Mexico individual tour-basing fare proposed by Eastern and American; staff recommendation—deny motion of Charter Ventures to file otherwise unauthorized complaint (Memo No. 7589, BFR, BIA).

3. Docket 30332, IATA agreements proposing new 1977-1979 cargo rate structures in the Pacific; staff recommendation—disapprove increase proposed in North/Central and South Pacific agreements as well as increases to/from American Samoa proposed in intra-Pacific and Pacific-TC 2; and disapproval of of all increases to/from Guam in Pacific-TC 2 agreement but approval of increases to/from Guam in intra-Pacific agreement (Memo No. 7588, BFR, BIA).

4. Part 385—Grant of delegated authority to Director, Bureau of Fares and Rates; staff recommendation—Board approve final rule (Memo No. 7583, OGC, BFR).

5. Docket 31342, Petition on behalf of certain carrier to amend Part 399; staff recommendation—denial (Memo No. 6820-B, OGC, BFR).

6. Notice of Proposed Rulemaking to require tariffs to contain a decription of substitute/replacement air taxi service; staff recommendation—approval of Notice (Memo No. 7591, OGC, BFR, BOR).

7. Docket 26973, *Aeromar, C. por A.*, Petition for Reconsideration of the Board's Denial of Applicatin for Renewal of Foreign Air Carrier Permit; staff recommendation—Target Date of December 23, 1977 (Memo No. 7603, OGC).

8. Dockets 31301 and 31440, Texas International's requests for suspension and deletion of Monroe and Alexandria, La.; staff recommendation—authorize TXI to suspend at Monroe and Alexandria, La. and propose to delete points from TXI's certificate for Route 82 by show cause procedures (Memo No. 7596, BOR, BFR).

9. Docket 30956, Evergreen International's petition for reconsideration of Order 77-7-91 granting Meridian Air Cargo large aircraft authority; staff recommendation, denial (Memo No. 7209-B, BOR).

10. Docket 31375, Key Airlines' Request to Renew Exemption Authorizing the Operation of Convair Aircraft between Sun Valley-Boise/Salt Lake City; staff recommendation—grant (Memo No. 7602, BOR).

11. Board comments on H.R. 9068—A bill to provide for the registration of sellers of travel or travel services; staff recommendation—approval of letter (Memo No. 7476-A, BOR, OCCR, OGC).

12. Docket 30291, United Air Lines', Subpart N Application, Columbus/Dayton-Denver—Petition for Reconsideration of Order Dismissing Application; staff recommendation—denial of United's petition for reconsideration (Memo No. 6817-D, BOR).

13. Docket 26601, United Air Lines, Inc, enforcement Proceeding; staff recommendation—to adopt a notice making effective the initial decision (Memo No. 7607, OGC).

14. Amendment to denied boarding compensation rule proposed by Alaska; staff recommendation—that the Board adopt draft order setting for investigation and suspending (BFR).

15. Docket 31679, Excursion fare between Omaha/Des Moines and San Francisco proposed by American (BFR).

16. Docket 31337, Application of Condor Aviation Services Ltd. for issuance of a foreign air carrier permit; staff recommendation—issuance of show cause order proposing to issue permit (Memo No. 7594, BIA, BOR, OGC).

17. Docket 27589, ATA's Motion to Hold Carrier Discussins on Order 77-9-80, Baggage Liability Rules; staff recommendation—denial (Memo No. 5088-H, BFR).

DISCUSSION ITEMS

18. Docket 31695, Mainland-Hawaii excursion fares proposed by Western (BFR).

19. Docket 31673, Denver-Amarillo economic fare proposed by Texas International (BFR).

20. Docket 30591 and 30587, Colonial Airlines' Petition for Reconsideration of Order denying large aircraft exemption authority; staff recommendation—set for hearing Colonial's exemption and applications (Memo No. 7049-B, BOR, BLJ, OGC).

21. Docket 31129, Commuter Airlines' Request to Operate CV-580 Aircraft in Scheduled and Charter Service; staff recommendation—grant exemption in part (Memo No. 7604, BOR).

22. Docket 30243, Air Cargo Enterprises' request to use large aircraft in Hawaii; staff recommendation—granting exemption in part (Memo No. 6843-A, BOR, BAS, OGC).

23. Aerlinte Eireann Teoranta; Application for blind sector traffic rights via Montreal under Part 296 of the Board's Economic Regulations; staff recommendation—denial (Memo No. 7592, BOR, BIA).

24. Docket 24694, Miami-Los Angeles Competitive Nonstop Case; staff recommendation—reopen the proceeding for the limited purpose of considering whether Western or Pan American should receive Miami-Los Angeles competitive authority (Memo No. 7354-C, OGC).

25. Docket 31400, Colorado Ski Points Investigation; staff recommendation—denial of motion for stay (Memo No. 4680-D, OGC).

26. Docket 31251, Petition of Donal P. Mullally for Rulemaking; staff recommendation—denial (Memo No. 7584, OGC).

27. Briefing the Board on the Financial Condition of Certificated Carriers by the Director, BAS.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Because the meeting notice for Thursday, December 1, 1977 has already issued, it is necessary to vote to add these items to that agenda. This addition provides a full seven days' notice. Accordingly, the following Members have voted that agency business requires the addition of these items to the December 1, 1977 agenda and that no earlier announcement of these additions was possible.

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Elizabeth E. Bailey

[S-1934-77 Filed 11-28-77; 9:10 am]

[6335-01]

2

U.S. COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: December 3, 1977; 1 p.m.

PLACE: Room 800, 1121 Vermont Avenue NW., Washington, D.C.

STATUS: Telephone conference call. Closed to the public.

MATTERS TO BE CONSIDERED: Review and discussion of age discrimination study, draft report.

PERSON TO CONTACT FOR FURTHER INFORMATION:

Barbara Brooks, Public Affairs Unit, 202-254-6697.

[S-1939-77 Filed 11-28-77; 3:43 pm]

[6351-01]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., December 2, 1977.

PLACE: 8th Floor Conference Room, 2033 K Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance meeting.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1937-77 Filed 11-28-77; 2:23 pm]

[6740-02]

4

FEDERAL ENERGY REGULATORY COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Published November 28, 1977, 42 FR 60628.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., November 30, 1977.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

RP-5.—RP76-158, North Penn Gas Co.
RP-6.—RP73-97, Kentucky-West Virginia Gas Co.
RP-12.—RP72-149 (PGA77-10), Mississippi River Transmission Corp.
CI-3.—(A) CI77-721, Harkins & Co. (operator) et al., CI77-758, Amerada Hess Corp.; (B) CI77-724, C & K Petroleum, Inc., et al.
CI-7.—RI77-54, Texas Oil & Gas Corp., et al.
CP-5.—G-103, Entex, Inc., CP76-452, *Compania de Gas de Nuevo Laredo, S.A.*, Complainant, v. *Entex, Inc.*, Defendant
CP-23.—CP75-140, et al., Pacific Alaska LNG Co., et al.

KENNETH F. PLUMB,
Secretary.

[S-1936-77 Filed 11-28-77;10:51 pm]

[6730-01]

5

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER CITATION" OF PREVIOUS ANNOUNCEMENT: November 25, 1977, 42 FR 60295.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: November 30, 1977, 10 a.m.

CHANGES IN THE MEETING: Addition of the following item to the closed session:

2. Trailer Marine Transport Corp.—Proportional rates on synthetic yarn from Puerto Rico to U.S. Atlantic Ports.

[S-1938-77 Filed 11-28-77; 2:23 pm]

[6210-01]

6

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Monday, December 5, 1977.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed salary structure adjustments at the Federal Reserve Banks of Richmond, Chicago, and San Francisco.

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board: 202-452-3204.

Dated: November 25, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-1933-77 Filed 11-28-77; 9:10 am]

[7030-01]

7

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., December 7, 1977.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the public.

Docket 363, Sioux 1977 Annual Report.

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, Telephone 202-653-6174.

[S-1935-77 Filed 11-28-77; 10:51 am]

[7590-01]

8

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Friday, December 2, 1977.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and Closed.

MATTER TO BE CONSIDERED:

(NOTE.—Date has been changed from Thursday, December 1, to Friday, December 2.)

9:30 a.m.—1.—Discussion and Analysis of Public Comments on GESMO. (Approx. 1½ hrs.) (Public Meeting.)

2.—Affirmation of: (a) November 10 OGC Memo re Amendment of 10 CFR 9.108(c). (b) Motion by Department of Justice for Leave to File a Brief in Response to the Commission's Order of 10/19/77, Requesting a Briefing. (Approx. 5 min.) (Public Meeting.)

1:30 p.m.—1.—Policy Session—Public Response to Proposed Rulemaking: Criteria and Procedures for Determining Eligibility for Access to or Control over Unclassified Special Nuclear Material. (Approx. 1 hr.) (Public Meeting.)

2.—Discussion of Personnel Matter (Approx. 1½ hrs.) (Closed—Exemption 6.)

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated at Washington, D.C., this 28th day of November 1977.

SAMUEL J. CHILK,
Secretary of the Commission.

[S-1940-77 Filed 11-28-77; 3:43 pm]

[7590-01]

9

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Monday, December 5, 1977.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 9:30 a.m.—Discussion of draft Seabrook opinion (approx. 2 hrs.) (exemption 10). 2:30 p.m.—Discussion of OMB budget mark (approx. 2 hrs.) (exemption 9).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated at Washington, D.C., this 28th day of November 1977.

SAMUEL J. CHILK,
Secretary of the Commission.

[S-1941-77 Filed 11-28-77; 3:43 pm]

federal register

WEDNESDAY, NOVEMBER 30, 1977

PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Base Flood Elevation Determinations for Various Communities

[4210–01]

Title 24—Housing and Urban Development

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI–3176]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for City of Milford, New Haven County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Milford, New Haven County, Conn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the city of Milford, Conn.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Milford, are available for review at City Hall, River Street, Milford, Conn.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the city of Milford, Conn.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Housatonic River	Merritt Parkway	13
	Connecticut Turnpike.	11
Indian River	Indian Lake Dam [1]	40
	do [2]	35
	Rose Mill Pond Dam [1]	34
	do [2]	23
	Clark Mill Dam [1]	18
	do [2]	11
Wepawaug River	Flax Mill Rd. [1]	66
	do [2]	64
	Connecticut Turnpike (I-95). [1]	43
	do [2]	42
	U.S. 1–A	38
	New Haven Ave. Dam. [1]	23
	do [2]	13

[1] Upstream.
[2] Downstream.

(National Flood Insuranc Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–33841 Filed 11–29–77;8:45 am]

[4210–01]

[Docket No. FI–2725]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for City of Margate, Broward County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Margate, Broward County, Fla. These base (100-year) flood evelvations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the city of Margate, Fla.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Margate, are available for review at 5790 Margate Boulevard, Margate, Fla.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for City of Margate, Fla.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cypress Creek Canal.	State Rd. 7	10.4
East Margate Estates Canal.,	SW. 6th St	10.1
West Margate Estates Canal.	SW. 6th St	10.2
Margate Canal	West Atlantic Blvd	10.5
	Margate Blvd	10.5
	18th St	10.5
	Royal Palm Blvd	10.5
One Mile Canal	West Atlantic Blvd	10.6
	Margate Blvd	10.6
	18th St	10.6
	Royal Palm Blvd	10.6
	Winfield Blvd	10.6

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–33842 Filed 11–29–77;8:45 am]

[4210–01]

[Docket No. FI–3177]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for Dougherty County, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected

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

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for Dougherty County, Ga.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Dougherty County, are available for review at Dougherty County Courthouse, 225 Pine Avenue, Albany, Ga.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for Dougherty County, Ga.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Coolewahee Creek	State Route 62	174
	Central of Georgia RR.	184
	Unnamed road	186
	State Route 234	191
Percosin Creek	Oakridge Dr	182
	Gordon Ave	184
	Central of Georgia RR.	192
	Westover Rd	194
Flint River	Radium Springs Country Club.	181
	Oglethorpe Ave	186
	Broad Ave	186
	Seaboard Coastline RR.	187
	Southern RR	191
	U.S. Highway 19	191
Dry Creek	State Route 3	177
	Seaboard Coastline RR.	177
	U.S. Route 19	184
	Nelms Rd. (West)	195
	Gravel Hill Rd	212
	Railroad access road	239
	Georgia Northern RR.	242
	Nelms Rd. (East)	249
	County Line Rd	251
Tributary 1	Unnamed farm road	234
	Georgia Northern RR.	240
Tributary 2	Moultrie Rd	244
Marine Corps Supply Center Drainage Canal.	Seaboard Coastline RR.	181
	U.S. Highway 19 access ramp.	181
	U.S. Highway 19	182
	Georgia Highway 133 access ramp.	182
Kinchafoonee Creek.	Southern RR	192
	Philema Rd	192
	Georgia State Highway 3.	192
	Central of Georgia RR.	192
Piney Woods Creek.	Highway 257 Bridge	199
	Old Route 82 Bridge (collapsed).	211
	Jefferson Davis Highway.	212
Tributary 3	Hill Rd (West)	214
	Farm Rd	219
	Hill Rd (East)	220
	Pine Glen Dr. Bridge.	232
	County Line Rd	237
Tributary 4	Highway 257	200

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33843 Filed 11-29-77;8:45 am]

[4210-01]

[Docket No. FI-3181]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for Gem County, Idaho

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

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

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for Gem County, Idaho.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Gem County, are available for review at Gem County Courthouse, 415 East Main Street, Emmett, Idaho.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for Gem County, Idaho.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Payette River (Emmett Valley area).	Plaza Bridge	2,409
	Upper end of Fuller Island.	2,385
	Lower end of Fuller Island.	2,377
	Johns Ave	2,370
	Emmett Bridge	2,366
Payette River (Montour Valley area).	County line	2,554
	Montour Bridge	2,514

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33844 Filed 11-29-77;8:45 am]

[4210–01]

[Docket No. FI–2940]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for City of Harvey, Cook County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Harvey, Cook County, Ill. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the city of Harvey, Cook County, Ill.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Harvey, Cook County, Ill., are available for review at the Harvey Municipal Building, 15320 Broadway, Harvey, Ill.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the city of Harvey, Cook County, Ill.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet above mean sea level
Little Calumet River.	Downstream corporate limits.	593
	Halstead Ave.	594
	Illinois Central RR.	595
	Upstream corporate limits.	596
Calumet Union Drainage Canal.	Intersection of Lincoln Ave. and 146th St.	604
	Intersection of Turlington Ave. and 151st St.	604
	Intersection of Roby St. and 148th St.	605
	Intersection of Lexington Ave. and 152nd St.	605
	Intersection of corporate limits and 155th St.	605
	Intersection of Leavitt St. and 149th St.	606
	Intersection of Paulina St. and 152nd St.	606
	Intersection of Carse Ave. and 157th St.	606
	Intersection of Lincoln Ave. and 153rd St.	607
	Intersection of Ashland Ave. and 155th St.	607
	Intersection of Turlington Ave. and 157th St.	607
	Intersection of Honore Ave. and 156th St.	608
	Intersection of Myrtle Ave. and 158th St.	608
	Intersection of Paulina St. and 159th St.	609
	Intersection of Lincoln Ave. and 160th St.	610

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–33845 Filed 11–29–77;8:45 am]

[4210–01]

[Docket No. FI–3051]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for City of Kankakee, Kankakee County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

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

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the city of Kankakee, Kankanee County, Ill.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Kankakee, Kankakee County, Ill., are available for review at the City Hall, 385 East Oak Street, Kankakee, Ill.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Kankakee, Kankakee County, Ill.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet above mean sea level
Kankakee River	Confluence with Baker Creek.	607
	Gar Creek	607
	Schuyler Ave	606
	Illinois Central RR.	605
	Washington Ave.	603
	Station St.	602
	West Court St.	601
	Confluence with Soldier Creek.	601
	ConRail	600
	Park St. (extended)	599
Soldier Creek	State Route 50 and Kinzie Ave. (upstream corporate limits).	627
	Railroad bridge	625
	Confluence of north branch of Soldier Creek.	625

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33846 Filed 11-29-77;8:45 am]

[4210-01]

[Docket No. FI-2794]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for City of Paola, Miami County, Kans.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

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

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the city of Paola, Miami County, Kans.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Paola, Miami County, Kans., are available for review at the City Hall, 19 East Peoria, Paola, Kans.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the city of Paola, Miami County, Kansas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet above mean sea level
Big Bull Creek	Upstream corporate limits.	868
	Iron St.	868
	Fourth St. (extended).	866
	Peoria St.	865
	Missouri Pacific RR.	863
	St Louis, San Francisco RR.	860
	Highway 169	859
	Downstream corporate limits.	858
Hickory Creek	East St.	871
	Hickory St.	858
	Bridge in park area.	858
Tributary to Hickory Creek.	Ottawa	867
	Osage St.	863
M.K.T. tributary to Big Bull Creek.	Upstream corporate limits.	873
	Silver St.	873
	Missouri Pacific RR.	873
	Iron St.	867
	St. Louis, San Francisco RR.	867

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33847 Filed 11-29-77;8:45 am]

[4210-01]

[Docket No. FI-3065]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for Town of Milford, Penobscot County, Maine

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the town of Milford, Penobscot County, Maine. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the town of Milford, Penobscot County, Maine.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Milford, Penobscot County, Maine, are available for review at the Milford Municipal Building, Davenport Street, Milford, Maine.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the town of Milford, Penobscot County, Maine.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet above mean sea level
Penobscot River	Downstream corporate limits.	90
	Route 2 Bridge.	97
	Confluence with Deadwater.	111
	Divergence of Stippwater River.	117
	Confluence with Sunkhaze Stream.	121
	Confluence of Costigan Brook.	123
	Upstream corporate limits.	124
Otter Stream	Downstream corporate limits.	87
	End of Bullen Rd.	90
	County Rd. Bridge.	106
	Call Road (extended).	109
	Centerline of power line crossing.	112
Otter Chain Stream.	Confluence with Otter Stream.	109
	Second County Rd. Bridge.	109
	Centerline of power line crossing.	109
	Third County Rd. Bridge.	110
Costigan Brook	Confluence with Penobscot River.	123
	Main Central RR.	123
	Upstream corporate limits.	123

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR

17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33848 Filed 11-29-77;8:45 am]

[4210-01]

[Docket No. FI-3189]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for City of Old Town, Penobscot County, Maine

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Old Town, Penobscot County, Maine. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the city of Old Town, Penobscot County, Maine.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Old Town, Penobscot County, Maine, are available for review at the Old Town Municipal Building, 51 North Brunswick Street, Old Town, Maine.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the city of Old Town, Penobscot County, Maine.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet above mean sea level
Penobscot River	Upstream corporate limits.	123
	Stillwater Ave. (extended).	100
	Middle St. (extended).	97
	Penny Rd. (extended).	82
	Downstream corporate limits.	73
Stillwater River	Private road (extended).	116
	Birch Stream confluence.	113
	Coley Rd. (extended).	112
	State Route 43.	107
	Stillwater Ave	99
	Downstream corporate limits.	85

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33849 Filed 11-29-77;8:45 am]

[4210-01]

[Docket No. FI-3142]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for City of Hagerstown, Washington County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Hagerstown, Washington County, Md. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance Rate Map (FIRM), showing base (100-year) flood elevations, for the city of Hagerstown, Washington County, Md.

ADDRESSSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Hagerstown, Washington County, Md., are available for review at the City Hall, Hagerstown, Md.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the city of Hagerstown, Washington County, Md.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968. Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–4888), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet above mean sea level
Antietam Creek	Route 64	484
	Upstream corporate limits.	481
	Mount Aetna Rd.	480
	Downstream corporate limits, Alternate Route 40.	478
Hamilton Run	Upstream corporate limits.	580
	Western Maryland RR.	563
	Northern Ave.	550
	Potomac Ave. and corporate limits.	536
	Corporate limits (11,910 ft above mouth).	532
	East Magnolia Ave.	528
	Pang Born Blvd.	512
	Security Rd.	504
	Jefferson St.	498
	Tracy's Lane	485
	B & O RR.	480

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33850 Filed 11-29-77;8:45 am]

[4210-01]

[Docket No. FI-3018]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for Township of Brampton, Delta County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

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

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the township of Brampton, Mich.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the township of Brampton, are available for review at Township Hall, Route 1, Kipling, Gladstone, Mich.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the township of Brampton, Mich. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Michigan-Little Bay de Noc.	Fringe area along bay.	585

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33851 Filed 11-29-77;8:45 am]

[4210-01]

[Docket No. FI-3025]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for City of Amory, Monroe County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

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

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the city of Amory, Miss.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Amory, are available for review at City Hall, Amory, Miss.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the city of Amory, Miss.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1969 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Stream 1	Tschudi Rd.[1]	267
	do.[2]	264
	U.S. Highway 278	246
	Main St.	245
	State Highway 25 [1]	238
	do.[2]	236
Roundhouse Branch.	Mississippian RR.[1]	242
	do.[2]	241
	6th St.	239
	Main St.[1]	238
	do.[2]	237
	10th St.[1]	227
	do.[2]	224
Burketts Creek	Phillips School House Dr.	244
	Boulevard Dr.	240
	Legion Dr.[1]	239
	do.[2]	238
	State Highway 25N [1]	227
	do.[2]	225
Burketts Creek (Tributary 1).	Tschudi Rd.[1]	254
	do.[2]	252
	Hatley Rd.[1]	249
	do.[2]	247
	Mississippian RR	244
	Highland Circle	240
Tombigbee River	Intersection of Old Mississippi 6 and Black Cot Rd.	220

[1] Upstream.
[2] Downstream.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33852 Filed 11-29-77;8:45 am]

[4210–01]

[Docket No. FI–3199]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for Jackson County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

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

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for Jackson County, Miss.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevation for Jackson County, are available for review at Jackson County Courthouse, Canty Street, Pascagoula, Miss.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for Jackson County, Miss. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pascagoula River	Graham Ferry	21
	County boundary	35
Bayou Costapia	Desoto National Forest boundary.	18
Johns Bayou	Poticaw Bayou Rd	25
Bluff Creek	Mississippi Highway 57.	13
Black Creek	Mississippi Highway 613.	21
Moungers Creek	Poticaw Bayou Rd	13
Perigal Creek	Desoto National Forest boundary.	25
	Confluence with ditch No. 3.	29
	Seamen Rd	41
Waters Creek	County Rd	24
Woodmans Branch	Poticaw Bayou Rd	18
Empress Creek	Confluence with ditch No. 1.	16
	Confluence with ditch No. 2.	17
	Tucker Rd	29
	Seamen Rd	31
Ditch No. 1	McClellan Rd	33
Ditch No. 2	County Road	45
Ditch No. 3	Tucker Rd	43

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–33853 Filed 11–29–77;8:45 am]

[4210–01]

[Docket No. FI–3036]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for the City of Foley, Lincoln County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Foley, Lincoln County, Mo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Foley, Mo.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Foley, are available for review at City Hall, Foley, Mo.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Foley, Mo. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or indviduals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Adminstrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sandy Creek	Old County Rd	447
	Highway 79	447

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77–33854 Filed 11–29–77;8:45 am]

[4210–01]

[Docket No. FI–903]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Madison, Morris County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Madison, Morris County, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Madison, Morris County, N.J.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Madison, Morris County, New Jersey, are avilable for review at the Borough Clerk's Office, Harthy Dodge Memorial, Kings Road, Madison, New Jersey.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Borough of Madison, Morris County, N.J. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet above mean sea level
Black Brook	Corporate limits	200
	Chateau Thierry Ave.	200
	Argonne Ave	203
	Belleau Ave	209
	North St	220
	South St	224
	Loveland St	229
	Anthony Dr	236
Spring Garden Brook.	Flooding source outside corporate limits.	183
	Corporate limits	185
	Trail Place	191
	Dean St	197
	Main St	201
	Cross St	202
Unnamed tributary to Spring Garden Brook.	Corporate limits	193
	Delbarton Dr. (projection).	194
	Culvert exit	201

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33855 Filed 11-29-77;8:45 am]

[4210–01]

[Docket No. FI-3083]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for the Township of Marlboro, Monmouth County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Marlboro, Monmouth County, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the township of Marlboro, N.J.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the township of Marlboro, are available for review at Municipal Building, Marlboro, N.J.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the township of Marlboro, N.J. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Deep Run	Texas Rd.	67
	Tennent Rd. (upstream).	78
	Crine Rd.[1]	86
Tributary B	Tennent Rd.	83
	Central R.R. of New Jersey.[1]	115
Tributary C	Harbor Rd.	88
	Central R.R. of New Jersey.[1]	113
Barclay Brook	Riley Rd.[1]	84
Milford Brook	Robertsville Rd.[1]	118
	Route 18 (Old Bridge Rd.)[1]	144
South Branch Tepehemus Brook.	Silvers Rd.[1]	113
Matawan Creek	Wilson Ave.	41
	Greenwood Rd.[1]	52
Gravelly Brook	Lloyd Rd.[1]	76
Willow Brook	Pleasant Valley Rd.[1]	80
	Schanca Rd.[1]	110
Tributary F	Igoe Rd. (downstream crossing).	94
	Igoe Rd. (upstream crossing).[1]	114
Big Brook	Boundary Rd.	80
	Central R.R. of New Jersey.	95
	Route 79	99
Tributary H	Vanderburg Rd.[1]	96
Tributary K	School Rd. East (downstream crossing).[1]	118
	School Rd. East (upstream crossing.)[1]	128
Tributary L	School Rd. East [1]	112

[1] Upstream side of structure.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33856 Filed 11-29-77;8:45 am]

[4210-01]

[Docket No. FI-3040]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for the Township of Washington, Mercer County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the township of Washington, Mercer County, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the township of Washington, N.J.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Washington, are available for review at Municipal Building, Little Philadelphia Street, Washington, New Jersey.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the township of Washington, N.J.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary A	U.S. Route 526 [1]	81
	U.S. Route 526 [2]	71
Big Bear Brook	U.S. Route 130 and 33.	102
	Hankins Rd	96
Miry Run	Sharon Rd	92
	ConRail RR [1]	91
	do [2]	87
	Robbinsville-Edinburg Rd.	80
	Pond Rd	74
	Line Rd [1]	68
	do [2]	67
New Sharon Branch	Old York Rd	97
	Sharon Rd [1]	90
	do [2]	89
Assunpink Creek	Old Yrok Rd	90
	Winsor Rd	89
	New Jersey Turnpike [1]	89
	do [2]	88
	Main St	77
	ConRail RR	76

[1] Upstream.
[2] Downstream.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968) as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680 February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33857 Filed 11-29-77;8:45 am]

[4210-01]

[Docekt No. FI-3041]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Allegany, Cattaraugus County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

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

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Village of Allegany, Cattaraugus County, N.Y.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Allegany, Cattaraugus County, New York, are available for review at the lobby, Allegany Town Hall Building, Main Street, Allegany, New York.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Village of Allegany, Cattaraugus County, N.Y.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Allegheny River	South First Street Bridge.	1,416
Five Mile Creek	ConRail	1,416
	Elm St. (extended)	1,417

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: October 21, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-33858 Filed 11-29-77;8:45 am]

federal register

WEDNESDAY, NOVEMBER 30, 1977

PART III

CONSUMER PRODUCT SAFETY COMMISSION

■

FLAMMABLE FABRICS ACT

Procedures for Investigations, Inspections and Inquiries

[6355-01]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER D—FLAMMABLE FABRICS ACT REGULATIONS

PART 1605—INVESTIGATIONS, INSPECTIONS AND INQUIRIES PURSUANT TO THE FLAMMABLE FABRICS ACT

Procedures for Investigations, Inspections and Inquiries

AGENCY: Consumer Product Safety Commission.

ACTION: Final rules.

SUMMARY: These rules set forth the method by which duly designated officers or employees of the Consumer Product Safety Commission may enter and inspect premises, have access to and copy documentary evidence, and obtain other informtaion for the purposes of enforcement of or determining compliance with the Flammable Fabrics Act. In addition providing for an inspection procedure, the rules provide for other compulsory processes which the Commission may use to obtain information not voluntarily given. These rules are intended to provide an effective and efficient method for the CPSC to conduct investigations, inspections, and inquiries under the Flammable Fabrics Act. They replace the Federal Trade Commission's Nonadjudicative Procedures, 16 CFR 2.1 through 2.35, insofar as they relate to the Administration of the Flammable Fabrics Act.

DATES: The effective date of this rule is November 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Ronald G. Yelenik, Consumer Product Safety Commission, Directorate of Compliance and Enforcement, 5401 Westbard Avenue, Washington, D.C. 20207, 301-492-6629.

SUPPLEMENTARY INFORMATION: On June 8, 1976, the Consumer Product Safety Commission published proposed nonadjudicative rules of procedure (41 FR 22956) to replace the Federal Trade Commission's Nonadjudicative Procedures in the enforcement and administration of the Flammable Fabrics Act. The Federal Trade Commission's Nonadjudicative Procedures have been applied to matters under the Flammable Fabrics Act since May 14, 1973, when the enforcement and administration of the Flammable Fabrics Act (15 U.S.C. 1191 et seq.) ("FFA") was transferred from the Federal Trade Commission to the Consumer Product Safety Commission by section 30(b) of the Consumer Product Safety Act (15 U.S.C. 2079(b)).

Most of the commenters support the underlying purpose of the proposal. The rules issued below reflect changes made in the proposed rules because of questions and suggestions raised by commenters as well as changes suggested by the Commission staff.

One change, results from the Commission's finding in § 1605.1 below that the risk of injury associated with products regulated by the Flammable Fabrics Act cannot be eliminated or reduced to a sufficient extent by action under the FFA. Based upon this finding, made pursuant to section 30(d) of the Consumer Product Safety Act (15 U.S.C. 2079(d)) (the "CPSA"), the Commission is issuing these regulations under the authority of the CPSA. The Commission believes that the recent decision of the United States Court for the Northern District of Georgia in *United States* v. *Aladdin Mills Inc.* (Civil Action No. 76-30-R, July 8, 1977) has created confusion and uncertainty over the scope of the Commission's authority to conduct inspections and collect samples. The Commission believes that it is in the public interest to remove the uncertainty over the scope of its statutory powers to engage in those compliance activities and to avoid litigation fostered by the uncertainty that would unduly consume Commission resources. Therefore, these regulations are being issued pursuant to sections 16 and 27 of the CPSA (15 U.S.C. 2065 and 2076), as well as under the FFA and Federal Trade Commission Act.

DISCUSSION OF MAJOR COMMENTS

The proposal provided the Commission could initiate investigations, inspections, or inquiries under the Flammable Fabrics Act "for the purposes, of enforcement or determining compliance with the Flammable Fabrics Act and relevant sections of the Federal Trade Commission Act" by authorizing the issuance of a written "Notice of Inspection and Right of Access." One commenter suggested that reference to the Federal Trade Commission Act should be deleted from this description because the Commission lacks statutory authority to enforce or determine compliance with any substantive provision of the Federal Trade Commission Act.

The Commission notes that section 3 of the Flammable Fabrics Act provides that the violation of that section "shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act," and that both unfair methods of competition and unfair and deceptive acts or practices are subject to sanctions under section 5 of the Federal Trade Commission Act. Section 5(b) of the Flammable Fabrics Act authorizes the Federal Trade Commission to "prevent any person from violating section 3 of this Act in the same manner, by the same means and with the same jurisdiction, power and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act."

And, as noted earlier, section 30(b) of the Consumer Product Safety Act transfers the functions of the enforcement and administration of the Flammable Fabrics Act from the Federal Trade Commission to the Consumer Product Safety Commission. The Commission concludes that the provisions of the Flammable Fabrics Act are so inextricably entwined with the provisions of the Federal Trade Commission Act that it would be unwise to delete all reference to the Federal Trade Commission Act from a description of the purpose of an investigation under these rules. However, the Commission's only purpose for authorizing inspections or investigations under the provisions of § 1605.1(a) issued below has now been confined to "those sections of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) which are relevant to the enforcement and administration of the Flammable Fabrics Act."

Another commenter advised that the language in the proposed § 1605.1(a) suggests that every investigation or inquiry regarding flammable fabrics is initiated by a notice of inspection and right of access and that it was unlikely the Commission intended this result. It is true that not all investigations and inquiries require an inspection, and that it should not be necessary to initiate every investigation or inquiry with a notice. For this reason, a notice of inspection is authorized by the Commission for inspections initiated under § 1605.1(b) issued below, but its use is not made mandatory for all other investigations and inquiries.

The Commission has made some revisions to the proposed § 1605.1 on its own initiative. First, the Commission has deleted provisions contained in § 1605.1(b) of the proposal that a notice issued in accordance with these rules shall be deemed an order or act of the Commission. Rather, the Commission believes that this statement is unnecessary because it thinks that compliance with a notice will, in the main, be voluntary. The rules issued below provide, in §§ 1605.3 through 1605.11 for compulsory process, should that be necessary. Second, the phrase right of access has also been deleted from the title of the notice of inspection. An order for access for the purpose of conducting an inspection may be issued by the Commission under the provisions of § 1605.4 below, either before or after a refusal to permit inspection and upon the staff's demonstration of a justifiable need to gain access.

A number of commenters referred the Commission to Reorganization Plan No. 4, issued pursuant to the Reorganization Act of 1949, whereby the Federal Trade Commission was given the authority to delegate any of its functions to its staff but provided that "the Commission shall retain a discretionary right to review the action of any * * * employee (to whom any of its functions have been delegated) upon its own initiative or upon petition of a party to or an intervenor in such action * * *." One commenter viewed Reorganization Plan No. 4 as applicable to the Consumer Product Safety Commission by analysis of section 30 of the Consumer Product Safety Act (CPSA). It was noted that section 30(b) of the CPSA transfers to the Commission the FTC's "functions" under the Flammable Fabrics Act, and that section 30(f) of the CPSA defines "functions" to include

"power and duty." Thus, it was argued that the Commission had been transfered both the power to delegate issuance of compulsory process and the duty to review it upon request of the affected party. The Commission believes these comments are correct. Accordingly, no provision is made in § 1605.1 for the issuance of compulsory process under delegated authority, and the power previously delegated in proposed § 1605.10 has been eliminated. In the rules issued below the Commission intends to retain to itself the power to issue all compulsory processes, including orders for access, subpoenas, orders to file general or special reports, orders to take depositions, orders to answer written interrogatories, and orders to provide information at investigational hearings.

Finally, two commenters urge the Commission not to delegate the authority to initiate inspections, and another states that the authority to initiate inspections should not be delegated below the level of the staff officials designated in proposed § 1605.1(b). This commenter therefore recommends elimination of the phrase "or those delegated to perform their duties" from proposed § 1605.1(b). It is the Commission's view, upon considering the comments received as well as the recommendations of staff, that delegation of the power to initiate inspections to those officials designated in § 1605.1(c), issued below, will serve to enhance the orderly administration of the Flammable Fabrics Act. However, it appears that the additional delegation to "those designated to perform their duties" in proposed § 1605.1(b) may be overly broad and, indeed, unnecessary. Accordingly, § 1605.1(c) issued below provides for delegation of the power to initiate inspections to the Associate Executive Director for Compliance and Enforcement, the Director of the Enforcement Division, the Solicitor, and the Directors of area offices.

CONDUCT AND SCOPE OF INSPECTIONS

As proposed, § 1605.2(a) defined the scope of a Commission inspection under the Flammable Fabrics Act as encompassing a determination of "compliance with the statutes, regulations, rules, standards and orders administered, promulgated or issued by the Commission, or for any other purpose authorized by the Commission." One commenter noted that this language did not restrict the issuance of a notice to matters pertaining to the Flammable Fabrics Act, notwithstanding a statement in the preamble to the proposal that the rules "are not intended to apply to any other act administered by the Consumer Product Safety Commission." To clarify this, the commenter suggested that the phrase "under the Flammable Fabrics Act" be inserted at various places in the proposed § 1605.2(a). The Commission agrees that the language in proposed § 1605.2(a) was not compatible with the preamble itself, and that it should be more restrictive in order to limit the scope of an inspection to that as announced in the preamble. Accordingly, § 1605.2(a), issued below, has been revised to state that the inspector may perform those functions enumerated in § 1605.2(a) "for the purposes set forth in § 1605.1(a)"; that is, to obtain information for the purpose of enforcing or determining compliance with the Flammable Fabrics Act; the regulations, rules, standards, and orders issued thereunder; and those sections of the Federal Trade Commission Act that are relevant to the enforcement and administration of the Flammable Fabrics Act.

Four comments express the opinion that the Commission lacks statutory authority to permit an inspector to enter any factory, warehouse or establishment to conduct an inspection under § 1605.2 below. Additional comments state that the words "reason to believe" in § 5(d)(1) of the FFA (15 U.S.C. 1194(d)(1)) limit the inspectional authority of that section to situations in which the Commission has already obtained information on which to base a complaint. On November 3, 1977 the Commission found that rules issued under the FFA could not adequately eliminate or reduce to a sufficient extent the risk of injury associated with products subject to regulations under the FFA. This finding is contained in § 1605.1(d) below. Having made this finding, the Commission has met the statutory prerequisite contained in section 30(d) of the CPSA (15 U.S.C. 2079(d)) for the issuance of these rules under the CPSA. Therefore, it is unnecessary to address the comments concerning the scope of the authority conveyed by the FFA and FTCA. However, it is noteworthy that the comments reveal exactly the uncertainty and confusion that provided the basis for the Commission's finding. By adding the Commission's power to conduct inspections and collect sample under the CPSA to those under the FFA and FTCA, the uncertainty should be eliminated.

Two comments were received stating that the Commission's right of access to documents, conferred under section 9 of the Federal Trade Commission Act, does not permit it to compel testimony or obtain written answers to questions and that compulsory process would be required for such information. The Commission reiterates its intent, as expressed above, that compliance with a notice is a voluntary action as it is not an order or act of the Commission. Use of compulsory process has been provided for in §§ 1605.3 through 1605.11 of the rules issued below.

One commenter advised that section 9 of the Federal Trade Commission Act should be interpreted as authorizing access to records required by regulation to be kept, and to no others. In the Commission's view, this interpretation is unduly restrictive and not supportable by case law. Upon careful consideration of the statutes and authorities cited, the Commission concludes that section 9 of the Federal Trade Commission Act permits access to all records maintained by a firm that relate to products subject to regulation under the Flammable Fabrics Act.

Two comments were received that questioned the authority of the Commission to obtain certain confidential information, such as the names or customers and distribution records. The commenters further objected that the proposed rules did not place any restriction on the Commission's ability to obtain such information, nor a prohibition on the disclosure of such confidential information. The Commission can find no legal impediment to its ability to require access to those records that contain the names of customers or similar confidential information in the course of an inspection or investigation under the Flammable Fabrics Act. The Commission concludes that its authority to inspect or obtain such documentary evidence is well established. However, the Commission recognizes that section 4(c) of the Flammable Fabrics Act requires that information reported to or obtained by the Commission which contains or relates to trade secrets or other matter referred to in 18 U.S.C. 1905 shall be considered confidential, except that such information may be disclosed to other officers or employees concerned with enforcing or administering the Flammable Fabrics Act or when relevant to a proceeding under the Flammable Fabrics Act. For this reason, a provision has been added to § 1605.2(c) issued below to provide that those submitting information should state whether any of the information submitted is believed to contain or relate to a trade secret or other matter which should be considered by the Commission to be confidential in accordance with section 4(c) of the Flammable Fabrics Act and whether any of the information is believed to be entitled to exemption from disclosure under the provisions of the Freedom of Information Act or section 6(f) of the Federal Trade Commission Act. In addition, a revision of § 1605.3 provides a similar procedure to protect the confidentiality of information submitted under compulsory process.

One commenter requested that a provision for twenty-four hours advance notice be added to § 1605.2 to afford an individual compelled to appear before a CPSC representative the right to counsel. It is not the intention of the Commission to deny to any individual the right to counsel. However, the notice of inspection under the provisions of § 1605.2, as issued below, is not an order of the Commission and it is not necessary, in the Commission's view, to surround a request for voluntary compliance with those procedural safeguards accorded an individual under compulsory process.

Two commenters suggest that advance notification of inspections be given in order to prevent a disruption of normal business activities. The Commission does not believe it necessary at this time to change a long-standing regulatory enforcement policy in the absence of compelling evidence that there has been an undue disruption of normal business

activities through inspections conducted under the Flammable Fabrics Act. The Commission believes that the staff attempts to accommodate business firms to every extent possible to prevent the kind of disruptions complained of. Therefore, the Commission declines to add the provision requested by these comments.

One commenter objected to the procedure in which samples of carpet are collected in the course of a Commission investigation and the manner in which the results of a manufacturer's tests are interpreted. It was suggested by this commenter that the Commission adopt a sampling plan amendment "which will bind both the Commission and the manufacturer on such critical matters as test sample selection and interpretation of test results." The Commission does not consider this suggestion relevant to the proposed nonadjudicative rules of procedure for which comment was requested. Rather it appears to relate to the enforcement of the Commission's flammability standards for carpets and rugs. Therefore, the Commission has not addressed this comment.

COMPULSORY PROCESSES AND SERVICE

Proposed § 1605.4, now § 1605.3 as issued below, sets forth those forms of compulsory process which the Commission might use to obtain information for the purpose of enforcing or determining compliance with the Flammable Fabrics Act and the manner in which service of notice in connection with such forms shall be affected. One commenter objected to service by publication in the FEDERAL REGISTER in those situations where the name and address of the person, sole proprietorship, partnership or corporation are not known to the Commission. The Commission has decided not to utilize publication in the FEDERAL REGISTER under the circumstances mentioned above. Accordingly, the provision for publication in the FEDERAL REGISTER has been deleted from § 1605.3, issued below.

Two commenters requested that a written description of the purpose and scope of the investigation in each form of compulsory process issued by the Commission be required so that a determination could be made whether the request was relevant to the matter under investigation. These commenters assert that such a statement is necessary, particularly in view of the Commission's announced intention to eliminate administrative motions to quash its compulsory orders. However, motions to quash have been provided for in the rules issued below to give a party under subpoena or order of access the opportunity of an administrative review. In addition, the Commission believes that the particularity required in any form of compulsory process will be met through the processes authorized in § 1605.3, issued below, to obtain information for the purposes set forth in § 1605.1(a), that is, for the purposes of enforcing or determining compliance with the Flammable Fabrics Act, the regulations, rules, standards and orders promulgated thereunder, and those sections of the Federal Trade Commission Act which are relevant to the enforcement and administration of the Flammable Fabrics Act.

ORDERS FOR ACCESS

In § 1605.4, issued below the Commission adds a new section to the rules as originally proposed. Section 1605.1 of the proposed rules, pertaining to the initiation of investigations, inspections or inquiries, provided for issuance of a notice of inspection and right of access. Any notice issued under proposed § 1605.1 was deemed an order or act of the Commission. As noted previously, regarding § 1605.1, issued below, a notice of inspection does not constitute an order of the Commission. Therefore, orders for access have been added to the rules issued below since the Commission has retained to itself this power to issue these, rather than delegate it to certain staff officials designated in the original proposal. Those comments received which were relevant to the proposed § 1605.1, insofar as they related to orders of access, have been discussed previously under "Investigations, Inspections, or Inquiries Pursuant To The Flammable Fabrics Act."

SUBPOENAS

While no significant comments were received regarding the comparable paragraph in the original proposal relating to subpoenas, a provision has been added to § 1605.5, issued below, to allow for the filing of a motion to limit or quash any subpoena received by a party in connection with an investigation pursuant to these rules. The Commission was made aware that it would be desirable to add a provision to the rules on administrative review from comments it received in response to the provisions for compulsory process set forth in the proposed rules.

INVESTIGATIONAL HEARINGS

One comment requested that no member of the Commission be allowed to participate in investigational hearings. The commenter believed that such participation "would jeopardize an affected person's right to a fair hearing before the Commission." No authorities were cited in support of this proposition, nor is the Commission aware of any. Since members of administrative bodies have customarily been required to perform both fact-finding and judicial functions, the Commission believes that its members should likewise be able to perform both functions without jeopardizing the public interest in either. This is clearly authorized by the Administrative Procedure Act, 5 U.S.C. 554(d).

Two comments were received concerning the need to have an investigational hearing closed to the public in order to protect trade secrets and other confidential information which might be discussed at such hearings. Both section 4(c) of the Flammable Fabrics Act and section 6(f) of the Federal Trade Commission Act require that the Commission protect trade secrets, the names of customers and other confidential matters from public disclosure. Accordingly, it is provided in § 1605.6(c), issued below, that all investigational hearings shall be closed to the public, unless otherwise ordered by the Commission.

DEPOSITIONS

One commenter requested that the provision allowing the use of a deposition when the deponent refuses to sign it be eliminated. The commenter noted that a valid reason may exist for such a refusal as, for example, the deposition may not accurately set forth the deponent's testimony. The Commission declines to make the change requested, since the provision in § 1605.7(b), issued below, permit the deponent to make any changes in form or substance in a separate document to accompany the deposition. In the Commission's view, this provision will fully protect the accuracy and reliability of the deposition.

One comment was received urging modification of proposed § 1605.7(b)(2)(iv) in order that a witness or deponent would have an absolute right to clarify any answer given. As proposed, the granting or denial of a request to clarify an answer on the record was to be within the sole discretion of the Commission designee taking the deposition. The Commission agrees that a deponent or witness should be permitted to clarify any answer for the record, and has accordingly provided for this right in § 1605.8(a)(3), issued below.

One commenter urged the Commission to leave discipline of counsel to the courts and bar associations, and to eliminate the provision in proposed § 1605.7(c)(2) providing for the suspension or disbarment of a deponent's counsel from further practice before the Commission or from further participation in the particular deposition. This comment further requests that if the provisions relating to discipline of a deponent's counsel are retained, they also be made applicable to counsel representing the Commission. The Commission declines to make the changes requested by this comment with regard to Commission employees since it is satisfied it exercises greater control over Commission employees, including attorneys acting in its behalf, than it does over other members of the bar appearing before it. With regard to counsel for witnesses at investigational hearings and deponents at depositions, the proposed rule was changed and § 1605.8(d) issued below provides that the Commission designee who presides at an investigational hearing or before whom a deposition is taken, shall, for reasons stated on the record, immediately report to the Commission any instance in which counsel for a witness or a deponent has refused to comply with the designee's directions, or to adhere to reasonable standards of orderly and ethical conduct in the course of the hearing or the deposition. The Commission shall thereupon take such action as the circumstances warrant.

RIGHTS OF WITNESSES

Three comments request the addition of provisions to the proposed rules that would permit a witness ordered to appear at an investigational hearing to be accompanied by and represented by counsel. Although the rules as proposed did establish conditions under which a deponent in a deposition could exercise the right to counsel, similar provisions pertaining to the rights of witnesses ordered to appear at investigational hearings were omitted. Accordingly, § 1605.8, issued below, sets forth the rights of witnesses at investigational hearings together with those of deponents at depositions. It is the Commission's intent in § 1605.8 to accord the same right to counsel for witnesses at investigational hearings as is accorded a deponent. In this section, the Commission has provided that the presiding officer shall rule on all objections at the time they are made with the exception of objections based upon the privilege against self-incrimination, which should be handled in accordance with the procedure set forth in 18 U.S.C. 6002 and 6004, and in other circumstances where an immediate ruling would be unwarranted.

WRITTEN INTERROGATORIES

One commenter expressed the view that the Federal Trade Commission Act does not authorize investigative interrogatories, and stated that orders to file special or general reports should suffice. The Commission does not agree. Section 6(b) of the Federal Trade Commission Act clearly authorizes the Commission to issue an order to answer written interrogatories. Accordingly, § 1605.9, issued below, provides for an order to be issued by the Commission for the purpose of obtaining answers to written interrogatories. This section requires that answers must be modified to the extent that prior answers become wholly or partially incorrect or misleading.

GENERAL OR SPECIAL ORDERS

Three commenters expressed their concern over the Commission's power to require the filing of general or special reports, particularly as it might relate to information with regard to the "organization, business, conduct, practices, and relation (to other parties)" of those subject to the Flammable Fabrics Act. According to one commenter, such information bears, at best, "an extremely tenuous relationship to limited aspects of Flammable Fabrics Act enforcement." Upon full consideration of these comments, the Commission has determined that no unnecessary or burdensome reporting requirements would be imposed on persons affected by the Flammable Fabrics Act. Accordingly, proposed § 1605.9 pertaining to general or special orders, is issued below without change as § 1605.10. However, in response to the above comments, the Commission has added language to § 1605.3, issued below, which states that any compulsory process authorized by these rules, including orders to answer written interrogatories and orders to file general or special reports, shall be issued "to obtain information for the purposes set forth in § 1605.1 (a)", that is, for the purpose of enforcing or determining compliance with the Flammable Fabrics Act; the regulations, rules, standards, and orders promulgated thereunder, and those sections of the Federal Trade Commission Act which are relevant to the enforcement and administration of the Flammable Fabrics Act.

REMEDIES FOR FAILURE TO COMPLY WITH COMPULSORY PROCESSES

Two commenters objected to the provisions of proposed § 1605.11 wherein the Commission could seek criminal penalties for a failure to comply with compulsory processes. It was the opinion of one commenter that the only criminal sanctions relevant to the Flammable Fabrics Act are "those instances where the Commission has obtained a court order, and the affected person had disobeyed such order." The Commission's review of section 10 of the Federal Trade Commission Act leads it to conclude that it is authorized under that Act to seek criminal penalties immediately upon refusal to comply with any of the compulsory processes issued by it. Moreover, it is the Commission's view that in the event of a failure to comply with any investigative process authorized by the rules issued below, the Commission may seek appropriate action as authorized by the Federal Trade Commission Act, including criminal penalties. Accordingly, § 1605.11, issued below, expresses the Commission's view in this regard.

Another commenter expressed the view that a "subpoenaed individual is entitled to some review of the reasonableness of the demand before suffering penalties for failure to comply." The Commission agrees and has added a provision to § 1605.5, issued below, to provide an opportunity for a person served with a subpoena to file a motion to limit or quash the subpoena as a means of testing the reasonableness of the demand.

CONSENT ORDER AGREEMENTS

Two commenters made objection to provisions in proposed § 1605.13(c) whereby a party who had signed a consent order agreement was required to take immediate action in accordance with its provisions, but could find later that the Commission had withdrawn its provisional acceptance of the agreement after a 30 day period during which public comment was received. In order to facilitate the consent order procedure, these provisions have been deleted. In § 1605.15 issued below, if the Commission provisionally accepts a consent order agreement, it will be deemed finally accepted on the 20th day after such provisional acceptance has been announced in the FEDERAL REGISTER unless an interested person requests the Commission not to accept the agreement within the fifteen days following the date of such announcement and/or the Commission orders otherwise. Such order is a final order and is effective immediately upon its service upon the party, who shall thereafter be bound by and take immediate action in accordance with such final order.

FINDING AND PROMULGATION

Finding. Since these are procedural rules the provisions of 5 U.S.C. 553(d) regarding publication of a rule 30 days before its effective date do not apply and these rules are effective immediately upon publication in the FEDERAL REGISTER. However, even if those provisions were found to apply in this instance the Commission concludes that the need for new rules of nonadjudicative procedure to facilitate more effective and efficient investigations, inspections, and inquiries under the Flammable Fabrics Act, is of sufficient urgency and of such benefit to the public that their promulgation should take effect upon publication. Therefore, in accordance with the provisions of 5 U.S.C. 553(d) the Commission for good cause finds that the rules issued below should become effective upon publication.

Promulgation. Accordingly, pursuant to the provisions of the Flammable Fabrics Act, section 5, 67 Stat. 112, as amended (15 U.S.C. 1194) and pursuant to the provisions of the Federal Trade Commission Act, section 6, 38 Stat. 721, as amended (15 U.S.C. 46), section 9, 38 Stat. 722, as amended (15 U.S.C. 49) and section 10, 38 Stat. 723, as amended (15 U.S.C. 50); and pursuant to the provisions of the Consumer Product Safety Act, section 16, 86 Stat. 1222 (15 U.S.C. 2065) and section 27, 86 Stat. 1227 (15 U.S.C. 2076); and under the authority vested in the Commission by the Consumer Product Safety Act, (section 30 (b), Pub. L. 92–573, 86 Stat. 1231 (15 U.S.C. 2079(d)), and section 30(d), Pub. L. 94–284, 90 Stat. 510, (15 U.S.C. 2079(d)), Chapter II of Title 16 of the Code of Federal Regulations is amended by adding a new Part 1605, as follows:

Subpart A—Procedures for Investigations, Inspections and Inquiries

Sec.
1605.1 Purposes, delegation, finding and how initiated.
1605.2 Conduct and scope of inspections.
1605.3 Compulsory processes and the service thereof.
1605.4 Orders for access.
1605.5 Subpoenas.
1605.6 Investigational hearings.
1605.7 Depositions.
1605.8 Rights of witnesses at investigational hearings and of deponents at depositions.
1605.9 Written interrogatories.
1605.10 General or special orders seeking information.
1605.11 Remedies for failure to permit authorized investigations.
1605.12 Nonexclusive delegation of power.

Subpart B—Consent Order Agreements

1605.13 Procedures for Consent Order Agreements.

AUTHORITY: Sec. 5, 67 Stat. 112, as amended (15 U.S.C. 1194); sec. 6, 38 Stat. 721, as amended (15 U.S.C. 46); sec. 9, 38 Stat. 722, as amended (15 U.S.C. 49); Sec. 10, 38 Stat.

723, as amended (15 U.S.C. 50); sec. 16, Pub. L. 92-573, 86 Stat. 1222 (15 U.S.C. 2065); sec. 27, Pub. L. 92-573, 86 Stat. 1227 (15 U.S.C. 2076); sec. 30(b), Pub. L. 92-573, 86 Stat. 1231 (15 U.S.C. 2079(b)); sec. 30(d), as amended, Pub. L. 94-284, 90 Stat. 510, (15 U.S.C. 2079(d)).

Subpart A—Procedures for Investigations, Inspections and Inquiries

§ 1605.1 Purposes, delegation, finding and how initiated.

(a) An investigation under these rules is an undertaking by the Commission to obtain information for the purposes of enforcing or determining compliance with the Flammable Fabrics Act (15 U.S.C. 1191 et seq.) ("FFA"); the regulations, rules, standards, and orders promulgated thereunder; and those sections of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) ("FTCA") which are relevant to the enforcement and administration of the Flammable Fabrics Act. The term investigation includes, but is not limited to inspections (§ 1605.2); investigational hearings (§ 1605.6); and inquiries, employing orders of access (§ 1605.4), subpoenas (§ 1605.5), depositions (§ 1605.7), written interrogatories (§ 1605.9), and general or special orders (§ 1605.10).

(b) An inspection as described in § 1605.2 is initiated when the Commission or its delegee authorizes the issuance of a written notice of inspection (hereinafter notice), described in § 1605.2(c). Investigations and inquiries will be initiated by the Commission in such manner as it deems proper.

(c) The Commission hereby delegates to the Associate Executive Director for Compliance and Enforcement, the Director of the Enforcement Division, the Solicitor, and the Directors of Area Offices, the power to initiate inspections in the same manner as the Commission.

(d) Finding. The Commission found on November 3, 1977 pursuant to section 30(d) of the Consumer Product Safety Act, as amended ("CPSA") (15 U.S.C. 2079(d)) that the risk of injury associated with products regulated under the Flammable Fabrics Act cannot be eliminated or reduced to a sufficient extent by the issuance of procedures for investigations, inspections and inquiries under the Flammable Fabrics Act and the Federal Trade Commission Act (15 U.S.C. 41 et seq.) This finding is made to eliminate any confusion and uncertainty that may exist concerning the scope of the Commission's statutory authority under the Flammable Fabrics Act and Federal Trade Commission Act to conduct inspections and collect samples. The Commission is supplementing the authority granted to it under the FFA and FTCA with its powers under the CPSA while retaining the procedural safeguards and requirements of all of these acts. Accordingly, the Commission issues these rules pursuant to sections 16 and 27 of the CPSA (15 U.S.C. 2065 and 2076) and makes them applicable to products regulated under the FFA.

§ 1602.2 Conduct and scope of inspections.

(a) After an inspection is initiated as set forth in § 1605.1, an officer or employee duly designated by the Commission shall issue the notice. Upon presenting such notice, along with appropriate credentials, to the person, or agent-in-charge of the sole proprietorship, partnership, or corporation to be inspected, the Commission officer or employee may seek, for the purposes set forth in § 1605.1 (a):

(1) To enter, at reasonable times, any factory, warehouse, or establishment in which a product, fabric, or related material is manufactured, processed, packaged, tested or to which it is delivered or in which it is held in connection with its importation, introduction, distribution, transportation, receipt, and/or sale in commerce;

(2) To enter any conveyance being used to transport, deliver, or hold any such product, fabric, or related material in connection with its importation, introduction, distribution, transportation, receipt, and/or sale in commerce;

(3) To inspect at all reasonable times, in a reasonable manner, and within reasonable limits, any factory, warehouse, establishment, or conveyance described in paragraph (a) (1) and (2) of this section and all appropriate records, reports, books, documents and papers including, but not limited to, those relating to production, inventory, testing, distribution, sale, transportation, importation, or receipt of any product, fabric, or related material and all pertinent equipment, materials, substances, products, fabrics, related materials, containers, packages and packaging, and labels, and labeling therein:

(4) To have access to and copy at all reasonable times: (i) All records, reports, books, documents, papers, or labeling required by the Commission to be established, made, or maintained; (ii) all documents showing or relating to the production, inventory, testing, distribution, sale, transportation, importation, or receipt of any product, fabric, or related material; and (iii) all other appropriate records, reports, books, documents, papers, packages and packaging, and labels and labeling;

(5) To obtain: (i) Information, both oral and written, concerning the production, inventory, testing, distribution, sale, transportation, importation or receipt of any product, fabric or related material and the organization, business, conduct, practices, and management of any person, sole proprietorship, partnership, or corporation being inspected and its relation to any other person, sole proprietorship, partnership, or corporation; (ii) samples of items, materials, substances, products, fabrics, related materials, containers, packages and packaging, labels and labeling, and have the same analyzed, tested, or examined; and (iii) information, both oral and written, concerning any matter referred to in these rules.

(b) A separate notice shall be given for each inspection, but a notice shall not be required for each entry made during the course of the same inspection. Each such inspection shall be commenced at a reasonable time and be completed within a reasonable time.

(c) The notice of inspection shall include: the name and address of the person, sole proprietorship, partnership, or corporation being inspected; the name and title of the inspector; the date and time of the anticipated entry; pertinent extracts from the statutory provisions upon which the right to access is based; pertinent extracts from the statutory provisions upon which the penalties for refusal of access are based; pertinent extracts from § 1605.2 of these rules setting forth the authority of inspectors and the types of information and items they are authorized to obtain; a statement which sets forth the purposes of the inspection and the nature of the information and items to be obtained and/or copied; and a statement that those from whom information is requested should state whether any of the information submitted is believed to contain or relate to a trade secret or other matter which should be considered by the Commission to be confidential in accordance with section 4(c) of the Flammable Fabrics Act (15 U.S.C. 1193(c)) and whether any of the information is believed to be entitled to exemption from disclosure by the Commission under the provisions of the Freedom of Information Act (5 U.S.C. 552) or Section 6(f) of the Federal Trade Commission Act (15 U.S.C. 46(f)). Any statement asserting this claim of confidentiality must be in writing, and any request for exemption of the information from disclosure must be made in accordance with the Commission's Freedom of Information Act regulations, 16 CFR Part 1015, 42 FR 10490, February 22, 1977 or as amended.

(d) If upon being presented with a notice, the person, or agent-in-charge of the sole proprietorship, partnership, or corporation being inspected fails to allow access to documentary evidence for the purpose of inspecting and making copies of such evidence, the inspector shall notify that individual that he or she may be in violation of the law and subject to the penalties therein and immediately thereafter refer such individual to the appropriate provisions of the notice which set forth such penalties. If the individual still refuses to comply, in whole or in part, with the authorized request for access, the inspector shall leave the premises; and the Commission shall take such action as it deems appropriate. If the person in charge refuses to accept the notice upon its presentation, the inspector shall affix the notice to a public entrance way on the premises.

§ 1605.3 Compulsory processes and the service thereof.

(a) In addition to or in lieu of authorizing the issuance of a notice, the Commission may elect to use any of the following means to initiate investigations, inspections, or inquiries to obtain information for the purposes set forth in § 1605.1(a):

(1) Orders for Access;
(2) Subpoenas;
(3) Investigational Hearings;
(4) Depositions;
(5) Written Interrogatories; and
(6) General or special Orders.

(b) Service of notice in connection with any of the compulsory processes enumerated in § 1605.3(a) shall be effected as follows:

(1) By personal service upon the person, or agent-in-charge of the sole proprietorship, partnership, or corporation being investigated, inspected, or inquired of; or

(2) By mail (registered or certified) or delivery to the last known residence or business address of anyone being investigated, inspected, or inquired of.

(c) The date of service of any form of compulsory process shall be the date on which the document is mailed, or delivered in person, whichever is applicable. Whenever a party is required or permitted to do an act within a prescribed period after service of a document and the document is served by mail, three (3) days shall be added to the prescribed period.

(d) These rules shall be referred to in any form of compulsory process served upon a person, sole proprietorship, partnership, or corporation.

(e) Anyone submitting information in response to any of the compulsory processes referred to in § 1605.4(a) hereof should state whether any of the information submitted is believed to contain or relate to a trade secret or other matter which should be considered by the Commission to be confidential in accordance with section 4(c) of the Flammable Fabrics Act (15 U.S.C. 1193(c)) and whether any of the information is believed to be entitled to exemption from disclosure by the Commission under the provisions of the Freedom of Information Act (15 U.S.C. 552) or section 6(f) of the Federal Trade Commission Act (15 U.S.C. 46(f)). Any statement asserting this claim of confidentiality must be in writing, and any request for exemption of the information from disclosure must be made in accordance with the Commission's Freedom of Information Act regulations, 16 CFR Part 1015, 42 FR 10490, February 22, 1977 or as amended.

§ 1605.4 Orders for access.

(a) In the event an inspection pursuant to § 1605.2 herein is refused, in whole or in part, or prior to any such inspection, the Commission may issue an order requiring any person, sole proprietorship, partnership, or corporation to allow access to a duly-designated officer or employee of the Commission for the purpose of conducting an inspection. Such order will be issued by the Commission upon the demonstration by the staff of a justifiable need to gain access. Inspections conducted after service of an order for access shall be conducted in accordance with the procedures provided in § 1605.2.

(b) After issuance of an order for access, the staff may, upon request of the recipient of the order, agree to modify the order to limit its scope, impose conditions or extend the time for compliance. If an agreement cannot be voluntarily reached, the recipient of the order may file a motion to limit or quash the order. Any such motion shall set forth the reasons why the order should be limited or quashed; and may be accompanied by memoranda, affidavits, or other documents submitted in support of the motion. Unless a different period of time for filing a motion is specified in the order, the motion must be received in the Office of the Secretary of the Commission within ten calendar days after the order is mailed or delivered in person to such person, sole proprietorship, partnership, or corporation unless the Commission, upon a showing of good cause, grants an extension of time within which to file a motion to limit or quash an order of access.

(c) Upon receipt of a motion to limit or quash the order for access, the Office of the Secretary shall immediately notify and transmit a copy of the motion to Associate Executive Director for Compliance and Enforcement or the General Counsel, as appropriate. Unless a different period of time is specified in the order, the Associate Executive Director for Compliance and Enforcement or General Counsel shall file an answer with the Office of the Secretary within ten calendar days after receipt of a copy of the motion. A copy of the answer shall be served upon the moving party or the counsel of the moving party. No reply to the answer will be permitted.

(d) All motions to limit or quash shall be ruled upon by the Commission. The Office of the Secretary shall serve the decision on the motion to limit or quash the order of access upon the moving party or the counsel of the moving party and shall furnish a copy of the decision to the Associate Executive Director for Compliance and Enforcement or the General Counsel, as appropriate. The decision on the motion to limit or quash shall be the final decision on the matter. Motions for reconsideration will not be received.

§ 1605.5 Subpoenas.

(a) The Commission may issue to any person, sole proprietorship, partnership, or corporation a subpoena requiring the production of documentary evidence (subpoena duces terum) and/or the attendance and testimony of witnesses (subpoena ad testificandum) relating to any matter under investigation. The Commission hereby delegates to the Associate Executive Director for Compliance and Enforcement, the Director of the Enforcement Division, the Solicitor, or the General Counsel, depending upon which officer is involved with the subpoena, the power to negotiate and approve the terms of satisfactory compliance with such subpoena.

(b) The person, sole proprietorship, partnership, or corporation upon whom a subpoena is served may file a motion to limit or quash the subpoena. Any such motion shall set forth the reasons why the subpoena should be quashed or limited and may be accompanied by memoranda, affidavits, or other documents submitted in support of the motion. Unless a different period of time for filing a motion is specified in the subpoena, the motion must be received in the Office of the Secretary of the Commission within ten calendar days after the subpoena is mailed or delivered to such person, sole proprietorship, partnership, or corporation unless the Commission, upon a showing of good cause, grants an extension of time within which to file a motion to limit or quash a subpoena.

(c) Upon receipt of any such motion, the Office of the Secretary shall immediately notify and transmit a copy of the motion to the Associate Executive Director for Compliance and Enforcement or the General Counsel, as appropriate. Unless a different period of time is specified in the subpoena, the Associate Executive Director for Compliance and Enforcement or the General Counsel shall file an answer with the Office of the Secretary within ten calendar days after receipt of a copy of the motion. A copy of the answer shall be served upon the moving party or the counsel of the moving party. No reply to the answer will be permitted.

(d) All motions to limit or quash a subpoena shall be ruled upon by the Commission. The Office of the Secretary shall serve the decision on the motion to limit or quash the subpoena upon the moving party or the counsel of the moving party and shall furnish a copy of the decision to the Associate Executive Director for Compliance and Enforcement or the General Counsel, as appropriate. The decision on the motion to limit or quash shall be the final decision on the matter. Motions for reconsideration will not be received.

§ 1605.6 Investigational hearings.

(a) The Commission may order, and by subpoena, may compel any person, sole proprietorship, partnership, or corporation to provide information at an investigational hearing. Such hearings shall be for the purpose of taking the testimony, under oath, of witnesses and receiving documents and other data relating to any subject under investigation. Such hearings shall be presided over by the Commission, by one or more of its members, an Administrative Law Judge, hearing examiner, attorney-examiner or by a duly designated officer or employee. The hearings shall be stenographically reported, and a transcript thereof shall be made a part of the record.

(b) A Commissioner who participates in such a hearing or other investigation,

inspection, or inquiry shall not be disqualified by reason of such participation from subsequently sharing in a Commission decision in the same matter.

(c) All investigational hearings shall be closed to the public, unless otherwise ordered by the Commission.

(d) The release of the record of such hearing shall be governed by the Commission's regulations under the Freedom of Information Act, 5 U.S.C. 552, and/or other applicable laws or regulations.

§ 1605.7 Depositions.

(a) The Commission may order and, by subpoena, may compel testimony to be taken by deposition at any stage of any investigation. Such depositions may be taken before any person designated by the Commission who has the power to administer oaths. The testimony given shall be reduced to writing by the person taking the deposition or under such person's direction and shall then be submitted to the deponent for signature unless the deponent waives the right to sign the deposition. All depositions shall be closed to the public, unless otherwise ordered by the Commission. The release of the record of such depositions shall be governed by the Commission's regulations under the Freedom of Information Act, 5 U.S.C. 552, and/or other applicable laws or regulations.

(b) Any changes in form or substance which the deponent desires to make shall state the reasons for such changes. The deposition shall then be signed by the deponent, unless the deponent waives the right to sign, cannot be found, or is unable or refuses to sign. If the deposition is not signed by the deponent within 30 days of its submission to the deponent, or such shorter time as the Commission may designate, the Commission designee shall sign it and state on the record the fact of the waiver of the right to sign or of the illness or absence of the deponent, or the fact of the deponent's inability or refusal to sign together with the reason, if any, given therefor. The deposition referred to herein may be used in any investigation or any administrative or judicial adjudicative proceeding.

§ 1605.8 Rights of witnesses at investigational hearings and of deponents at depositions.

(a) Any person, or agent or officer of a sole proprietorship, partnership, or corporation who is required to produce documentary evidence or give testimony as a witness at an investigational hearing conducted under provisions of § 1605.6 or as a deponent at a deposition taken in accordance with provisions of § 1605.7 may be accompanied by an attorney or an official or employee of the person, sole proprietorship, partnership, or corporation, who may act as counsel for the witness or the deponent. However, a person who is subpoenaed to produce documentary evidence or give testimony at an investigational hearing or deposition cannot act as counsel for another witness or deponent at the same proceeding. The term attorney refers to members of the bar of a Federal Court or the courts of any State or Territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia. The witness or deponent and his or her counsel may act as follows during the course of an investigational hearing or deposition:

(1) A witness or deponent may confer, in confidence, with his or her counsel concerning any questions asked of the witness or deponent. If the witness or deponent or counsel objects to a question, the objection and basis thereof shall be stated on the record. In the case of an objection based upon the privilege against self incrimination, the privilege must be asserted by the witness or deponent. If a witness at an investigational hearing refuses to answer a question or provide other information, the presiding officer shall have the authority to immediately order the witness or deponent to answer the question or provide the information requested, except in circumstances where an immediate ruling would be unwarranted and except where such refusal is based upon the privilege against self incrimination, which shall be handled in accordance with the procedure set forth in 18 U.S.C. 6002 and 6004. Otherwise, all objections shall be ruled upon by the presiding officer at the time the objection is made.

(2) Objections timely made under the provisions of § 1605.8(a) shall be noted on the record, shall be treated as continuing, and shall be preserved throughout the course of the proceeding without the necessity of repetition during similar lines of inquiry.

(3) Except as provided by this § 1605.8 (a), counsel for a witness or a deponent may not interrupt the examination of the witness or the deponent by making objections or statements on the record.

(4) Upon completion of the examination of a witness or a deponent, the witness or deponent may clarify on the record any of his or her answers.

(b) Any such person, agent, or officer who is required to appear in person at an investigational hearing or at a deposition shall testify as to matters and information known and/or reasonably available to the person, sole proprietorship, partnership, or corporation involved.

(c) Any such person, agent or officer who is compelled by subpoena to appear in person at an investigational hearing or at a deposition shall receive the same fees and mileage allowances as are paid witnesses in the courts of the United States.

(d) Any such person, agent, or officer who is required to appear in person at an investigational hearing or at a deposition shall be entitled to retain a copy of any document submitted by him or her and, upon payment of lawfully prescribed costs, shall be entitled to procure a copy of his or her own testimony as recorded.

(e) The Commission designee who presides at an investigational hearing or before whom a deposition is taken shall take all necessary action to regulate the course of the hearing or the deposition, to avoid delay and to assure that reasonable standards of orderly and ethical conduct are maintained. Such designee shall, for reasons stated on the record, immediately report to the Commission any instance in which counsel for a witness or a deponent has refused to comply with the designee's directions, or to adhere to reasonable standards of orderly and ethical conduct in the course of the hearing or the deposition. The Commission shall thereupon take such action as the circumstances warrant.

§ 1605.9 Written interrogatories.

(a) The Commission may order any person, sole proprietorship, partnership, or corporation being investigated to answer written interrogatories. Such interrogatories shall be answered by the individual or by any agent or officer of the sole proprietorship, partnership, or corporation who shall furnish information on behalf of the sole proprietorship, partnership, or corporation. The information provided shall be that which is known or reasonably available to the person or organization involved and shall be submitted after reasonable inquiry to obtain the information requested.

(b) Each interrogatory shall be answered separately and fully in writing, under oath, unless it is objected to, in which event the reason for the objection shall be stated in lieu of an answer. The answers shall be signed by the individual or the officer or agent making them. The person, sole proprietorship, partnership, or corporation upon whom the interrogatories have been served shall furnish the Commission a copy of the answers and objections, if any, within 30 days after service of the interrogatories or within such shorter time as the Commission may designate. Interrogatories submitted hereunder are continuing in character so as to require the person, sole proprietorship, partnership, or corporation answering to file supplementary answers upon obtaining further or different information.

§ 1605.10 General or special orders seeking information.

The Commission may require by the issuance of general or special orders, any person, sole proprietorship, partnership, or corporation to file with the Commission in such form as the Commission may prescribe annual and/or special reports or answers in writing to specific questions which furnish to the Commission such information as it may require as to its organization, business, conduct, practices, management, and relation to any person, sole proprietorship, partnership, or corporation. Such reports and answers shall be made under oath, or otherwise, as the Commission may prescribe and shall be filed with the Commission within such time as the Commission may prescribe, unless additional time may be granted in any case by the Commission.

§ 1605.11 Remedies for failure to permit authorized investigations.

In the event of failure to comply with any investigative process authorized by

these rules, the Commission may seek appropriate action pursuant to the authority conferred by the Federal Trade Commission Act, including actions for enforcement, forfeitures, penalties, or criminal sanctions.

§ 1605.12 Nonexclusive delegation of power.

No provision contained herein delegating any of the Commission's powers shall be construed as limiting the actual authority of the Commission to exercise the same powers.

Subpart B—Consent Order Agreements

§ 1605.13 Procedures for Consent Order Agreements.

(a) The Consent Order Agreement is a document executed by a person, sole proprietorship, partnership, or corporation (Consenting Party) and a Commission staff representative which incorporates both a proposed complaint setting forth the staff's charges and a proposed order by which such charges are resolved. A consent order agreement shall contain the following provisions, as appropriate:

(1) An admission of all jurisdictional facts by the consenting parties;

(2) A waiver of any rights to an administrative or judicial hearing and of any other procedural steps including any rights to seek judicial review or otherwise challenge or contest the validity of the Commission's order;

(3) A statement that the agreement is in settlement of the staff's charges and does not constitute an admission by the Consenting Party that the law has been violated;

(4) A statement that the Commission's order is issued under the provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.), the Flammable Fabrics Act (15 U.S.C. 1191 et seq.), and the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) and that a violation of such an order subjects the Consenting Party to civil penalties under the provisions of the Federal Trade Commission Act;

(5) An acknowledgement that the consent order agreement only becomes effective upon its final acceptance by the Commission and its service upon the Consenting Party;

(6) An acknowledgement that the Commission may disclose terms of the consent order agreement to the public;

(7) A statement that the Consulting Party shall cease and desist from certain acts and practices;

(8) A statement that the Consenting Party shall perform certain acts and practices pursuant to the consent order agreement;

(9) An acknowledgement that the requirements of the order are in addition to, and not to the exclusion of, other remedies such as criminal penalties which may be pursued under section 7 of the Flammable Fabrics Act.

(b) At any time in the course of an investigation, the staff, with the approval of the Commission may propose to the person, sole proprietorship, partnership, or corporation being investigated, that any alleged violation be resolved by an agreement containing a consent order. Additionally, such a proposal may be made to the Commission staff by such person, sole proprietorship, partnership, or corporation.

(c) Upon receiving an executed agreement, the Commission may: (1) Provisionally accept it; (2) reject it and issue its complaint (in which case the matter will be scheduled for hearing in accordance with the Commission's Rules of Practice for Adjudicative Proceedings (16 CFR Part 1025, June 21, 1977, or as later revised); or (3) take such other action as it may deem appropriate.

(d) If the agreement is provisionally accepted, the Commission shall place the agreement on the public record and shall announce provisional acceptance of the agreement in the FEDERAL REGISTER. Any interested person may ask the Commission not to accept the agreement by filing a request in the office of the Secretary. Such request must be received in the Office of the Secretary no later than the close of business of the fifteenth calendar day following the date the announcement is publised in the FEDERAL REGISTER.

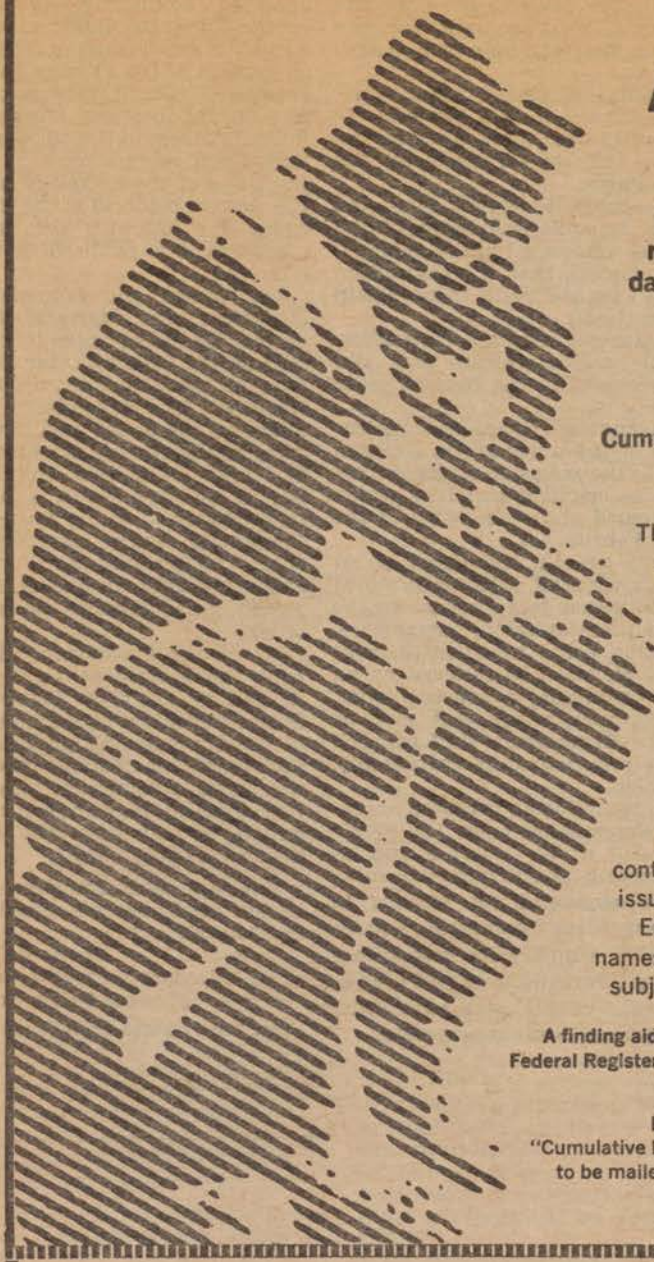
(e) Unless the Commission orders otherwise, the agreement shall be deemed finally accepted by the Commission on the 20th calendar day after the date of announcement in the FEDERAL REGISTER. The Commission shall then issue its complaint and order in such form as the circumstances, may require. The order is a final order in disposition of the proceeding and is effective immediately upon its service upon the Consenting Party pursuant to these rules. The Consenting Party shall thereafter be bound by and take immediate action in accordance with such final order.

(f) If the Commission does not accept the agreement on a final basis, it shall so notify the Consenting Party. Such notification constitutes withdrawal of the Commission's provisional acceptance unless the Commission orders otherwise. The Commission may then issue its complaint, may order further investigation, or may take such other action it considers appropriate.

Effective date: The rules promulgated herein shall become effective November 30, 1977.

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

[FR Doc.77-34289 Filed 11-29-77;8:45 am]



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