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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
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DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
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	HEW/HRA			HEW/HRA
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	HEW/NIH			HEW/NIH
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Codes and Standards for Nuclear Power Plants

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulation, "Codes and Standards," to incorporate by reference a new edition and addenda of a national code that provides rules for the construction of nuclear power plant components. This amendment provides for the use of updated methods in nuclear power plant construction.

EFFECTIVE DATE: May 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. G. C. Millman, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-443-6927.

SUPPLEMENTARY INFORMATION: On January 31, 1978, the Nuclear Regulatory Commission published in the FEDERAL REGISTER (43 FR 4050) a proposed amendment to its regulations, 10 CFR Part 50, "Licensing of Production and Utilization Facilities," which would incorporate by reference a new edition and new addenda to a specified national code. The Commission proposed to amend Section 50.55a to incorporate by reference the 1977 Edition and the Summer 1977 Addenda of Section III of the ASME Boiler and Pressure Vessel Code. The 1977 Edition of Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," for the ASME Code and Section XI addenda since the Summer 1975 Addenda are still being evaluated by the staff and are expected to be referenced with modifications in a subsequent amendment to the regulations.

Interested persons were invited to submit written comments for consideration in connection with the proposed

amendment by March 2, 1978. No adverse comments or significant questions were received in response to the notice of proposed rule making.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter 1, Code of Federal Regulations, Part 50, are published as a document subject to codification.

In § 50.55a of 10 CFR Part 50, paragraph (b) is revised to read as follows:

§ 50.55a Codes and Standards.

Each operating license for a boiling or pressurized watercooled nuclear power facility shall be subject to the conditions in paragraph (g) and each construction permit for a utilization facility shall be subject to the following conditions in addition to those specified in § 50.55:

(b) (1) As used in this section, references¹ to Section III of the ASME Boiler and Pressure Vessel Code refer to Section III, Division 1, and include editions through the 1977 Edition and addenda through the Summer 1977 Addenda.

(2) As used in this section, references¹ to Section XI of the ASME Boiler and Pressure Vessel Code include editions of Section XI only through the 1974 Edition and addenda only through the Summer 1975 Addenda.

(Secs. 103, 104, 1611, Pub. L. 83-703; 68 Stat. 936, 937, 948 (42 U.S.C. 2133, 2134, 2201(i).)

Dated at Bethesda, Md., this 12th day of April 1978.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director
for Operations.

[FR Doc. 73-11002 Filed 4-21-78; 8:45 am]

¹These incorporation by reference provisions were approved by the Director of the FEDERAL REGISTER on March 17, 1972, May 4, 1973, and February 7, 1978.

[3128-01]

CHAPTER II—FEDERAL ENERGY ADMINISTRATION¹

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

Interpretations and Rulings

AGENCY: Department of Energy.

ACTION: Notice of indexes for interpretations and rulings.

SUMMARY: Attached are indexes to all interpretations and rulings issued by the General Counsel (or his delegate) of the Department of Energy or predecessor agencies through March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Diane Stubbs, Office of the General Counsel, Department of Energy, 12th and Pennsylvania Avenue NW., Room 1121, Washington, D.C. 20461, 202-566-9070.

SUPPLEMENTARY INFORMATION: Interpretations issued pursuant to 10 CFR Part 205, Subpart F ("Interpretations"), are published from time to time in the FEDERAL REGISTER in accordance with editorial and classification criteria set forth in 42 FR 7923, February 8, 1977, as modified in 42 FR 46270, September 15, 1977. Interpretations have been published as indicated in the following table.

1974-1 through 1974-29: 42 FR 25648, May 18, 1977.
1975-1 through 1975-74: 42 FR 23722, May 10, 1977.
1976-1 through 1976-23: 42 FR 7923, February 8, 1977.
1976-24: 42 FR 10963, February 25, 1977.
1976-25: 42 FR 23722, May 10, 1977.
1977-1 through 1977-5: 42 FR 10963, February 25, 1977.
1977-6: 42 FR 17100, March 31, 1977.
1977-7 through 1977-16: 42 FR 31143, June 20, 1977.
1977-17 through 1977-21: 42 FR 39959, August 8, 1977.
1977-22 through 1977-27: 42 FR 41095, August 13, 1977.
1977-28 through 1977-33: 42 FR 46270, September 15, 1977.

¹Editorial Note: Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

1977-34 through 1977-38: 42 FR 54268, October 5, 1977.
 1977-39 through 1977-44: 42 FR 61271, December 2, 1977.
 1977-45 through 1977-53: 43 FR 1479, January 10, 1978.
 1978-1: 43 FR 5797, February 15, 1978.
 1978-2 through 1978-5: 43 FR 12848, March 28, 1978.
 1978-6 through 1978-10: 43 FR 15617, April 14, 1978

Rulings issued pursuant to 10 CFR Part 205, Subpart K ("Rulings") are published in the FEDERAL REGISTER upon issuance. A total of 62 Rulings have been issued and published under the authority of the Federal Energy Office (FEO), the Federal Energy Administration (FEA), and the Department of Energy (DOE).

While FEA and DOE previously published indexes to Interpretations (most recently at 43 FR 1613, January 11, 1978), no indexes to Rulings have appeared in the FEDERAL REGISTER. The appendices to today's notice provide for the first time a comprehensive index system covering all of the published Interpretations and Rulings issued by FEO/FEA/DOE through March 31, 1978. A total of 250 Interpretations and Rulings are covered by the indexes published today.

Appendix A provides an alphabetical listing of the firms or persons to whom or on whose behalf Interpretations have been issued, while Appendix B lists Rulings in chronological order of issuance by number and title. Appendix C contains an index of Interpretations and Rulings according to informal subject entries, such as "Based Period Supplier," "Class of Purchaser," "Stripper Well Lease Exemption," etc. Interpretations and Rulings are indexed in Appendix D according to the regulation sections which they interpret. Appendix E provides an index of Rulings construed by Interpretations, and Appendix F contains a list of statutes construed by Interpretations and Rulings.

Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the Interpretation (10 CFR 205.84(a)(2)), and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom Interpretations are addressed and other persons upon whom Interpretations are served are entitled to rely on them (§ 205.85(c)). An Interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the Interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). In addition, Interpretations are subject to reconsideration by the General Counsel. The Interpretations indexed herein have been published only for general guidance in accordance with the reasons set forth in the FEA Notice first cited above.

Issued in Washington, D.C., April 18, 1978.

WILLIAM S. HEFFELFINGER,
 Director of Administration,
 Department of Energy.

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74-3.....	Supplier/purchaser relationships under the petroleum allocation regulations.
74-4.....	Impact of State tax on gross sales.
74-5.....	Determination of propane prices under the petroleum allocation regulations.
74-6.....	Discrimination among purchasers of allocated products.
74-7.....	Truck stop leases.
74-8.....	Allocation of non-bonded aviation fuel.
74-9.....	Minimum rent provisions in leases of real property in the retailing of gasoline.
74-10.....	Changes in credit terms.
74-11.....	Current free market price for "New" and "Released" crude oil under the price rule of § 212.72.
74-12.....	Unrecouped increased product costs where prices charged under fixed-price contracts are less than the lawful base price.
74-13.....	Motor gasoline retail sales outlets.
74-14.....	Base rent regulations.
74-15.....	Portable sanitation industry.
74-16.....	Allowable use of multiple allocation fractions.
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74-18.....	Discounted May 15, 1973 price to a class of purchaser.
74-19.....	Competitive bids: Supplier/purchaser relationships.
74-20.....	Additional use of property used in the retailing of gasoline.

APPENDIX B. Chronological index of rulings by number and title issued through Mar. 31, 1978.—Continued

Ruling	Title
74-21.....	Exchanges of refined petroleum products for crude oil.
74-22.....	Supplier/purchaser relationships applying to the Department of the Interior.
74-23.....	Car wash sales of gasoline.
74-24.....	Truck stop leases.
74-25.....	Spot sales under part 211.
74-26.....	Application of the refiner's cost formula of § 212.83(c) to refiners required to sell crude oil under the allocation program.
74-27.....	Allocation of refiner's increased product costs to sales volume.
74-28.....	Inapplicability of the "Stripper Well Lease" exemption of 10 CFR § 210.32 to gas wells.
74-29.....	Production wells for purposes of the "Stripper Well Lease" exemption of 10 CFR § 210.32.
74-30.....	Measurement of the number of barrels of production from an oil well for the "Stripper Well Lease" exemption of 10 CFR § 210.32.
75-1.....	Transportation costs.
75-2.....	Application of the term "Class of Purchaser" under FEA petroleum price regulations.
75-3.....	Prospective increases in rent for real property used in the retailing of gasoline.
75-4.....	Storage tank rentals.
75-5.....	Treatment of confidential information received by FEA pursuant to oil and gas reserves survey (Form FEA P-301-S-0).
75-6.....	Pricing of natural gas liquid products prior to Jan. 1, 1975.
75-7.....	Export sales.
75-8.....	Qualification of certain consignees as wholesale purchaser-resellers.
75-9.....	Storage costs.
75-10.....	Transportation costs where transportation is provided by the firm concerned.
75-11.....	Rentals of new, higher cost storage tanks.
75-12.....	Calculation of "Average Daily Production" for purposes of the stripper well lease exemption of 10 CFR 210.32 where production has been curtailed.
75-13.....	Early payment percentage discounts.
75-14.....	Prices charged to reflect non-product cost increases incurred by resellers, reseller-retailers and retailers.
75-15.....	Definition of "Property" for purposes of computing base production control level pursuant to 10 CFR 212.72.

APPENDIX B. Chronological index of rulings by number and title issued through Mar. 31, 1978.—Continued

Ruling	Title
75-16.....	Carry-forward of the amount by which prices charged are less than the price increase permitted to reflect increased non-product costs by resellers, reseller-retailers, and retailers.
75-17.....	Application of FEA's mandatory petroleum price and allocation regulations during September 1975.
75-18.....	Computation of increased cost of natural gas shrinkage.
76-1.....	Allocations with respect to newly constructed or purchased refineries under crude oil buy/sell program.
76-2.....	Production of "New" crude oil due to extra day in February 1976; effect on cumulative deficiency requirement and BPCL adjustment.
76-3.....	Interpretation of Naval Petroleum Reserves Production Act of 1976.
76-4.....	Inapplicability of mandatory petroleum allocation and price regulations to synthetic fuels processed from oil shale, tar sands, and coal.
76-5.....	Retail sales outlet operator's entitlement to motor gasoline.
76-6.....	Recordkeeping requirements.
77-1.....	Clarifications to mandatory petroleum price regulations applicable to domestic crude oil.
77-2.....	Further clarifications to mandatory petroleum price regulations applicable to domestic crude oil.
77-3.....	Cargo sales.
77-4.....	Timing of landed cost for interaffiliate transactions.
77-5.....	Application of the definition of "Transaction" for purposes of computing weighted average May 15, 1973, prices.
77-6.....	Applicability of the stripper well property exemption to properties that produce both crude oil and condensate recovered in non-associated production.
77-7.....	Post-Sept. 1, 1976 treatment of separate reservoirs as stripper well properties.
77-8.....	Termination of crude oil supplier/purchaser relationships by a producer.

APPENDIX C.—Subject index for interpretations and rulings issued through Mar. 31, 1978

Subject	Interpretations	Rulings
Acquisition rule.....	1975-9.....	
Affiliated entities, def.....	1976-8.....	
Allocation entitlement.....	1974-17; 1975-37.....	
Allocation entitlement, method of.....	1974-19.....	
Allocation entitlement, transfer of.....	1974-29; 1975-35; 1977-47.....	1974-13. 1974-16.
Allocation fraction.....		
Allocation levels.....	1974-1.....	
Assignment by FEA.....	1976-25.....	
Average daily production, def.....	1974-22; 1975-41, -43.....	
Aviation fuel, allocation of.....		1974-8.
Base period supplier.....	1974-6, -15; 1975-31, -73.....	
Base period supplier, designation of.....	1974-21.....	
Base period supply obligations.....	1974-25; 1976-11; 1977-19, -20.....	1974-25.
Base period use, adjustments to.....	1977-28, -32.....	1974-13.
Base period volume.....	1975-50.....	
Base price.....	1975-8.....	1974-2, -17, -18, -26; 1975-6; 1977-5.
BPCL.....	1975-27; 1976-16; 1977-12, -37; 1978-6.....	1975-15; 1976-2; 1977-2.
Base rent rule.....	1974-24, -28.....	1974-7, -9, -14, -20, -24; 1975-3.
Base rent rule, lease termination.....	1975-58.....	
Benzene and toluene, special rules for.....	1976-10.....	
Blending costs, retailer.....	1975-74.....	
Bonded fuel, def.....	1975-8, -26, -46.....	
Bonded fuel exemption.....	1975-8, -26, -46.....	
Borrow-pay back rule.....	1975-30.....	
Burning of petroleum products by power generators.....	1975-25.....	
Certification.....	1977-33, -52.....	
Class of purchaser.....	1974-7; 1975-5, -6, -22, -31, -47, -63; 1976-1, -6, -7, -20; 1977-10, -11.....	1974-1, -2, -17, -18; 1975-2.
Commission agents or consignees.....	1974-10; 1975-13, -17, -19, -31, -33, -48; 1977-8, -27.....	1975-8.
Competitive bids.....	1975-56.....	1974-19.
Confidential information.....		1975-5.
Cost of crude oil, def.....	1976-4.....	
Covered products, def.....	1976-24; 1977-9, -50.....	
Crude oil buy/sell program.....	1977-34.....	1974-26; 1976-1.
Crude oil, def.....	1975-29; 1977-3, -22, -31.....	
Crude oil ceiling price rules, long-term contracts (premiums).....	1977-2, -14.....	
Current cumulative deficiency.....	1974-8; 1976-16.....	1976-2.
Customary discounts.....	1975-66.....	1974-18, -23; 1975-13.
D, subpt., pt. 212.....	1974-20; 1975-29; 1977-3.....	
December 1 rule.....	1974-2, -3, -4; 1975-45; 1976-15, -20; 1977-7, -13, -14, -15, -42; 1978-1.....	1974-11, -21, -22; 1977-8.
EPAA supercession of other Federal laws.....	1974-27; 1975-15.....	
End-user, def.....		1974-19.
Entitlements program.....	1975-21; 1976-22; 1977-5, -22, -31, -45.....	1976-3.
Equal application rule.....	1975-5; 1976-17.....	
Exchange agreements.....		1974-21.
Export sales, def.....	1977-16.....	
Export sales deduction.....	1975-21; 1977-16, -30, -36, -44; 1978-10.....	
Export sales exemption.....	1977-16, -21, -44; 1978-10.....	1975-7.
F, subpt., pt. 212.....	1976-6; 1977-3; 1978-4.....	1977-3.
Federal preemption of State laws.....	1978-4.....	
Field.....	1977-43.....	
Firm, def.....	1975-3, -32, -52, -55, -69; 1976-3, -8; 1977-6, -18, -29.....	
First sale, def.....	1976-4; 1977-38.....	
5 pct rule.....	1974-14; 1977-6, -24.....	
G, subpt., pt. 212.....	1974-24, -28; 1975-69.....	1974-24; 1975-3.
Guam.....	1975-8, -26, -46.....	
Import exemption.....	1975-24.....	
Inventories.....	1975-23.....	1977-3.
K, subpt., pt. 212.....	1976-2, -5; 1977-3.....	1975-6, -18. 1977-4.
Landed costs.....		1976-3.
Naphtha allocation.....	1975-44.....	
Naval petroleum reserves, crude oil price exemption.....		
N. G. L. products.....	1974-13; 1977-3; 1978-3.....	1975-6, -18.
New and released crude oil.....	1975-2; 1977-42.....	1974-11.
New item and new market rule.....	1974-23, -24; 1975-3, -9; 1976-5, -7; 1978-3.....	1974-20.
New motor gasoline retail sales outlet.....	1975-61.....	1976-5.
New wholesale purchaser-reseller.....	1975-57; 1977-28.....	
Nonproduct costs increases.....	1975-48, -59, -74; 1978-8.....	1975-1, -4, -10, -11, -14, -16.
Normal business practices.....	1974-3, -16, -27; 1975-49, -62; 1977-8, -11, -19, -26, -35; 1978-7.....	1974-6, -10, -11, -23; 1975-4, -11, -13.
Once-a-month rule.....	1975-64.....	
Over recoupment.....	1975-12.....	
Passenger transportation services.....	1975-65.....	
Posted price, def.....	1976-4; 1977-26, -43.....	1977-1.
Price, def.....		1974-10.
Price increase.....	1977-53.....	
Price/octane number information and posting.....	1976-9.....	
Procedural requirements.....	1975-40; 1976-12; 1977-28.....	
Processing agreements.....	1974-6.....	
Producer, def.....	1974-20.....	
Product cost increases.....	1974-5.....	1974-5, -26, -27; 1975-1-9, -10, -13, -18; 1977-3.
Product cost increases, carryover of.....	1975-16.....	1974-12; 1975-16.
Propane allocation.....	1975-14; 1976-19, -21.....	
Propane prices.....	1978-4.....	1974-5.
Property, def.....	1974-22; 1975-2, -4, -27, -42; 1977-1, -37, -42, -46; 1978-5, -9.....	1975-15; 1977-1, -2, -7.

APPENDIX C.—Subject index for interpretations and rulings issued through Mar. 31, 1978—Continued

Subject	Interpretations	Rulings
Recordkeeping requirements.....		1976-6.
Refined petroleum products, def.....	1975-1.....	
Refiner, def.....	1974-13; 1976-2; 1977-6, -29.....	
Refiner price formula:		
V factor.....	1975-7.....	1974-27; 1975-7.
H factor.....	1977-23.....	
N factor.....	1978-8.....	
Refiner price rule.....	1977-53.....	1974-26.
Refinery yield.....	1976-23.....	
Refunds.....	1975-12.....	
Rent, def.....	1975-61.....	
Rent regulations (see also base rent rule).	1975-69.....	1974-7, -9, -14, -20, -24; 1975-3.
Reporting requirements, refiner.....	1975-11; 1977-24.....	
Reseller, def.....	1974-12; 1976-2; 1977-3, -8, -29.....	
Residual fuel oil, def.....	1975-29.....	
Retail sales outlets, motor gasoline.....		1974-13.
Retailer, def.....	1974-12; 1976-2.....	
Retaliatory actions.....	1975-63.....	
Retroactive price increase.....	1977-14; 1978-2.....	
Sales by Federal, State, and local governments.	1974-4; 1975-15.....	1974-22; 1976-3.
Sanitation services, def.....	1974-1; 1975-39.....	1974-15.
Seller, def.....	1976-8.....	
September 1975; application of price/allocation regulations during.		1975-17.
Single firm treatment.....		1974-13.
State tax increase passthrough.....	1975-18.....	1974-4.
Storage tank rentals.....		1975-4, -11.
Stripper well lease exemption.....	1974-22, -26; 1975-4, -10, -41, -43; 1977-48; 1978-5, -9.....	1974-28, -29, -30; 1975-12; 1977-1, -2, -6, -7.
Supplier, def.....	1976-23.....	
Supplier/purchaser relationship.....	1974-17, -18, -19; 1975-20, -54; 1976-13, -14, -18; 1977-20, -49.....	1974-3, -19; 1975-8.
Supplier substitution.....	1976-25.....	
Surplus product, purchase of.....	1974-19; 1975-20; 1977-41.....	
Synthetic fuels.....		1976-4.
S. N. G. feedstock allocation.....	1975-34.....	
Temporary discounts on May 15, 1973.	1975-6.....	
Transaction, def.....		1977-5.
Transfer pricing.....	1974-20.....	
Transportation costs to reseller/retailer inventory.	1977-4, -51.....	1975-1, -9, -10.
Transportation cost, refiner.....	1977-25.....	
United States, def.....	1975-8, -26, -46.....	
Unitization.....	1974-22; 1975-2, -4, -10, -27; 1978-8, -9.....	1975-15; 1977-2.
Unleaded gasoline.....	1976-3.....	
Waste crude oil, reclamation of.....	1974-11, -20; 1977-22.....	
Wholesale purchaser-consumer, def.....	1975-37, -52.....	1974-19.
Wholesale purchaser-reseller, def.....	1974-10, -12; 1975-13, -17, -19, -33, -37, -38, -53, -60, -67, -68, -70, -71, -72; 1977-17, -27, -39, -40.....	1975-8.

APPENDIX D.—Regulation index for interpretations and rulings issued through Mar. 31, 1978*

Regulation interpreted	Interpretations	Rulings
Pt. 202, subpt. A.....		1975-5.
205.2.....	1976-12; 1977-28.....	
205.26(d).....	1975-40.....	
205.33(a).....	1976-12; 1977-28.....	
205.194.....	1975-12.....	
210.21.....	1975-8, -26, -46; 1977-5.....	
210.32.....	1974-22, -26; 1975-4, -10, -41, -43.....	1974-28, -29, -30; 1975-12; 1977-1.
210.33.....	1975-8, -26, -46.....	
210.61.....	1975-63.....	1974-3.
210.62.....	1974-3, -27; 1975-49; 1977-8, -19, -26; 1978-7.....	1974-6, -10, -11; 1975-4, -11, -13.
210.62(a).....	1974-16; 1975-62, -63; 1977-35.....	
210.62(c).....	1976-18; 1977-11.....	1974-23.
210.77.....	1975-51.....	
210.91.....	1977-24.....	
210.92.....		1976-8.
211.1(a).....	1977-8.....	
211.9.....	1974-15, -19; 1975-58, -62; 1976-25; 1977-19, -49.....	1974-3, -19.
211.9(a).....	1974-18; 1975-20, -54, -56, -73; 1977-8.....	
211.9(c).....	1977-20.....	
211.10.....	1975-20, -56, -73.....	
211.10(a).....	1975-35.....	
211.10(b).....	1974-17.....	1974-16, -25.
211.10(e).....	1974-29.....	
211.10(g).....	1974-19; 1976-14, -21; 1977-41.....	
211.11.....	1974-17; 1975-61; 1976-19.....	
211.11(b).....	1974-6.....	
211.11(d).....	1975-35.....	
211.12.....	1975-50, -57; 1976-11.....	
211.12(e).....	1974-17; 1976-19; 1977-28, -49.....	1974-19.
211.12(f).....		1974-19.

Regulation interpreted	Interpretations	Rulings
211.12(h)	1976-18	
211.12(g)	1976-21	
211.13	1975-50	
211.13(c)	1976-12; 1977-28, -32	
211.13(f)	1977-28	
211.14(d)		1974-3, -16.
211.22	1975-23	
211.24		1974-3.
211.24(a)	1974-25; 1976-11	
211.25	1975-31; 1976-25	
211.25(a)	1977-20	
211.25(c)	1975-30	
211.29	1975-34; 1976-19	
Special rule No. 1 to subpt. A of pt. 211.	1975-34; 1976-19	
211.31	1977-8	
211.51 (definitions)	See corresponding subject entry, app. C	See corresponding subject entry, app. C.
211.62 (definitions)	do	Do.
211.63	1974-2, -3, -4; 1975-45; 1976-14, -20; 1977-7, -13, -14, -15, -42; 1978-1	1974-21, -22; 1977-8.
211.64	1974-2, -3	
211.64(a)		1974-11.
211.65	1974-6; 1977-34	1976-1.
211.67	1977-5, -22, -31	1976-3.
211.67(d)(2)	1975-22; 1976-22; 1977-16, -30, -36, -44; 1978-10	
211.67(d)(5)	1977-45	
211.71(c)	1976-23	
Special rule No. 7 to subpt. C of pt. 211.	1976-22	
211.82	1976-21	
211.83	1975-14	
211.83(c)	1976-19	
211.96(b)	1977-49	
211.102	1975-20, -73	
211.103	1975-65	
211.103(a)	1974-1	
211.104	1974-6	
211.106	1975-58, -61, -73; 1976-11; 1977-19, -47	1974-13; 1976-5.
211.106(b)	1974-12, -25	
211.106(c)	1974-29; 1975-53	
211.106(d)	1974-25	
211.106(e)	1975-57	
211.145	1976-13	1974-8.
211.145(c)	1974-21	
211.145(d)	1974-21	
211.162	1975-54	
211.168	1974-19	
211.183	1975-44	
211.201	1975-37	
211.202	1975-37	
211.203(c)(2)(iii)	1975-37	
212.1		1975-3.
212.2	1975-24	
212.13 (definitions)	See corresponding subject entry, app. C	See corresponding subject entry, app. C.
212.52	1974-4; 1975-15	
212.53	1975-24; 1976-22	1975-7.
212.53(a)	1977-16, -21, -36, -44; 1978-10	
212.53(c)	1977-30	
212.54	1974-22, -26; 1977-2-48; 1978-5, -9	1977-6, -7.
212.55	1977-2	1976-3.
212.71	1974-11	
212.72	1974-8, -11; 1975-2, -4, -27; 1976-16; 1977-1, -3, -12, -33, -37, -38, -42, -46, -52; 1978-5	1977-7.
212.73	1974-11; 1975-42; 1977-2, -3	
212.74	1974-8, -11; 1975-2, -4, -42; 1977-2, -3; 1978-2	1974-11.
212.74(c)	1977-14	
212.75	1978-6	1977-2.
212.76		1976-2.
212.81	1977-29	
212.82	1975-5, -47; 1976-3, -4, -5; 1977-6, -18	1974-17, -18.
212.82(a)	1976-1	
212.82(b)	1975-22, -31	
212.83	1974-20; 1975-3, -5, -7; 1976-10; 1977-23, -53	1974-12, -26, -27; 1975-6, -7, -13.
212.83(b)	1976-4	
212.83(c)(1)(iii)		1974-5.
212.83(c)(2)(iii)(E)	1978-8	
212.83(e)	1975-12, -16	
212.83(h)	1976-17	
212.84		1977-4.
212.85	1977-25	
212.88		1974-26.
212.91	1974-14; 1975-3, -59; 1977-3, -6, -24, -29	
212.92	1975-48, -74; 1976-6, -8; 1977-4, -51	1975-1, -9, -10.
212.93	1974-5, -6, -12; 1975-6, -9, -18, -59, -74; 1976-6; 1977-4	1974-4, -17, -18, -26.
212.93(a)	1976-7; 1977-3	
212.93(b)	1975-48, -54, -64	1975-1, -10, -14, -16.
212.93(e)		1975-16.
212.94		1974-26.
212.101	1975-58	

APPENDIX D.—Regulation index for interpretations and rulings issued through Mar. 31, 1978*—Continued

Regulation interpreted	Interpretations	Rulings
212.102	1974-24; 1975: -51, -58	1974: -7, -9, -14, -20, -24; 1975-3.
212.103	1975-51	1974: -7, -9, -14, -20, -24; 1975-3.
212.111	1974: -23, -24; 1975: -3, -9; 1976: -5, -7; 1978-3	1974-20.
212.112	1976-3	
212.126	1975-11	
212.129	1976-9	
212.131	1977: -33, -52	
212.161	1976-2	
212.162	1977-3; 1978-3	
212.163(a)	1976-5; 1977-3	
212.164(a)	1976-5	
212.166		1975-18.
215.3	1975-25	
215.5	1975-25	

*Regulations listed as cited in interpretations and rulings. No attempt has been made to change citations to reflect those relatively few cases in which regulations have been renumbered.

APPENDIX E. Rulings construed by interpretations issued through Mar. 31, 1978

Rulings	Interpretations	Rulings	Interpretations	Rulings	Interpretations
1974-3	1975: -61, -62; 1976-25.	1974-24	1974-28.	1975-9	1975-74, 1977: -4, -51.
1974-4	1975-18.	1974-29	1975: -41, -43.	1975-10	1977: -4, -51.
1974-10	1974-16.	1975-1	1975-74; 1977: -4, -51.	1975-11	1977-11; 1978-7.
1974-11	1976-15.	1975-2	1975: -22, -47, -63, -66; 1976: -1, -7, -20.	1975-12	1975: -41, -43; 1977-48.
1974-15	1975-39.	1975-4	1977-11; 1978-7.	1975-14	1976-8.
1974-17	1975-66.	1975-8	1975: -33, -60, -67, -70, -71, -72; 1976-23; 1977: -17, -27, -39, -40.	1975-15	1975-42; 1978: -6, -9.
1974-18	1975: -6, -66; 1976-20.			1977-1	1977: -1, -26, -37, -43.
1974-19	1974-15; 1975: -52, -56.			1977-2	1978-6.
1974-20	1974-24.				
1974-22	1977-7.				

APPENDIX F.—Statutes construed by interpretations and rulings issued through Mar. 31, 1978

Statutes	Interpretations	Rulings
Economic Stabilization Act of 1970, as amended.	1975-12; 1976-24	
Energy Policy and Conservation Act of 1975, as amended.	1977: -7, -12, -22, -26, -33, -42	
Energy Supply and Environmental Coordination Act of 1974.		1975-5.
Emergency Petroleum Allocation Act of 1973, as amended.	1974: -6, -13, -22, -26, -27; 1975: -1, -5, -8, -12, -15, -56, -66; 1976: -4, -6, -12, -20, -21, -22, -23, -24; 1977: -3, -5, -7, -11, -28, -42; 1978: -1, -4.	1974: -3, -28 1975-17; 1976-4; 1977-1.
Federal Energy Administration Act of 1974.	1974-13	
Freedom of Information Act		1975-5.
Naval Petroleum Reserves Production Act of 1976.		1976-3.
Trans-Alaska Pipeline Authorization Act.		1975-12; 1977-1.

[FR Doc. 78-10839 Filed 4-21-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-EA-3; Amdt. 39-3194]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule requires insertion of a cautionary note in the PA-31T flight manual or operating handbook on positioning of the flap selector. It will preclude a mispositioning of the flaps due to inadvertently moving the selector beyond the "Approach" detent. Returning the selector to the "Approach" position without first returning to the original position will cause the flaps to return to the original position instead of the "Approach" position.

DATE: Effective date—April 26, 1978.

ADDRESSES: Piper Service Bulletins may be acquired from the manufacturer at Piper Aircraft Corp., 820 East Bald Eagle Street, Lock Haven, Pa. 17745.

FOR FURTHER INFORMATION CONTACT:

K. Tunjian, Systems and Equipment Section, AEA-213, Engineering and Manufacturing Branch, Federal Building, J. F. K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-3372.

SUPPLEMENTARY INFORMATION: There has been a report of an incident where a possible cause was a misunderstanding of the operation of the wing flap system in this aircraft by the pilots was involved. An emergency airmail transmittal had been sent to all registered owners of PA-31T airplanes, dated January 10, 1978. The PA-31T incorporates a three-position flap system, in which the sequence of operation of the flap position selector can be of significance in determining flap position. Since there appears to be a possibility of general misunderstanding of this aspect of the flap system's operation, it is considered necessary that pilots be better alerted to it, and an amendment to the flight manual or handbook is required.

DRAFTING INFORMATION

The principal authors of this document are K. Tunjian, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, §39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended as follows:

PIPER AIRCRAFT CORP.: Applies to Piper Aircraft Corp. Model PA-31T certified in all categories.

To provide additional information on flap system operation, insert the following CAUTION or Piper PA-31T, revision 12 of December 27, 1977, in the FAA approved airplane flight manual, Piper report 1740 or revision 4, dated December 9, 1977, to the Pilot's Operating Handbook, Piper report 2048.

CAUTION

When selecting an "Approach" flap position and the selector is inadvertently moved beyond the "Approach" detent, the selector must be returned to its original position and then back to "Approach" in order to reprogram the selector. Returning the selector to the "Approach" detent without reprogramming will return the flaps to their original position.

Effective date: This amendment is effective April 26, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on April 12, 1978.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc. 78-10805 Filed 4-21-78; 8:45 am]

[4910-13]

[Docket Number 78-SO-14; Amdt. 39-3193]

PART 39—AIRWORTHINESS DIRECTIVES

Teledyne Continental Motors Models TSIO-520-J and TSIO-520-N Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing Airworthiness Directive (A. D.) applicable to certain Teledyne Continental Motors TSIO-520-J and TSIO-520-N engines, involving a repetitive inspection and adjusting torque to 45 to 50 inch pounds torque on Cessna clamps, by changing to a lower torque of 30 to 35 inch pounds. The new torque limits apply to Cessna manifold clamp P/N U-84-270-SH and intercooler clamp, P/N U-84-260-SH,

or an alternate Cessna clamp, P/N B35A-21P, now approved. This A. D. also relieves initial 25 hour compliance time for aircraft manufactured by Cessna after April 1, 1978, and, upon properly justified request of the operator, an FAA maintenance inspector may adjust the repetitive inspection interval.

DATES: Effective Date: April 24, 1978.

ADDRESSES: Teledyne Continental Motors Service Bulletin M78-5, Rev. 2 may be obtained from Teledyne Continental Motors, Service and Safety Department, P.O. Box 90, Mobile, Ala. 36601. Copies of TCM Service Bulletin M78-5, Rev. 2, are maintained in the Rules Docket and may be examined in Room 264, Federal Aviation Administration, Southern Region, 3400 Whipple Street, East Point, Ga. 30344.

FOR FURTHER INFORMATION CONTACT:

H. D. Roe, ASO-214, Propulsion Section, Engineering and Manufacturing Branch, Southern Region, P.O. Box 20636, Atlanta, Ga. 30320, telephone 404-763-7435.

SUPPLEMENTARY INFORMATION:

This amendment amends Amendment 39-3153, 43 FR 10340, A. D. 78-06-01, which contains inspections and adjustments as specified therein for certain Teledyne Continental Motors TSIO-520-J and TSIO-520-N series engines. After issuing Amendment 39-3153, the FAA has determined the torque values specified for Cessna clamps in the A. D. need revising. Also, an alternate clamp recently approved by Cessna is now provided for in this amendment. It has been found that the torque specified for the Cessna clamps was too high, and a lower torque for repetitive inspections will provide a more reliable elbow installation. Also the 25 hour compliance time is not required for aircraft manufactured by Cessna after April, 1978, since these aircraft will have incorporated this change.

Since this amendment is correcting and clarifying and imposes no additional burden on any person, notice and public procedure hereon are unnecessary, and good cause exists for making the amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are H. D. Roe, Flight Standards Division, and Keith May, Office of the Regional Counsel, Southern Region, Federal Aviation Administration.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, §39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-3153, 43 FR 10340, A. D. 78-06-01, as follows:

1. Revise compliance as follows:

Within the next 25 hours time in service after the effective date of this A. D., unless already accomplished, and thereafter at each 100 hours time in service. Cessna Aircraft manufactured after April 1, 1978, will not be required to meet the 25 hour initial inspection. Upon request of the operator, an FAA maintenance inspector may adjust the repetitive inspection interval up to a maximum time between inspections of 125 hours to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

2. Revise paragraph (3) in the existing A. D. to read:

Check torque of 30 to 35 inch pounds on left and right flexible intake manifold clamps (Cessna Part No. U-84-270-SH) and intercooler clamps (Cessna Part No. U-84-260-SH or B35A-21P). On aircraft which use TCM clamps (Part No. 631972) at these joints, check for torque of 25 to 30 inch pounds. On Riley conversions which use Riley P/N 631972 clamps on these joints, check for 30 to 35 inch pounds.

This amendment becomes effective April 24, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.89).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., April 12, 1978.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 78-10807 Filed 4-21-78; 8:45 am]

[4910-13]

[Docket No. 78-NE-08; Amdt. 39-3195]

**PART 39—AIRWORTHINESS
DIRECTIVES**

**Pratt & Whitney Aircraft Model JT9D
Engines**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires a repetitive main gearbox magnetic plug (chip detector) inspection on Pratt & Whitney Aircraft JT9D series model engines. The AD is needed to prevent main gearbox fires resulting from gearbox bearing failures.

DATE: Effective Date: April 24, 1978. Compliance schedule, as prescribed in body of AD.

ADDRESSES: The applicable technical manual and service bulletin may be

obtained from: Pratt & Whitney Aircraft, Division of United Technologies Corp., 400 Main Street, East Hartford, Conn. 06108. A copy of the service bulletin is contained in the Rules Docket, Federal Aviation Administration, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Mass. 01803.

**FOR FURTHER INFORMATION
CONTACT:**

Daniel P. Salvano, 617-836-1328.

SUPPLEMENTARY INFORMATION: There have been three JT9D main gearbox fires reported within the last 18 months. The FAA has determined that the heat generated by a failed gearbox bearing ignited the oil in the gearbox. Since this condition is likely to exist or develop on other engines of the same type design, an airworthiness directive is being issued which requires a repetitive main gearbox magnetic plug inspection on certain Pratt & Whitney JT9D model engines.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Daniel P. Salvano, Propulsion Section, Engineering and Manufacturing Branch, and George L. Thompson, Office of the Regional Counsel, New England Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

PRATT & WHITNEY AIRCRAFT: Applies to all Pratt & Whitney Aircraft Models JT9D-3, -3A, -7, -7A, -7H, -7AH, -7F, and -7J turbofan engines.

Compliance required as indicated, unless already accomplished.

To prevent main gearbox fires due to internal bearing failures, perform the following in accordance with the provisions of Pratt & Whitney Alert Service Bulletin 4854 dated March 27, 1978, or later FAA approved revision:

1. All gearboxes having more than 5,000 hours time in service since new or more than 5,000 hours time in service since the last bearing inspection, in accordance with the JT9D Engine Manual, P/N 646028, Section 72-09-50, must have the magnetic plug inspected within the next 300 hours time in service after the effective date of this AD, and every 300 hours time in service thereafter.

2. If metal particles (spalled pieces), as defined in Paragraph 2A of Alert Service Bulletin 4854, are found on the magnetic plug, perform the following: Reinspect the magnetic plug within the next 50 hours time in service.

a. If no additional spalled particles are found, resume the 300 hour inspection interval.

b. If spalled particles are found, reinspect within the next 25 hours time in service.

(1) If no additional spalled particles are found, resume the 300 hour inspection interval.

(2) If spalled particles are found, remove the gearbox from service prior to further flight.

Upon request of the operator, an equivalent method of compliance with the requirements of this AD may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, New England Region.

Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, New England Region, may adjust the repetitive inspection interval specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to Pratt & Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Conn. 06108. These documents may also be examined at the Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Mass., and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. A historical file on this AD, which includes the incorporated material in full, is maintained by the FAA at its headquarters in Washington, D.C., and at the New England Region.

This amendment becomes effective April 24, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 8(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.85).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular 107.

Issued in Burlington, Mass., on April 14, 1978.

ROBERT E. WHITTINGTON,
Director, New England Region.

NOTE.—The incorporation by reference provisions of this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 78-10811 Filed 4-21-78; 8:45 am]

[4910-13]

[Docket No. 17550, Amdt. 39-3200]

**PART 39—AIRWORTHINESS
DIRECTIVES****Hawker Siddeley Aviation Ltd. DH-104 "Dove" Airplanes**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspections for cracks, and replacement as necessary, of the Pre-Modification 779 center section main spar lower booms on Hawker Siddeley Aviation, Ltd., Model DH-104 "Dove" airplanes. The AD is needed to ensure continued wing to fuselage attachment integrity.

EFFECTIVE DATE: May 24, 1978. Compliance required as indicated.

ADDRESSES: The applicable technical news sheet may be obtained from: Hawker Siddeley Aviation, Ltd., Hatfield Hertfordshire, England, Product Support Department, telephone: Hatfield 62345. A copy of the technical news sheet is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobson, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to require inspections for cracks and replacement, as necessary, of the Pre-Modification 779 center section main spar lower booms on Hawker Siddeley Aviation, Ltd., Model DH-104 "Dove" airplanes, was published in the FEDERAL REGISTER at 43 FR 3131 on January 23, 1978. The proposal was based on the FAA's determination that cracking due to stress corrosion could occur in the wing to fuselage attachment lugs on DH-104 airplanes having the Pre-Modification 779 center section main spar lower booms.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. Accordingly, the proposal is adopted without change.

The principal authors of this document are F. J. Karnowski, Europe, Africa, and Middle East Region, F. Kelley, Flight Standards Service, and S. Podberesky, Office of the chief counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, §39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

HAWKER SIDDELEY AVIATION, LTD. Applies to Model DH-104 "Dove" airplanes, all series, certificated in all categories, except those airplanes incorporating Hawker Siddeley Model DH-104 Modification 779.

Compliance is required as indicated.

To detect cracking and prevent possible failure of the lugs of the lower center section main spar wing to fuselage attachment, accomplish the following:

(a) Within one month after the effective date of this AD, unless already accomplished within the last month, and thereafter at intervals not to exceed two months from the last inspection, remove the lower wing to fuselage fairings and inspect the center section main spar bottom boom lugs for cracks using an ultrasonic inspection method in accordance with appendix 1 of Hawker Siddeley Aviation, Limited Technical News Sheet (TNS) 238, issue 2, dated January 24, 1977, or an FAA-approved equivalent.

(b) The repetitive inspections required by paragraph (a) of this AD may be terminated upon incorporation of a steel lower boom in accordance with Hawker Siddeley Model DH-104 Modification 779, or an FAA-approved equivalent.

(c) Within two months after accomplishing six repetitive inspections under paragraph (a) of this AD, a steel lower boom must be incorporated in accordance with Hawker Siddeley Model DH-104 Modification 779, or an FAA-approved equivalent.

(d) If any crack is found during an inspection required by paragraph (a) of this AD, before further flight, replace the boom with a steel boom in accordance with Hawker Siddeley Model DH-104 Modification 779, or an FAA-approved equivalent.

This amendment becomes effective May 24, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on April 17, 1978.

JAMES M. VINES,
Acting Director,
Flight Standards Service.

[FR Doc. 78-10957 Filed 4-21-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-WE-41]

**PART 71—DESIGNATION OF FEDERAL
AIRWAYS, AREA LOW ROUTES,
CONTROLLED AIRSPACE, AND REPORTING POINTS****Designation of Transition Area,
Winnemucca, Nev.**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates 700- and 1,200-foot transition areas at Winnemucca, Nev., to provide controlled airspace for aircraft executing a new instrument approach procedure (NDB-A) to the Winnemucca Municipal Airport and establish transition routes between the nondirectional radio beacon (NDB) and adjacent VOR airways.

EFFECTIVE DATE: April 24, 1978.

ADDRESS: Copies of this final rule may be obtained from: Federal Aviation Administration, Air Traffic Division, Chief, Airspace and Procedures Branch, 15000 Aviation Boulevard, Lawndale, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, Calif. 90261, telephone 213-536-6182.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to designate new transition areas at Winnemucca, Nev.

On February 23, 1978, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (43 FR 7444) stating that the Federal Aviation Administration proposed to designate 700-foot and 1,200-foot transition areas at Winnemucca, Nev., to provide controlled airspace for aircraft executing an instrument approach procedure established for the Winnemucca Municipal Airport.

Interested persons were afforded an opportunity to participate in the rulemaking through submission of comments. All comments received were favorable.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division, and DeWitte T. Lawson, Jr., Esq., Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator,

tor, Subpart G of Part 71 of the Federal Aviation regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., June 29, 1978.

§ 71.181 [Amended]

1. By amending § 71.181 (43 FR 440) of Part 71 of the Federal Aviation regulations by designating new transition areas as follows:

WINNEMUCCA, NEV.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Winnemucca Municipal Airport (latitude 40°53'50" N., longitude 117°48'07" W.) and within 9 miles west and 5 miles east of the Winnemucca NDB (latitude 40°53'50" N., longitude 117°48'20" W.) 342° bearing, extending from the 5-mile radius area to 11 miles north of the NDB; that airspace extending upward from 1,200 feet above the surface within 5 miles each side of the 342° and 162° bearings extending from the NDB to southeast edge of V-113 and the north edge of V-6N.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c).))

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on April 11, 1978.

W. R. FREHSE,
Acting Director,
Western Region.

[FR Doc. 78-10810 Filed 4-21-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-WA-25]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Area High Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates two area high 600 series (J630R and J632R) area navigation routes as area high 800/900 series regulatory area high routes. This action is necessary to convert these routes from non-regulatory to Federal Aviation Regulations Part 75 routes.

EFFECTIVE DATE: July 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John Watterson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8525.

SUPPLEMENTARY INFORMATION:

HISTORY

On February 16, 1978, the FAA proposed to amend Subpart D of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to designate J630R and J632R series routes as series 800/900 area high regulatory routes (43 FR 6807). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The comment received expressed no objection. This amendment is that proposed in the notice. Section 75.400 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 730).

THE RULE

This amendment to Part 75 of the Federal Aviation Regulations (FARs) (14 CFR Part 75) designates J630R and J632R series routes as J888R and J996R series area high regulatory routes. These routes are established and published on the en route high altitude Alaska chart and are in operational use. These routes will be in frequent use by more than one user operating to and from Anchorage, Alaska, and the agency believes it is in the public interest to convert these routes to area high routes designated in Federal Aviation Regulations Part 75.

DRAFTING INFORMATION

The principal authors of this document are Mr. John Watterson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart D of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (43 FR 730) is amended, effective 0901 G.m.t., July 13, 1978, as follows:

In § 75.400 the following is added:

1. J888R AMOTT-RHODE

Waypoint name, location, and reference facility

- Amott, 60°54'04" N., 151°17'12" W., Anchorage, Alaska.
- Malos, 60°49'00" N., 155°00'00" W., King Salmon, Alaska.
- Mousy, 60°44'00" N., 157°00'00" W., Bethel, Alaska.
- Kulik, 60°29'15" N., 161°44'30" W., Bethel, Alaska.
- Rhode, 60°19'10" N., 164°09'46" W., Bethel, Alaska.

2. J996R CAPE NEWENHAM-AMOTT

Waypoint name, location, and reference facility

- Cape Newenham, 58°39'24" N., 162°04'25" W., King Salmon, Alaska.
- Nerka, 59°26'00" N., 158°55'00" W., King Salmon, Alaska.

Clark, 60°15'30" N., 154°58'00" W., King Salmon, Alaska.
Amott, 60°54'04" N., 151°17'12" W., Anchorage, Alaska.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

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

Issued in Washington, D.C., on April 17, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 78-10955 Filed 4-21-78; 8:45 am]

[6320-01]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Reg. PR-172, Amdt. 37]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Changes in Method for Estimating Cost for Local Service Carriers

AGENCY: Civil Aeronautics Board.

ACTION: Final interim rule.

SUMMARY: This rule revises the method to be used in Board proceedings for estimating the total cost of existing and proposed local service routes by the local service carriers. The revision introduces new methods for determining both servicing expense, and the return on investment and tax requirement. The amendment is at the initiative of the Board, since the present methods are unsatisfactory.

DATES: Effective: April 14, 1978. Adopted: April 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Arthur Barnes, Bureau of Pricing and Domestic Affairs, Civil Aeronautics Board, Washington, D.C. 20423, 202-673-5000.

SUPPLEMENTARY INFORMATION:

On March 17, 1977, the Board issued a notice of proposed rule making, PDR-46 (42 FR 15916, corrected by 42 FR 17484) in Docket 30631, proposing to amend Part 302 of its Procedural Regulations (14 CFR Part 302) by: (1) Replacing the present method of comput-

ing servicing expense (expenses not associated with aircraft operating expense) with an entirely new technique; (2) revising certain features of the method for deriving a return on investment and tax requirement; and (3) removing all outdated matter in Subpart K.

Comments in response to the notice of proposed rulemaking were received from American Airlines, Delta Air Lines, Northwest Airlines and a joint response of six local service air carriers: Allegheny, North Central, Ozark, Piedmont, Southern and Texas International (the "locals").

Upon consideration, the Board has decided to adopt the proposed rule but with two modifications more fully discussed below. The tentative conclusions as modified are made final, and all requests contained in the comments are denied, unless specifically granted.

In promulgating this rule the Board notes that differences exist between the mandatory costing of local service carrier operations in route cases under Subpart K and the methodology developed for rate making purposes in connection with the "Domestic Passenger Fare Investigation" (see particularly Version 6, Docket 21866-7, Exhibit BC-3999). It is the Board's desire that costing in rate and route matters be as nearly identical as possible. Accordingly, the staff has been instructed to develop a compatible system. A uniform system will take some time to develop because it is likely to require modification to both Subpart K and perhaps the rate methodology. We will, as indicated, issue this final interim rule in the matters before us pending the development of comprehensive costing standards which will be proposed in a later stage of this rulemaking.

The comments for the most part favor the proposal. American's comment was the only one to oppose the proposal in its entirety.

American's recommendation for the continued use of multiple regression analysis on a single cost pool is impractical. From our experience and research, we had concluded before issuing PDR-46 that multiple regression analysis on one cost pool presents problems which are statistically impossible to overcome. We are also not convinced by American's argument that the proposal should not be adopted because certain carriers generally have lower unit costs than others. We agree with American that there are unit cost differences between carriers, but, beyond using industry average unit costs, any costing technique will reflect these unit cost differences.

It is further contended that the use of these unit costs may be unfair in certain instances because of differences in the quality of a particular carrier's overall route system and the

specific route being costed. The Board believes that it is misleading to argue that it is possible to cost a specific route without reference to the historic cost levels of the individual applicant who proposes to operate the route as part of an integrated route system. Air carriers do not operate their several routes on a separate basis. To the contrary, they commingle their planes, flight crews, ground facilities and other necessary equipment and services in the integrated operation of all the routes which make up their respective systems. Furthermore, it is not true that the new cost system does not reflect the effect on overall costs of a new route if that route differs from the carrier's system characteristics. The new Subpart K has a representative mixture of the major cost causative factors of haul, density and capacity. As a result, if a proposal has a longer haul than the carrier's existing system, the terminal cost factors of traffic and capacity then reflect a taper effect by producing a decreasing unit mileage cost as the cost of terminal activity is spread over increasing lengths of haul.

Aside from American, several carriers' comments pertain to deriving the percentage rate for the return on investment and tax requirement. That issue is not part of our proposed amendment. This proceeding is therefore not the proper vehicle to discuss this issue. Northwest raises a question of costing fuel separately. This is a direct operating cost item, and, similarly, is beyond the scope of this rule-making phase.

We turn now to comments directly relating to the amendment.

The only suggested changes to the Board's proposal involve the unit cost factors selected for deriving the expenses for the functional accounts involving aircraft servicing, servicing administration, promotion and sales expense and the return and tax requirement. We discuss these items below by functional account classification.

SERVICING EXPENSE

Aircraft Servicing (Account 6100): Northwest suggests that Aircraft Servicing Expense should be treated as two separate cost pools, with actual landing fees at particular stations used in cost estimates; and, according to Northwest, the balance of the Aircraft Servicing Expense (Account 6100 less total landing fees) should be related to some measure of capacity other than gross take-off weight as we proposed. We are not inclined to alter our proposed treatment of the cost pool, since the determination of specific landing fees could be burdensome and inconsistent with the concept of system average cost utilized in Subpart K, and would have little noticeable impact on comparative cost estimates between

competing carriers. With regard to the suggestion that aircraft servicing should be related to some other measure of capacity than gross take-off weight, our use of this standard has one advantage over other measures of capacity in that a particular aircraft type then has the same value among all carriers. Other measures of available capacity, such as seats for identical aircraft type, can, and do, change significantly between carriers and lead to unjustified variations in unit costs for the same aircraft type. The anomaly that was pointed out between a B-727 and DC-9 is not of concern, since heavier aircraft do incur additional expenses in this account, particularly landing fees.

Servicing Administration (Account 6300): The locals argue that Servicing Administration should be treated separately, and be related to weighted departures. They argue that the structure of Servicing Administration, which includes expenses of a general nature incurred in performing supervisory and administrative activities, strongly suggests that the account should be related to capacity changes rather than day-to-day traffic changes. The locals have not convinced us that this account should be treated separately. Instead, we will make final our proposal which allocates these costs between aircraft servicing and traffic servicing. As we indicated in PDR-46, this is consistent with DPFI and industry costing in general. It does not follow, as the locals suggest, that because supervisory and administrative expenses are predominantly influenced by changes in the staffing of stations, the expenses should be related solely to capacity. This simply ignores the fact that traffic has a direct influence on capacity. Also, the Servicing Administration account, by definition, contains aspects of Traffic Servicing expense which relate directly to traffic. With respect to their further argument that there are capacity-related expenses in the Traffic Servicing expense, we agree but note that there are traffic-related expenses (both terminal and haul) in expense categories which we have related to capacity. Therefore, it would be no more valid to select out portions of traffic-related expense from this account, and relate them to capacity, than it would be to select out certain traffic expenses in capacity-related accounts and relate them to traffic.

Furthermore, regression analysis of treating Servicing Administration by itself demonstrated that neither traffic (revenue tons enplaned) nor capacity (weighted departures) yielded a good statistical relationship with this account (see Appendix A). In fact, the traffic factor, revenue tons, showed a slightly better relationship than weighted departures.

Promotion and Sales Expense (Account 6700): Both Northwest and the locals commented negatively on relating Promotion and Sales Expense to commercial revenue. Their comments have caused us to rethink our proposal concerning this expense category, and we therefore have split the account into two cost pools.

We do not believe that simply because one of our cost categories favors one carrier or groups of carriers, it should be rejected out of hand. As we stated earlier, there are cost differences between carriers, and, beyond using industry averages, any costing system will reflect existing cost differences. However, we are persuaded by Northwest's comment that estimating Promotion and Sales Expenses as a percent of commercial revenues places the locals at an unfair cost advantage in competitive route cases. A considerable portion of local carrier revenues are derived in markets where their fare structure is noticeably higher than the *DPEI* fare formula. On the other hand, it would be an extremely burdensome task to accurately adjust each carrier's revenues so as to produce a homogeneous revenue element, as suggested by Northwest. Moreover, any attempt to do so could cause undue controversy and litigation during route proceedings. As an alternative to Northwest's suggestion, and in harmony with the theory that this account contains both terminal and line haul elements, we are adopting the locals' suggestion that we treat subaccounts 6500 and 6600, the two major Form 41 components of Account 6700, separately. We agree with the locals that Reservation and Sales (Account 6500 less commissions) is largely influenced by terminal traffic. Therefore, we are relating this portion of Promotion and Sales to revenue tons enplaned. We are partly in accord with the locals' opinion that the remainder of Promotion and Sales, Advertising and Publicity (Account 6600 plus commissions), is distance related. We do not agree, however, with their suggestion to relate this account to revenues. For one thing, our reason for discarding revenues as a measure of Account 6700 costs also negates its use on this subaccount. For another, the inherent terminal factor in revenues would result in relating 70 percent or more of a carrier's promotion and sales expense to terminal elements, which we believe is excessive. Thus, we are relating this subaccount to the common distance element of revenue ton miles. This overall dual treatment is substantially in line with the *DPEI* formula which uses either passengers or tons enplaned as its terminal elements, and revenue passenger miles and revenue ton miles as its distance element (see Appendix B for the regression results of these two subaccounts).

RETURN ON INVESTMENT AND TAX ALLOWANCE

The only comment on our return and tax proposal is from the locals. They argue that the value of the investment requirement for new route proposals should be placed at the investment's mid-life. Our proposal utilizes an average life method, defined as a percent of the present net book value compared to actual cost. This percentage is applied to the value of the investment requirement at cost in order to establish an average value. However, we are persuaded by the locals that this is not the correct level of the investment requirement for a specific route proposal at a given point in time. Our method reflects the existing system average. The system average is inflated by costs not directly and specifically related to the incremental accretions of investment found to be required for given route proposals. For such accretions, the average investment cost logically must be the mid-point of the depreciable life of the investment, given that the projected life is reasonable. For our purposes, the projected lives used are those established by the Board for regulatory use, and are based upon determinations by Board and industry specialists that they are realistic. Therefore, we have set the average value of the investment requirement at the mid-point of its depreciable life. In addition, we have adopted the locals' method of computing the mid-life value of the investment requirement.

The Board finds that because the amendment is administrative in nature affecting a rule of agency procedure there is good cause to make this rule effective immediately. Accordingly, the Civil Aeronautics Board amends Part 302 of the Procedural Regulations (14 CFR Part 302), effective April 14, 1978, as follows:

1. Amend the Table of Contents by deleting and reserving §302.1108 of Subpart K as follows:

Subpart K—Standardized Method for Costing Proposed Changes in the Authorized Operations of Local Service Carriers

Sec.

* * * * *

302.1108 [Reserved]

* * * * *

2. Revise §302.1105 to read as follows:

§302.1105 Servicing expense.

(a) In order to determine the amount of servicing expense, add the change in expense of each functional cost category as determined in the system.

(b) In order to determine the amount of Passenger Service expense

associated with cabin attendant block hours; proceed in accordance with the following steps:

(1) Refer to the compilation for the latest 12-month period setting forth each carrier's average number of cabin attendants per aircraft type. Multiply the change in the number of aircraft block hours to be caused by the proposed route modifications by the relevant number of cabin attendants to obtain the total cabin attendant block hours involved in the change.

(2) Refer to the compilation for the latest 12-month period setting forth the prescribed cabin attendant block hour rate for each carrier, and ascertain the applicable figure.

(3) Multiply the amount ascertained in paragraph (b)(2) of this section by the number of cabin attendant block hours determined in paragraph (b)(1) of this section to determine the amount of Passenger Service expense associated with cabin attendant block hours.

(c) In order to determine the amount of passenger service expense associated with the number of revenue passenger miles, proceed in accordance with the following steps:

(1) Refer to the compilation for the latest 12-month period setting forth for each carrier, the prescribed unit rate per revenue passenger mile, and ascertain the applicable figure.

(2) Multiply the amount ascertained in paragraph (c)(1) of this section by the change in the number of revenue passenger miles to be caused by the proposed route modification in order to determine the amount of passenger service expense for revenue passenger miles.

(d) In order to determine the amount of aircraft servicing expense associated with the number of weighted departures, proceed in accordance with the following steps:

(1) Refer to the compilation for the latest 12-month period setting forth the gross take-off weight for each carrier's aircraft type. Multiply the changes in the number of departures to be caused by the proposed modifications by the gross take-off weight of the relevant aircraft type to obtain the total weighted departure units involved in the change.

(2) Refer to the compilation for the latest 12-month period setting forth the prescribed weighted departure unit rate associated with aircraft servicing expense for each carrier, and ascertain the applicable figure.

(3) Multiply the amount ascertained in paragraph (d)(2) of this section by the number of weighted departure units determined in paragraph (d)(1) of this section to determine the amount of aircraft servicing expense associated with weighted departures.

(e) In order to determine the amount of traffic servicing expense as-

sociated with the change in the number of revenue tons enplaned, proceed in accordance with the following steps:

(1) Refer to the compilation for the latest 12-month period setting forth for each carrier the prescribed unit rate per revenue ton enplaned, and ascertain the applicable figure.

(2) Multiply the amount ascertained in paragraph (e)(1) of this section by the change in the number of revenue tons enplaned to be caused by the proposed route modification in order to determine the amount of traffic servicing expense for revenue tons enplaned.

(f) In order to determine the amount of promotion and sales expense associated with the change in revenue tons enplaned, proceed in accordance with the following steps:

(1) Refer to the compilation for the latest 12-month period setting forth for each carrier, the prescribed unit rate per revenue ton enplaned and ascertain the applicable figure.

(2) Multiply the amount ascertained in paragraph (f)(1) of this section by the change in revenue tons enplaned to be caused by the proposed route modifications in order to determine the amount of promotion and sales expense associated with the change in revenue tons enplaned.

(g) In order to determine the amount of promotion and sales expense associated with the change in revenue ton-miles, proceed in accordance with the following steps:

(1) Refer to the compilation for the latest 12-month period setting forth for each carrier, the prescribed unit rate per revenue ton-mile and ascertain the applicable figure.

(2) Multiply the amount ascertained in paragraph (g)(1) of this section by the change in revenue ton-miles to be caused by the proposed route modifications in order to determine the amount of promotion and sales expense associated with the change in revenue ton-miles.

(h) In order to determine the amount of ground property and equipment maintenance expense associated with the number of weighted departures, proceed in accordance with the following steps:

(1) Refer to the compilation for the latest 12-month period setting forth the prescribed weighted departure unit rate associated with ground prop-

erty and equipment maintenance for each carrier, and ascertain the applicable figure.

(2) Multiply the amount ascertained in paragraph (h)(1) of this section by the number of weighted departures units determined in paragraph (d)(1) of this section to determine the amount of ground property and equipment maintenance expense associated with weighted departures.

(i) In order to determine the amount of general and administrative expense associated with the change in total cash costs, proceed in accordance with the following steps:

(1) Add the amount of aircraft operating cash costs ascertained in § 302.1104 paragraph (a) and indirect cash costs ascertained in paragraphs (b)(3), (c)(2), (d)(3), (e)(2), (f)(2), (g)(2), and (h)(2) of this section to obtain the total cash costs involved in the change.

(2) Refer to the compilation for the latest 12-month period setting forth for each carrier the prescribed percentage rate of cash costs, and ascertain the applicable figure.

(3) Multiply the amount ascertained in paragraph (i)(2) of this section by the total cash costs determined in paragraph (i)(1) of this section to determine the amount of general and administrative expense.

(j) In order to determine the amount of ground property and equipment amortization and depreciation expense associated with the number of weighted departures, proceed in accordance with the following steps:

(1) Refer to the compilation for the latest 12-month period setting forth the prescribed weighted departure unit rate associated with ground property and equipment amortization and depreciation for each carrier, and ascertain the applicable figure.

(2) Multiply the amount ascertained in paragraph (j)(1) of this section by the number of weighted departures units determined in paragraph (d)(1) of this section to determine the amount of ground property and equipment amortization and depreciation expense associated with weighted departures.

§ 302.1108 [Reserved]

3. Delete and reserve § 302.1108, to read as set forth above.

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

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

APPENDIX A.—Regression analysis results of servicing administration, account 6300, year ending Sept. 30, 1976

[Dollars in thousands]

Carrier	Servicing administration (account 6300)	Weighted departures (in thousands)	Revenue tons enplaned (in thousands)
Airwest	\$1,882.3	6,208.6	450.4
Allegheny	1,482.0	13,055.5	1,193.4
American	34,768.0	34,441.3	2,517.9
Braniff	3,729.3	15,080.1	934.7
Continental	5,548.0	14,198.1	960.1
Delta	3,729.3	42,238.5	3,173.9
Eastern	17,714.3	35,798.7	2,846.5
Frontier	2,106.9	6,381.7	449.8
National ¹			543.3
North Central	2,579.5	8,043.3	543.3
Northwest	2,079.8	23,342.8	1,136.0
Ozark	2,325.9	5,816.6	407.9
Piedmont	237.5	6,617.9	407.5
Southern ¹			281.3
Texas International	919.4	3,774.8	1,811.6
Trans World	1,760.4	28,991.6	3,710.8
United	28,825.3	53,476.3	938.7
Western	2,618.6	12,620.2	2,526.3
Intercept		-2,656.3	6.93
Slope		.492789	.530116
Coefficient of determination (r ²)		.506059	.728091
Coefficient of correlation (r)		.711378	

¹National and Southern do not report this account.

APPENDIX B.—Regression analysis results of reservations and sales less commissions and advertising and publicity plus commissions

[Dollars in thousands]

Carrier	Reservations and Sales	Revenue tons enplaned (in thousands)	Advertising and publicity ²	Revenue ton miles (in thousands)
American.....	\$98,689	2,517.9	\$95,932	2,693,497
Braniff.....	24,472	934.7	27,339	667,478
Continental.....	22,700	960.1	33,202	956,110
Delta.....	104,068	3,173.9	70,067	2,020,281
Eastern.....	97,342	2,846.5	78,638	1,754,074
National ³				
Northwest.....	22,629	1,136.0	42,102	1,140,512
Transworld.....	90,987	1,811.6	80,215	1,990,887
United.....	108,886	3,710.8	132,037	3,602,473
Western.....	30,438	938.7	34,599	831,705
Allegheny.....	22,711	1,193.4	17,240	390,920
Frontier.....	8,284	449.8	9,234	179,022
Airwest.....	14,019	450.3	9,546	173,464
North Central.....	10,712	543.3	6,138	130,240
Ozark.....	9,110	407.9	5,914	125,613
Piedmont.....	9,394	407.5	4,098	125,811
Southern.....	6,338	349.1	4,927	106,926
Texas International.....	6,537	281.3	3,873	102,513
Intercept.....		-5,377.3		2,000.0
Slope.....		\$35.22		\$0.036553
Coefficient of determination (r ²).....		0.923432		0.968511
Coefficient of correlation (r).....		0.960954		0.994239

¹Account 6500 less commissions. ²Account 6600 plus commissions. ³National excluded because of strike.

[FR Doc. 78-10919 Filed 4-21-78; 8:45 am]

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

Subchapter A—Organization, Procedures and Rules of Practice

PART O—ORGANIZATION

Washington, D.C., Regional Office; Correction

AGENCY: Federal Trade Commission.

ACTION: Correction.

SUMMARY: This document corrects the notice published in FEDERAL REGISTER February 15, 1978, announcing the elimination of the Washington, D.C. Regional Office.

FOR FURTHER INFORMATION CONTACT:

Isaiah T. Creswell, Jr., Director of Federal-State and Consumer Relations, Federal Trade Commission, 202-523-3023; or Robert J. Hughes,

Director, Metropolitan Washington Area Office, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580; 202-254-6470.

SUPPLEMENTARY INFORMATION: In the supplementary information of the notice of final rule change eliminating the Washington, D.C. Regional Office published in FEDERAL REGISTER February 15, 1978, 43 FR 6580, it was noted that a special unit is being established to provide focused assistance to the people of the Washington, D.C. metropolitan area. That unit, under the general direction of Isaiah T. Creswell, Jr., Director of Federal-State and Consumer Relations for the Commission will be located in Room 540, the Gelman Building, 2120 "L" Street NW., Washington, D.C. 20580 202-254-6470, under the immediate supervision of Robert J. Hughes.

The supplementary information that accompanied the notice of February 15, 1978 did not clearly identify the geographic area that would be the responsibility of the special unit. The following will be the area of responsibility: District of Columbia; Arlington, Fairfax, Prince William and Loudoun Counties in Virginia; the cities of Alexandria, Falls Church, Fairfax, and Manassas in Virginia; and Montgomery, Prince George's, Howard, and Anne Arundel Counties in Maryland together with the counties in the Southern and Eastern Shore section of Maryland. Those areas in Virginia not listed have been distributed to the Atlanta Regional Office and those in Maryland not listed have been distributed to the Cleveland Regional Office.

Dated: April 18, 1989.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-10952 Filed 4-21-78; 8:45 am]

[6750-01]

**PART 2—NONADJUDICATIVE
PROCEDURES**

**Subpart A—Inquiries; Investigations;
Compulsory Processes**

ORDER REQUIRING ACCESS

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: This document changes the Commission's rules of practice to conform to the expanded powers of access to documentary evidence provided for by the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act.

EFFECTIVE DATE: April 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Jerome A. Tintle, Office of General Counsel, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580; 202-523-3487.

SUPPLEMENTARY INFORMATION: The Federal Trade Commission Act (FTC Act) 15 U.S.C. 41 et seq., was amended January 4, 1975 by the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act (Magnuson-Moss Act), Pub. L. 93-637. Section 203(b)(1) of the Magnuson-Moss Act expanded the Commission's powers of access to documentary evidence by amending the first paragraph of section 9 of the FTC Act, striking out the word "corporation" where it first appeared in that paragraph and inserting in lieu thereof the words "person, partnership, or corporation." The Commission's Rules of Practice, specifically § 2.11(a), have not been amended to reflect the expansion of the Commission's access powers. This oversight is corrected below.

Accordingly, pursuant to 15 U.S.C. 46(g) and 5 U.S.C. 552, 16 CFR 2.11(a) is amended to read as follows:

§ 2.11 Orders requiring access.

(a) The Commission may issue an order requiring any person, partnership or corporation being investigated to grant access to files for the purpose of examination and the right to copy any documentary evidence. The Directors, Deputy Directors, and Assistant

Directors of the Bureau of Competition, Consumer Protection, and Economics and the Regional Directors and Assistant Regional Directors of the Commission's regional offices, pursuant to delegation of authority by the Commission, without power of re-delegation, are authorized, for good cause shown, to extend the time prescribed for compliance with orders requiring access issued during the investigation of any matter.

By direction of the Commission dated April 13, 1978.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-10951 Filed 4-21-78; 8:45 am]

[4810-22]

Title 19—Customs Duties

**CHAPTER I—UNITED STATES
CUSTOMS SERVICE**

[T.D. 78-115]

PART 159—LIQUIDATION OF DUTIES

**Countervailing Duties—Sugar Content
of Certain Articles, from Australia**

AGENCY: United States Customs Service.

ACTION: New amounts of countervailing duty determined.

SUMMARY: This notice is to inform the public of the amounts of countervailing duty which will be assessed on the sugar content of certain articles exported from Australia during the period July 1977 through December 1977. Section 159.47(f) of the Customs Regulations is being amended to include this notice.

EFFECTIVE DATE: April 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Stephen Nyschot, Operations Officer, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: The Treasury Department is in receipt of official information that the rates of bounties or grants paid or bestowed within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303), on the exportation during the period July 1977 through December 1977, of approved fruit products and other approved products manufactured or produced in Australia are the amounts shown in the fol-

lowing table. The amounts shown are in Australian dollars, per 1,000 kilograms of sugar content.

Month	Approved fruit products	Other approved products
July 1977	Nil	Nil
August 1977.....	Nil	'2.10
September 1977.....	Nil	Nil
October 1977.....	Nil	'7.00
November 1977.....	'3.50	'18.50
December 1977.....	Nil	'5.20

'In Australian dollars.

The net amounts of bounties or grants on the above-described merchandise are hereby ascertained, determined, or estimated to be the rates stated in the above table. Additional duties on the above-described merchandise, whether imported directly or indirectly from that country, equal to the net amounts of the bounty shown above shall be assessed and collected pursuant to section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

The table in section 159.47(f) of Customs Regulations (19 CFR 159.47(f)), under "Australia—Sugar content of certain articles" is amended (1) by deleting therefrom the reference to T.D. 76-214, and (2) by adding a reference to this Treasury Decision. As amended, the last four lines of the table under this Commodity will read:

Country	Commodity	Treasury decision	Action
.	.	.	.
		55716	Certain articles exempted as to shipments exported on or after July 19, 1962.
		77-127	New rate.
		77-257	Do.
		78-115	Do.

(R.S. 251, as amended, secs. 303, 624, 46 Stat. 687, as amended, 759 (19 U.S.C. 66, 1303, 1624).)

R. E. CHASEN,
Commissioner of Customs.

Approved:

ROBERT H. MUNDHEIM,
General Counsel.

[FR Doc. 78-11015 Filed 4-21-78; 8:45 am]

[4110-07]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 16]

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Presumptive Disability and Presumptive Blindness; Basis for Findings and Payments

AGENCY: Social Security Administration, HEW.

ACTION: Final rules.

SUMMARY: These rules provide for payments to persons found to be presumptively blind. As a result of these amendments, the public will be better informed of how payments on the basis of presumptive blindness are made. In addition, the language in the regulations concerning when presumptive disability and presumptive blindness payments end and when an overpayment may occur with respect to such payments is being clarified.

DATE: These amendments shall be effective on April 24, 1978.

ADDRESSES: Although these rules are being published as final rules without prior Notice of Proposed Rule Making, consideration will be given to any data, views, or arguments pertaining to these rules which are submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203, on or before May 24, 1978. Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

William J. Ziegler, Legal Assistant, Office of Policy and Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7415.

SUPPLEMENTARY INFORMATION:

(1) *Presumptive blindness.* Before enactment of Pub. L. 94-569, Section 1631(a)(4)(B) of the Social Security Act provided that only claimants for supplemental security income benefits

based on disability could receive payments based upon a presumption that a disability existed. These payments are made in recognition of delays incurred in obtaining and evaluating medical evidence relating to disability. Claimants could receive up to three months payments prior to the formal disability determination.

On October 20, 1976, Pub. L. 94-569 was enacted by Congress. Section 4 of this law amended Section 1631(a)(4)(B) of Title XVI of the Social Security Act. The amendment to the Act provides for payments after November 1976, to persons found to be presumptively blind. These payments will now be made to persons found to be presumptively blind in the same manner as they are made to persons found to be presumptively disabled. The proposed amendments to §§ 416.537, 416.951, 416.952, 416.953 and 416.1403 of 20 CFR Part 416 (Regulation No. 16 of the Social Security Administration) reflect this change in the law. The amendments are being published in final, since they merely reflect provisions of law which have already been implemented, and make conforming and clarifying changes. Therefore, delaying the effectiveness of these rules for notice and public participation is considered unnecessary.

(2) *Overpayments.* Section 1631(a)(4)(B) of the Social Security Act precludes charging a person who received presumptive disability or presumptive blindness payments with an overpayment if the person is found not disabled or blind. This restriction does not apply where ineligibility occurs for other reasons. Ineligibility could exist because of excess income or resources; and in this situation, an individual will be considered overpaid whether or not found to be disabled or blind. Amendments are being made to §§ 416.537 and 416.951 to make clear that when a person receives payments on the basis of presumptive disability or presumptive blindness, an overpayment may occur if it is later determined that the person is ineligible for some reason other than a determination that the person is not disabled or blind.

(3) *Termination of payments.* A person may receive as many as three months of presumptive disability or presumptive blindness payments prior to a formal disability or blindness determination. However, no further payments may be made after a determination is made that the person is not disabled or blind. This is true even when the person received less than three months payments before the formal determination.

The intent of the law in providing presumptive disability and presumptive blindness payments is to permit payments not exceeding three months

to meet the day-to-day needs of the individual while the formal determination is pending. Obtaining and evaluating medical evidence may take a long time in some situations. However, the payments are made under the presumption that the person will be found disabled or blind. Consequently, once it is determined that the person is not disabled or blind, there is no authority for making any further payments. Similarly, a person receiving presumptive disability or presumptive blindness payments will no longer be eligible for these payments when it is determined that a non-medical factor of entitlement is no longer met. For example, when the person applied for supplemental security income benefits on the basis of disability or blindness, he or she may have met the income and resources limitations for benefit payments. If in a month after a person starts to receive presumptive payments he or she no longer meets a non-medical factor of entitlement, such as income or resources, presumptive payments will end.

Therefore, section 416.951 is being amended to clarify when presumptive disability and presumptive blindness payments will stop. This amendment will eliminate confusion as to how many payments a person may receive.

(4) *Determinations.* A determination of presumptive disability for the payment of benefits prior to an actual determination of whether or not the person is disabled is not considered an initial determination. Initial determinations are defined in § 416.1403(a). Certain rights (e.g., the right to appeal) pertain to initial determinations which do not apply to other determinations, which are described in § 416.1403(b). Section 416.1403(b) is being amended to reflect that a determination of presumptive blindness, like a determination of presumptive disability, will not be considered an initial determination. However, as in the case of payments based upon presumptive disability, a notice will also be sent to a person who receives payments based upon presumptive blindness. The notice will be sent to the recipient, and his or her representative, if any. This notice will explain the nature of the presumptive blindness payments and the conditions under which they are made. A notice will also be sent when no further presumptive blindness payments can be made.

(Secs. 1102 and 1631 of the Social Security Act, as amended; 49 Stat. 647 as amended and 86 Stat. 1475, as amended; 42 U.S.C. 1302 and 1383.)

(Catalog of Federal Domestic Program No. 13.807, Supplemental Security Income Program.)

NOTE.—The Social Security Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact State-

ment under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: March 23, 1978.

DON WORTMAN,
Acting Commissioner of
Social Security.

Approved: April 18, 1978.

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

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. Section 416.537 is amended by revising paragraph (b) to read as follows:

§ 416.537 Overpayments—defined.

(b) *Actions which are not overpayments*—(1) *Presumptive disability and presumptive blindness.* Any payment made for any month, including an advance payment of benefits under § 416.520, is not an overpayment to the extent it meets the criteria for payment under § 416.951. Payments made on the basis of presumptive disability or presumptive blindness will not be considered overpayments where ineligibility is determined because the individual or eligible spouse is not disabled or blind. However, where it is determined that all or a portion of the presumptive payments made are incorrect for reasons other than disability or blindness, these incorrect payments are considered overpayments (as defined in paragraph (a) of this section). Overpayments may occur, for example, when the person who received payments on the basis of presumptive disability or presumptive blindness is determined to be ineligible for all or any part of the payments because of excess resources or is determined to have received excess payment for those months based on an incorrect estimate of income.

2. Section 416.951 is revised to read as follows:

§ 416.951 Presumptive disability and presumptive blindness—general

An individual applying for supplemental security income benefits on the basis of disability or blindness may be paid benefits before a formal determination of disability or blindness is made by the Social Security Administration. In order to receive these payments, the individual must be found to be presumptively disabled or presumptively blind (See § 416.953). He or she must also meet all other eligibility requirements for supplemental security income benefits. These payments may be made for a period not exceeding three months, except as provided by

§ 416.954. However, any payments to an individual on the basis of presumptive disability or presumptive blindness prior to the determination of disability or blindness shall in no event be considered overpayments, as defined in § 416.537, solely because that individual is determined not to be disabled or blind.

3. Section 416.952 is revised to read as follows:

§ 416.952 Initiation, duration and termination of payments made on the basis of presumptive disability or presumptive blindness.

Except as provided by § 416.954 payments may be made on the basis of presumptive disability or presumptive blindness for a period of not more than three months beginning with and for the month in which the presumptive disability or presumptive blindness decision is rendered. However, presumptive blindness payments cannot be made for months before December 1976. Payments on the basis of presumptive disability or presumptive blindness will end with the earliest of the following months:

(a) The month in which the disability or blindness determination is made, or

(b) The month in which the third monthly payment based on presumptive disability or presumptive blindness is made, or

(c) The month in which a non-medical factor of entitlement is no longer met.

4. Section 416.953 is revised to read as follows:

§ 416.953 Findings of presumptive disability or presumptive blindness.

(a) Findings of presumptive disability or presumptive blindness may be made when there is evidence of a prima facie case of disability or blindness. A prima facie case of disability or blindness is one in which the evidence available at the time of the presumptive disability or presumptive blindness decision, when viewed in light of the definitions of disability and blindness in § 416.901, reflects a high degree of probability that the applicant is disabled or blind as defined in that section.

(b) In the case of readily observable severe impairments (e.g., amputation of extremities, total blindness), a prima facie case of disability or blindness may be present without medical evidence. In all other cases, a prima facie case of disability or blindness will be based on medical and other evidence which, though not sufficient for a final determination of disability or blindness, is sufficient for authorized disability evaluators to determine that there is a high degree of probability that the applicant is disabled or blind as defined in § 416.901.

5. Section 416.1403 is amended by revising paragraph (b)(1)(ii) and (b)(2) to read as follows:

§ 416.1403 Determinations.

(b) *Other determinations.* (1) The following are not initial determinations:

(ii) Determinations with respect to presumptive disability or presumptive blindness for the payment of benefits prior to a determination of disability or blindness;

(2) However, when payment of presumptive disability benefits, presumptive blindness benefits, or emergency cash advances is made to an individual, a notice shall be sent to that individual, and his or her representative, if any, explaining the nature of the payments and the conditions under which they are made; and notice shall also be sent when no further presumptive disability or presumptive blindness payments can be made to that individual.

[FR Doc. 78-11016 Filed 4-21-78; 8:45 am]

[3810-70]

Title 32—National Defense

CHAPTER I—OFFICE OF THE
SECRETARY OF DEFENSE

Subchapter M—Miscellaneous

[DoD Instruction 5210.25]

PART 253—ASSIGNMENT OF AMERICAN NATIONAL RED CROSS AND UNITED SERVICE ORGANIZATIONS (USO) EMPLOYEES TO DUTY WITH THE ARMED FORCES

Final Rule; Correction

AGENCY: Office of the Secretary of Defense.

ACTION: Correction of final rule.

SUMMARY: In FR Doc. 78-7954 appearing at page 12680 in the FEDERAL REGISTER of March 27, 1978, the new Part to be added to 32 CFR Chapter I was inadvertently designated as Part 256 instead of Part 253. Therefore, Part 256 wherever it appears in this rule should be changed to Part 253. The §§ 256.1, 256.2, 256.3, 256.4, 256.5, and 256.6 should be corrected to read

§§ 253.1, 253.2, 253.3, 253.4, 253.5, and 253.6.

MAURICE W. ROCHE,
Director, Correspondence and
Directives, Washington Head-
quarters Services, Department
of Defense.

APRIL 18, 1978.

[FR Doc. 78-11000 Filed 4-21-78; 8:45 am]

[3810-71]

**CHAPTER VI—DEPARTMENT OF THE
NAVY**

Miscellaneous Deletions

AGENCY: Department of the Navy,
Department of Defense.

ACTION: Deletions.

SUMMARY: Miscellaneous parts and sections, which are not required to be published in the FEDERAL REGISTER and incorporated in the Code of Federal Regulations (CFR), are being deleted by the Department of the Navy from 32 CFR Chapter VI. The deletions will not cancel the underlying source directives of the deleted provisions, but they will remove unnecessary provisions from the CFR.

EFFECTIVE DATE: The deletions are effective on April 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Commander E. M. Byrne, JAGC, U.S. Navy, Administrative Law Division (Code 133), Office of the Judge Advocate General, Department of the Navy, Washington, D.C. 20370, telephone number: 202-694-5745.

SUPPLEMENTARY INFORMATION: In accordance with the Presidential objective of assuring that Federal regulations are as effective, reasonable, and understandable as possible, and pursuant to a Department of Defense project to, among other things, make Title 32 of the Code of Federal Regulations (CFR) a more useful and understandable publication by deleting those regulations which are not required to be published in the FEDERAL REGISTER and incorporated in the CFR, the Department of the Navy has extensively reviewed 32 CFR Chapter VI. As a result of this extensive review, it has been determined, under guidance issued by the General Counsel of the Department of Defense, that certain regulations which do not affect the public can be deleted from the CFR. The source directives for the deleted CFR provisions, however, are not cancelled and thus remain effective.

Accordingly, 32 CFR Chapter VI is amended as follows:

1. Part 700 of 32 CFR is amended by deleting the following sections:

- §§ 700.606-700.612
- § 700.703
- §§ 700.705-700.708
- § 700.12
- §§ 700.718 and 700.719
- §§ 700.722 and 700.723
- §§ 700.727 and 700.728
- §§ 700.730-700.732
- § 700.735
- §§ 700.738 and 700.739
- §§ 700.741-700.746
- § 700.748
- §§ 700.750 and 700.751
- §§ 700.759-700.762
- §§ 700.766 and 700.767
- §§ 700.801-700.810
- §§ 700.812-700.816
- §§ 700.818-700.829
- §§ 700.831-700.833
- §§ 700.835-700.867
- § 700.902
- §§ 700.905-700.921
- §§ 700.924-700.934
- §§ 700.936-700.939
- §§ 700.1101-700.1114
- §§ 700.1118 and 700.1119
- §§ 700.1121-700.1132
- §§ 700.1134-700.1142
- § 700.1145
- §§ 700.1147-700.1149
- §§ 700.1152-700.1160
- §§ 700.1162 and 700.1163
- §§ 700.1203 and 700.1204

2. Part 701 of 32 CFR is amended in the following manner:

Delete §§ 701.8(a), 701.8(b)(3), 701.8(c), 701.8(d), 701.8(e), and 701.8(f); and renumber previous §§ 701.8(b)(1) and 701.8(b)(2) as §§ 701.8(a) and 701.8(b), respectively.

Delete §§ 701.13, 701.55, and 701.56(a), and renumber previous §§ 701.56(b) and 701.56(c) as §§ 701.56(a) and 701.56(b), respectively.

3. Part 705 of 32 CFR is amended by deleting the following sections:

- § 705.3
- §§ 705.27 and 705.28.

4. Part 710 of 32 CFR is deleted.

5. Part 711 of 32 CFR is deleted.

6. Part 713 of 32 CFR is deleted.

7. Part 719 of 32 CFR is amended by deleting the following sections:

- §§ 719.101-719.111
- §§ 719.113 and 719.114
- §§ 719.116-719.137
- §§ 719.139-719.141
- §§ 719.145-719.150

8. Part 720 of 32 CFR is amended by deleting the following sections:

- §§ 720.6 and 720.7
- §§ 720.9-720.11
- §§ 720.13 and 720.14
- §§ 720.16 and 720.17
- §§ 720.22-720.25
- §§ 720.40 and 720.41

9. Part 721 of 32 CFR is amended by deleting § 721.11.

10. Part 722 of 32 CFR is amended by deleting §§ 722.5 and 722.6.

11. Part 727 of 32 CFR is amended by deleting the following sections:

§§ 727.2-727.4
§ 727.14(b)

12. Part 728 is amended by deleting §§ 728.11-728.15.

13. Part 731 of 32 CFR is deleted.

14. Part 732 of 32 CFR is amended by deleting the following sections:

§§ 732.2-732.11
§§ 732.13-732.16

15. Part 733 of 32 CFR is deleted.

16. Part 734 of 32 CFR is deleted.

17. Part 735 of 32 CFR is deleted.

18. Part 753 of 32 CFR is deleted.

19. Part 765 of 32 CFR is amended by deleting §§ 765.2 and 765.9-765.11.

20. Part 766 of 32 CFR is amended by deleting § 766.14.

Dated: April 11, 1978.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy,
Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 78-11026 Filed 4-21-78; 8:45 am]

[3810-71]

**PART 724—NAVAL DISCHARGE
REVIEW BOARD**

Policy Statement

AGENCY: Department of the Navy,
Department of Defense.

ACTION: Policy statement.

SUMMARY: This policy statement announces that uniform policies, standards, and procedures for the conduct of military discharge reviews have been promulgated by the Department of Defense (32 CFR Part 70), in accordance with Pub. L. 95-128, and that the regulations governing the Naval Discharge Review Board (the Department of the Navy Manual for Discharge Review 1977) are temporarily changed to correspond to these new Department of Defense uniform rules, pending revision of the Navy's regulations (32 CFR Part 724).

EFFECTIVE DATE: March 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Rear Admiral, John M. DeLargy,
U.S. Navy, Director, Naval Council
of Personnel Boards, Room 905, 801
North Randolph Street, Arlington,
Va. 22203, Telephone number: 202-
696-4355.

SUPPLEMENTARY INFORMATION: Pub. L. 95-126, enacted on October 8, 1977, amended Title 38, U.S.C. 3103 to provide that no benefits by the Veterans' Administration would be provided as a result of an action taken by a Discharge Review Board of the military departments except upon a case-by-

case review under published uniform standards and procedures. To meet the requirements of Pub. L. 95-126, the Department of Defense (DoD) promulgated DoD Directive 1332.28 (FR Doc. 78-8638 appeared in the FEDERAL REGISTER for March 31, 1978 (43 FR 13564) and is to be codified at 32 CFR Part 70) to establish uniform standards and procedures for reviewing discharges. The DoD Directive was effective immediately. Therefore, in order to implement the provisions of DoD Directive 1332.28 within the Department of the Navy, and to provide for the reconsiderations required by Pub. L. 95-126, the Assistant Secretary of the Navy (Manpower, Reserve Affairs and Logistics), on March 30, 1978, issued a memorandum to the Director, Naval Council of Personnel Boards temporarily changing, in some respects, the Naval Discharge Review Board regulations (the Department of the Navy Manual for Discharge Review 1977) (32 CFR Part 724). Further, in order to handle the reconsideration requirements of Pub. L. 95-126, review of other pending applications is temporarily suspended. A complete revision of the Department of the Navy Manual for Discharge Review 1977, currently under preparation, will be published in the FEDERAL REGISTER as soon as possible and prior to the resumption of reviews of pending applications.

It has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this policy statement for public comment prior to promulgation is impracticable and unnecessary, since it merely represents an interim implementation of the DoD Directive which was published for public comment in the FEDERAL REGISTER on December 14, 1977 (42 FR 62934) in FR Doc. 77-35794, and because of the need for immediate implementation. In consideration of the foregoing and pursuant to the authority conferred in 10 U.S.C. 1553 and Pub. L. 95-126, the guidance contained in the memorandum effecting the Department of the Navy Manual for Discharge Review 1977 (32 CFR Part 724) is set forth below:

Department of Defense (DoD) Directive 1332.28 (32 CFR Part 70) establishes uniform Discharge Review Board procedures and standards in accordance with the mandates of Pub. L. 95-126. It promulgates certain procedures and standards not previously included within the Department of the Navy Manual for Discharge Review 1977 (32 CFR Part 724) (i.e., the Manual) and certain procedures and standards to which the Manual must be conformed. The publication of the DoD Directive was a prerequisite to certain Department of the Navy Discharge Review Board action required by Pub. L. 95-126 and Deputy Secretary of Defense memorandum of December 21, 1977 (FR Doc. 78-5171 appearing in the FEDERAL REGISTER (43 FR 8000) for February 27, 1978).

In accordance with the DoD Directive and the Deputy Secretary of Defense memorandum (43 FR 8000) the following is effective immediately:

1. Except as hereinafter provided, to the extent that the Manual is in conflict with the provisions of the DoD Directive, and pending revision of the Manual, the Manual provisions are, effective this date, held in abeyance; the superseding provisions of the DoD Directive, and those provisions thereof not previously included within the Manual, are hereby adopted as an interim change to the Manual and are effective immediately.

2. Except as hereinafter provided, and for the preliminary determinations required by Pub. L. 95-126 and the Deputy Secretary of Defense memorandum, the procedures prescribed in that memorandum are hereby adopted and promulgated within the Department of the Navy and are effective immediately. The procedural requirements of the Secretary of Defense memorandum for these preliminary determinations are to continue in effect and the provisions thereof with respect to such preliminary determinations will not be superseded, cancelled, or modified by revision of the Manual. The attention of the Naval Discharge Review Board is specifically directed to paragraph C 11 of enclosure (2) to the DoD Directive.

3. All previously heard cases in which the review was conducted pursuant to the Manual will be processed to final conclusion under the provisions of that Manual.

4. By court order, in the case of *Attard et al. v. Secretary of the Navy et al.*, Civil Action No. 76-1701 (D.C., D.C. 1977), certain Naval Discharge Review Board cases are required to be reprocessed under the provisions of the Manual. Accordingly, in compliance with the court order and as an exception to subparagraphs 1 and 2 above, those cases within the *Attard* class will continue to be processed under the provisions of the Manual as it existed on August 5, 1977; and, as to each case within this singular class, the provisions of the Manual remain fully effective pending completion of the court-ordered reprocessing in each such case. As a case within the class is completed and any authorized appeal is decided, or the time in which to file an appeal expires without an appeal having been received, this exception provision as to such case is hereby cancelled without further action.

The Naval Discharge Review Board will proceed immediately to comply with the mandates of Pub. L. 95-126, the DoD Directive, the Deputy Secretary of Defense memorandum, and this memorandum.

The Director, Naval Council of Personnel Boards, is hereby designated the President of the Naval Discharge Review Board, and will perform such additional duties as may be required of him by virtue of this designation.

Dated: April 19, 1978.

K. D. LAWRENCE,
Captain, JAGC, U. S. Navy,
Deputy Assistant Judge Advocate, General (Administrative Law).

[FR Doc. 78-11025 Filed 4-21-78; 8:45 am]

[1505-01]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 75-008a]

PART 181—MANUFACTURER REQUIREMENTS

Personnel Flotation Devices Information Pamphlet

Correction

In FR Doc 78-5885 appearing at page 9766 in the issue of Thursday, March 9, 1978 on page 9768, first column under the heading, "FEDERAL REGULATIONS REQUIRE PERSONAL FLOTATION DEVICES" paragraphs (a) and (b) should be corrected to read as follows:

(a) No person may use a recreational boat less than 16 feet in length or a canoe or kayak unless at least one personal flotation device of the following types is on board for each person:

- (1) Type I PFD.
- (2) Type II PFD.
- (3) Type III PFD.
- (4) Type IV PFD.

(b) No person may use a recreational boat 16 feet or more in length, except a canoe or kayak, unless at least one personal flotation device of the following types is on board for each person:

- (1) Type I PFD.
- (2) Type II PFD.
- (3) Type III PFD.

[4310-70]

Title 36—Parks, Forests, and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

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

Hawaii Volcanoes National Park, Hawaii, Backcountry Camping Registration Required

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The purpose of this revision is to require all persons planning to camp anywhere in the backcountry of the park to register with the Superintendent. This is necessary to allow such persons to be readily notified of emergency conditions which frequently occur in the park.

EFFECTIVE DATE: May 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert D. Barbee, Superintendent, Hawaii Volcanoes National Park, telephone, 808-967-7311.

SUPPLEMENTARY INFORMATION:

On January 4, 1978, there was published in the FEDERAL REGISTER (43 FR 779) a notice of proposed rulemaking to amend 36 CFR 7.25 by revising paragraph (b)(1) to require all persons camping anywhere in the backcountry of Hawaii Volcanoes National Park to register with the Superintendent. No comments, suggestions, or objections were received in response to this notice; therefore the proposed regulation is adopted without change and is set forth below:

§ 7.25 Hawaii Volcanoes National Park

(b) *Backcountry registration.* (1) No person shall camp overnight in the backcountry without first registering with the Superintendent. "Backcountry" is defined as all areas of the park which are more than 250 yards from a paved road.

DANIEL J. TOBIN,
Associate Director,
National Park Service.

APRIL 11, 1978.

[FR Doc. 78-11008 Filed 4-21-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 870-8]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces that the Environmental Protection Agency (EPA) is approving a revision to the New York State Implementation Plan (SIP). This action has the effect of approving the reissuance of a "special limitation" to continue a temporary relaxation of the sulfur-in-fuel-oil limitation applicable to Units 1 through 5 of the Niagara Mohawk Power Corp.'s steam generating station in Oswego, N.Y. This "special

limitation" will permit the continued use, until May 31, 1980, of fuel oil having a maximum sulfur content of 2.8 percent, by weight. This "special limitation" was initially approved by EPA on July 20, 1976 and was in effect until May 31, 1977. These units are otherwise required by State regulation to use fuel oil with a maximum sulfur content of 2.0 percent, by weight. Receipt of the revision request from New York State was announced in the FEDERAL REGISTER on December 21, 1977 at 42 FR 63912, where a full description of the proposed revision is contained. Under existing regulations, changes in SIP's must be approved by the EPA Administrator after determination that they are consistent with the provisions of the Clean Air Act.

EFFECTIVE DATE: April 24, 1978.

FOR FURTHER INFORMATION CONTACT:

William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, N.Y. 10007, 212-264-2517.

SUPPLEMENTAL INFORMATION:

On August 24, 1977, the State of New York submitted a request to the Environmental Protection Agency (EPA) to approve a proposed revision to the New York State Implementation Plan (SIP). On October 5, 1977, the State submitted additional information which included a technical analysis of the air quality impact of the proposed revision and an evaluation report prepared by the hearing officer for the State public hearing.

Approval of the revision request will include in the SIP a "special limitation" which allows the Niagara Mohawk Power Corp. to continue to use, until May 31, 1980, higher sulfur content fuel oil than normally allowed by State regulation at Units 1 through 5 of its Oswego facility. In the Oswego area, State regulation normally limits the maximum sulfur content of fuel oil to 2.0 percent, by weight. This "special limitation" allows the use fuel oil having a maximum sulfur content of 2.8 percent, by weight. A previous "special limitation," also allowing the use of 2.8 percent sulfur content fuel oil at the Oswego facility, was approved by EPA on July 20, 1976 (41 FR 29817) and expired on May 31, 1977.

The State's revision request was submitted in accordance with all applicable EPA requirements under 40 CFR Part 51, including a public hearing which was held on May 5, 1977. This proposed revision to the SIP was announced in the FEDERAL REGISTER on December 21, 1977 (42 FR 63912), where a detailed description of the revision is provided. In this notice EPA advised the public that comments would be accepted as to whether the

proposed revision to the New York State Implementation Plan should be approved or disapproved.

Comment was offered only by the Connecticut Department of Environmental Protection which opposed approval of the proposed SIP revision. The Department stated that, while the proposed SIP revision might not cause significant increases in local sulfur dioxide levels, it would, nonetheless, contribute to the problems of secondary particulate formation and acid rainfall. An anticipated increase in secondary particulate formation associated with the increase in fuel sulfur content was of particular concern to the Department. It was claimed by the Department that this revision would thus increase ambient particulate concentrations in Connecticut and thereby diminish Connecticut's available margin for growth and development.

EPA acknowledges the need for control of secondary particulates and currently is sponsoring or conducting work to study their formation and transport. However, EPA does not believe that it currently has sufficient information to justify setting a standard for secondary particulates or acid rain. In the absence of a thorough understanding of these problems, EPA does not have grounds to disapprove the proposed SIP revision on the basis of secondary particulate formation. Nonetheless, the EPA Region II Office has expressed to the State of Connecticut its willingness to withhold, modify, or limit any future EPA approval of proposed SIP revisions whenever technical information presented by the State of Connecticut demonstrates that its ability to maintain ambient air quality standards may be impaired or that normal growth in Connecticut will be inhibited by such proposed SIP revisions.

Based on EPA's review of the State's technical evaluation and hearing officer's report and agreement with the State's conclusion that, if implemented, the proposed plan revision would not be expected to cause or exacerbate contraventions of any national ambient air quality standard, EPA finds this revision to the New York State Implementation Plan consistent with the requirements of section 110(a) of the Clean Air Act and EPA regulations found at 40 CFR Part 51. Accordingly, EPA approves this revision. In addition, this action is being made effective immediately because it imposes no hardship on the affected source, and no purpose would be served by delaying its effective date.

Dated: April 14, 1978.

BARBARA BLUM,
Acting Administrator,
Environmental Protection Agency.

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

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart HH—New York

1. In § 52.1670, paragraph (c) is amended by adding new subparagraph (37) as follows:

§ 52.1670 Identification of plans.

(c) The plan revisions listed below were submitted on the dates specified.

(37) Revision submitted on August 24, 1977, by the New York State Department of Environmental Conservation which grants a "special limitation" under Part 225. This "special limitation" relaxes, until May 31, 1980, the sulfur-in-fuel-oil limitation to 2.8 percent, by weight, for Units 1 through 5 of the Niagara Mohawk Power Corp.'s Oswego facility in Oswego, N.Y.

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

[FR Doc. 78-10991 Filed 4-21-78; 8:45 am]

[6560-01]

[FRL 870-6]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces that the Environmental Protection Agency is approving a revision to the New York State Implementation Plan (SIP). This action has the effect of approving the State issuance of a "special limitation" to allow a temporary relaxation of the sulfur-in-coal limitation for the Rochester Gas and Electric Corp.'s Beebe generating station, Unit 12, in Rochester, N.Y. This "special limitation" will permit the use, until October 31, 1980, of coal having a maximum sulfur content of 2.8 pounds per million Btu, gross heat content. This facility is presently limited by State regulation to the use of coal with a sulfur content of 2.5 pounds per million Btu maximum and 1.9 pounds per million Btu average for any consecutive three-month period. Receipt of the revision request from New York State was announced in the FEDERAL REGISTER on December 21, 1977 at 42 FR 63913, where a full description of

the proposed revision is contained. Under existing regulations, changes in SIP's must be approved by the EPA Administrator after determination that they are consistent with the Clean Air Act.

EFFECTIVE DATE: April 24, 1978.

FOR FURTHER INFORMATION CONTACT:

William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, N.Y. 10007, 212-264-2517.

SUPPLEMENTAL INFORMATION: On September 22, 1977, the State of New York submitted a request to the Environmental Protection Agency (EPA) to approve a proposed revision to the New York State Implementation Plan (SIP). Additional information was submitted on October 18, 1977. The State's revision request was submitted in accordance with all EPA requirements under 40 CFR Part 51, including a public hearing which was held on June 8, 1977.

Approval of the State's request to include in the SIP this "special limitation" issued under the provisions of a section of a New York State regulation, 6 NYCRR 225.2, will have the effect of allowing the Rochester Gas and Electric Corp. to temporarily use higher sulfur content coal than currently allowed at its Bebe generating station, Unit 12, in Rochester, N.Y. This "special limitation" will allow the use, until October 31, 1980, of coal having a maximum sulfur content of 2.8 pounds per million Btu, gross heat content. The current sulfur-in-coal limitations are 2.5 pounds per million Btu as a maximum and 1.9 pounds per million Btu as an average for any consecutive three-month period. No limitation on the average sulfur content of coal burned over any consecutive three month period is included in the "special limitation."

This proposed revision to the SIP was announced in the FEDERAL REGISTER on December 21, 1977 (42 FR 63913), where a detailed description of the revision is provided. In this notice EPA advised the public that comments would be accepted as to whether the proposed revision to the New York State Implementation Plan should be approved or disapproved.

Comment was offered only by the Connecticut Department of Environmental Protection which opposed approval of the proposed SIP revision. The Department stated that, while the proposed SIP revision might not cause significant increases in local sulfur dioxide levels, it would, nonetheless, contribute to the problems of secondary particulate formation and acid rainfall. An anticipated increase in secondary particulate formation, associated with the increase in fuel

sulfur content, was of particular concern to the Department. It was claimed by the Department that this revision would thus increase ambient particulate concentrations in Connecticut and thereby diminish Connecticut's available margin for growth and development.

EPA acknowledges the need for control of secondary particulates and currently is sponsoring or conducting work to study their formation and transport. However, EPA does not believe that it currently has sufficient information to justify setting a standard for secondary particulates or acid rain. In the absence of a thorough understanding of these problems, EPA does not have the grounds to disapprove the proposed SIP revision on the basis of secondary particulate formation. Nonetheless, the EPA Region II Office has expressed to the State of Connecticut its willingness to withhold, modify, or limit any future EPA approval of proposed SIP revisions whenever technical information presented by the State of Connecticut demonstrates that its ability to maintain ambient air quality standards may be impaired or that normal growth in Connecticut will be inhibited by such proposed SIP revisions.

Based on EPA's review of the State's technical support documents and hearing officer's report and agreement with the State's conclusion that, if implemented, the proposed plan revision would not be expected to cause or exacerbate contraventions of any national ambient air quality standard, EPA finds this revision to the New York State Implementation Plan consistent with the requirements of Section 110 (a) of the Clean Air Act and EPA regulations found at 40 CFR Part 51. Accordingly, EPA approves this revision. Furthermore, this action is being made effective immediately because it imposes no hardship on the affected source, and no purpose would be served by delaying its effective date.

Dated: April 14, 1978.

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

BARBARA BLUM,
Acting Administrator,
Environmental Protection Agency.

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart HH—New York

1. In § 52.1670, paragraph (c) is amended by adding new subparagraph (38) as follows:

§ 52.1670 Identification of plans.

(c) The plan revisions listed below were submitted on the dates specified.

(38) Revision submitted on September 22, 1977 by the New York State Department of Environmental Conservation which grants a "special limitation" under Part 225. This "special limitation" relaxes, until October 31, 1980, the sulfur-in-coal limitation to 2.8 pounds of sulfur per million Btu, gross heat content, at the Rochester Gas and Electric Corp.'s Beebee generating station, Unit 12, in Rochester, N.Y.

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

[FR Doc. 78-10977 Filed 4-21-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 97—AMATEUR RADIO SERVICE

Editorial Amendments Concerning Novice Class Amateur Radio Operators

AGENCY: Federal Communications Commission.

ACTION: Editorial rule amendments.

SUMMARY: The FCC is amending its amateur radio rules to bring them into conformity with action the FCC took in March 1978. In a report and order adopted in March 1978 the FCC made the novice class amateur radio operator license valid for a 5-year term and renewable. At that time only the rule about renewability was amended, however. This order amends the rule about the term of the novice class license.

EFFECTIVE DATE: May 15, 1978.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mr. Gregory M. Jones, Personal Radio Division, 202-634-6619.

SUPPLEMENTARY INFORMATION:

Adopted: April 11, 1978.

Released: April 12, 1978.

1. On March 22, 1978, the Commission adopted a second report and order in Docket 20282. In the second report and order the Commission, among other things, said it was amending its rules to make the novice class amateur operator license valid for a period of 5 years and renewable. The novice class operator license had previously been valid for a period of 2 years and was not renewable. The new rules were

given an effective date of May 15, 1978.

2. The second report and order in Docket 20282 amended § 97.13 of the rules to state that all amateur operator licenses could be renewed upon proper application. Regulations concerning the license terms of amateur licenses are contained in § 97.59 of the rules, however. This order amends § 97.59 of the rules to implement the Commission's express intention in Docket 20282; namely, that all amateur licenses, including those issued to novice class operators, are normally to be valid for 5 years from the date of issuance or renewal.

3. Since the amendment we are adopting is editorial in character, merely amending the rules to ensure their conformity with prior Commission action, the prior notice and public procedure provisions of the Administrative Procedures Act, 5 U.S.C. 553, are not applicable. Authority for this action appears in sections 4(i), 5(d), and 303 of the Communications Act of 1934, as amended.

4. Accordingly, it is ordered that § 97.59 of the Commission's rules is amended as set forth below effective May 15, 1978.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
RICHARD D. LICHTWARDT,
Executive Director.

Part 97 of chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

1. § 97.59 (a) and (b) are amended to read, as follows:

§ 97.59 License term.

(a) Amateur operator licenses are normally valid for a period of 5 years from the date of issuance of a new or renewed license.

(b) Amateur station licenses are normally valid for a period of 5 years from the date of issuance of a new or renewed license. All amateur station licenses, regardless of when issued, will expire on the same date as the licensee's amateur operator license.

* * * * *

[FR Doc. 78-10934 Filed 4-21-78; 8:45 am]

[4910-62]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amend. No. 1-135]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegation to the Commandant of the Coast Guard

AGENCY: Department of Transportation.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to delegate to the Commandant of the Coast Guard functions vested in the Secretary by the International Safe Container Act which relates to the implementation of the International Convention for Safe Containers, 1972.

EFFECTIVE DATE: This amendment is effective on April 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Capt. George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTAL INFORMATION: Since this amendment relates to departmental rules of organization, it is excepted from notice and public procedure requirements. It is made effective immediately on publication in the FEDERAL REGISTER because it is not a substantive rule.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Richard R. Clark, Office of the General Counsel, Office of the Secretary, and M. H. Allen, Jr., Office of Merchant Marine Safety, U.S. Coast Guard.

DISCUSSION OF DELEGATION

The following in the International Safe Container Act (Pub. L. 95-208, December 13, 1977, 91 Stat. 1475) are powers vested in the Secretary which are delegated to the Commandant of the Coast Guard:

1. Promulgation of rules and regulations governing the approval and periodic examination of containers in conformance with the International Convention for Safe Containers, 1972.

2. Designation of private persons or organizations for the purpose of approving containers under the Convention.

3. Inspection of containers in international transport to ensure compliance with the Convention.

4. Removal from commerce and other control of containers found to be not in compliance with the Convention.

5. Assessment of civil penalties.

Accordingly, Part 1 of Title 49 of the Code of Federal Regulations is amended by adding a new §1.46(n)(12) to read as follows:

§1.46 Delegations to Commandant of the Coast Guard.

(n)***

(12) International Safe Container Act (Pub. L. 95-208, 91 Stat. 1475), except section 4(e).

(Sec. (e)), Department of Transportation Act (49 U.S.C. 1657(e)).

Issued in Washington, D.C., on April 13, 1978.

BROCK ADAMS,
Secretary of Transportation

[FR Doc. 78-10929 Filed 4-21-78; 8:45 am]

[4910-62]

[OST Docket No. 1; Amend. No. 1-136]

PART 1—ORGANIZATION OF DELEGATIONS OF POWERS AND DUTIES

Delegations to the Director of the Research and Special Programs Directorate

AGENCY: Department of Transportation.

ACTION: Final rule.

SUMMARY: This change delegates to the Director, Research and Special Programs Directorate the authority vested in the Secretary by section 4(e) of the International Safe Container Act to encourage the development and use of intermodal transport, using containers constructed to facilitate economical, safe, and expeditious handling of containerized cargo without intermediate reloading of the cargo as it is transported over land, air, and sea areas.

EFFECTIVE DATE: This amendment is effective on April 24, 1978.

FOR FURTHER INFORMATION CONTACT:

William Driscoll, Chief Counsel, Research and Special Programs Directorate, Room 6222, 200 2nd Street SW., Washington, D.C. 20590, 202-755-4972.

SUPPLEMENTAL INFORMATION: The person responsible for the drafting of this document is John Whittington of the Office of Management Sys-

tems, Department of Transportation. Richard R. Clark, Office of the General Counsel has reviewed it for legal sufficiency.

This change delegates to the Director, Research and Special Programs Directorate, the authority vested in the Secretary of Transportation by section 4(e) of the International Safe Container Act (Pub. L. 95-208, 91 Stat. 1475). This section directs the Secretary to "encourage the development and use of intermodal transport, using containers constructed to facilitate economical, safe, and expeditious handling of containerized cargo without intermediate reloading while such cargo is in transport over land, air, and sea areas." This responsibility is appropriately delegated to the Directorate since the Office of Facilitation within the Directorate has been active in the intermodal and container field since the inception of the Department of Transportation and has expertise in this area.

Since this relates to departmental management, procedures, and practices, notice and public procedures thereon are unnecessary and it may be made effective immediately.

In consideration of the foregoing, §1.53 of Title 49, Code of Federal Regulations, is amended as follows:

§1.53 Delegations to the Director of the Research and Special Programs Directorate.

(d) *Intermodal transport.* (1) Section 4(e) of the International Safe Container Act (Pub. L. 95-208, 91 Stat. 1475).

(Sec. 9(e), Department of Transportation Act (49 U.S.C. 1657(e)).)

Issued in Washington, D.C., on April 13, 1978.

BROCK ADAMS,
Secretary of Transportation

[FR Doc. 78-10928 Filed 4-21-78; 8:45 am]

[7035-01]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1307-A1]

PART 1033—CAR SERVICE

Distribution of Refrigerator Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1307-A).

SUMMARY: Service Order No. 1307-A vacates Service Order No. 1307. There

was a severe shortage of refrigerator cars on the lines of the Burlington Northern Inc., requiring the prompt return of its refrigerator cars. Because of the decrease in demand for these cars Service Order No. 1307 which required their return is vacated by Service Order No. 1307-A.

EFFECTIVE DATE: Effective upon date of service (April 19, 1978).

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 17th day of April 1978.

Upon further consideration of Service Order No. 1307 (43 FR 10563), and good cause appearing therefor:

§1033.1307 [Vacated]

It is ordered, That: §1033.1307 distribution of refrigerator cars, is vacated.

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

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

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

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

[FR Doc. 78-11073 Filed 4-21-78; 8:45 am]

[7035-01]

[Revised Service Order No. 1318]

PART 1033—CAR SERVICE

Regulations for Return of Hopper Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Revised Service Order No. 1318).

SUMMARY: There is a severe shortage of hopper cars on twelve railroads named in Revised Service Order No. 1318. These carriers own large fleets of

these cars. Because of traffic flow patterns substantial numbers of these cars are shipped to points located on the lines of other railroads and must be returned promptly to the car owners for reloading. Revised Service Order No. 1318 adds the Carolina, Clinchfield and Ohio Railway to the railroads named as beneficiaries to the order.

DATES: Effective 11:59 p.m., April 21, 1978. Expires 11:59 p.m., June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:
The Order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 17th day of April, 1978.

An acute shortage of hopper cars exists in certain sections of the country; depriving shippers of hopper cars required for loading coal, forcing curtailment of their operations, and thus creating great economic loss and reduced employment of their personnel resulting in an emergency. Coal stockpiles of several utility companies have been depleted. In many instances hopper cars, after being unloaded, are being appropriated and retained in services for which they have not been designated by the car owners. Present regulations and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of hopper cars are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1318 Regulations for return of hopper cars.

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Exclude from all loading and return to owner empty, either via the reverse of the service route or direct, as agreed to by the owner, all hopper cars owned by the following railroads:

The Baltimore and Ohio Railroad Co.
Reporting marks: B&O.
Bessemer and Lake Erie Railroad Co.

Reporting marks: B&LE.
The Chesapeake and Ohio Railway Co.
Reporting marks: C&O.
*Carolina, Clinchfield and Ohio Ry.
Reporting marks: CRR.
Consolidated Rail Corp.
Reporting marks: BA-BWC-CNJ-CR-DL&W-EL-ERIE-LV-NH-NYC-PC-P&E-PRR-RDG-TOC.
Illinois Central Gulf Railroad Co.
Reporting marks: GM&O-IC-ICG.
Louisville and Nashville Railroad Co.
Reporting marks: L&N-NC-MON.
Norfolk and Western Railway Co.
Reporting marks: ACY-N&W-NKP-P&WV-VGN-WAB.
St. Louis-San Francisco Railway Co.
Reporting marks: SLSF.
Southern Railway System
Reporting marks: CG-INT-NS-SOU.
The Pittsburgh and Lake Erie Railroad Co.
Reporting marks: P&LE.
Western Maryland Railway Co.
Reporting marks: WM.

(2) Carriers named in paragraph (1) above are prohibited from loading all hopper cars foreign to their lines and must return such cars to the owner, either via the reverse of the service route or direct, as agreed to by the owner.

(b) for the purpose of improving car utilization and the efficiency of railroad operations, or alleviating inequities or hardships, modifications may be authorized by the Chief Transportation Officer of the car owner, or by the Director or Assistant Director of the Bureau of Operations, Interstate Commerce Commission. Modifications authorized by the car owner must be confirmed in writing to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C., for submission to the Director or Assistant Director.

(c) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded hopper car, described in this order, contrary to the provisions of the order.

(d) The term hopper cars, as used in this order, means freight cars having a mechanical designation listed under the heading "Class 'H'—Hopper Car Type" in the Official Railway Equipment Register, I.C.C.—R.E.R. No. 406, issued by W. J. Trezise, or reissues thereof.

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

(f) *Effective date.* This order shall become effective at 11:59 p.m., April 21, 1978.

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 30, 1978, unless otherwise modified, changed or suspended by order of this Commission.

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

It is further ordered, That a copy of this order and direction shall be

*Addition.

served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the FEDERAL REGISTER.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

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

[FR Doc. 78-11074 Filed 4-21-78; 8:45 am]

[3510-22]

Title 50—Wildlife and Fisheries

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

PART 651—ATLANTIC GROUND FISH (COD, HADDOCK, YELLOWTAIL FLOUNDER)

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Interim emergency amendment to regulations.

SUMMARY: Interim emergency regulations for the Atlantic groundfish fishery were published on March 31, 1978 (43 FR 13578). These emergency regulations were amended by additional emergency regulations which became effective on April 13, 1978 (43 FR 14968). The April 13, 1978 amendment addressed the problem caused by excessive catches during the directed fishery for cod which has resulted in periodic closures of these valuable fisheries.

Consequently, the formula for landings contained in § 651.7 is amended in two ways. The vessel categories have been redefined, and the daily allowance is now changed to a weekly allowance. The reason for this amendment is the reduction in fishing mortality.

DATES: This emergency regulation will become effective on April 30, 1978. The public may submit written comments on this regulation which is proposed as a final regulation until June 2, 1978.

ADDRESS: Comments may be addressed to the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, 3300

Whitehaven Street NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

SUPPLEMENTAL INFORMATION:

The New England Fishery Management Council has maintained close and continuing supervision over the Atlantic groundfish fishery with the twin objectives of conserving the stocks of cod, haddock, and yellowtail flounder, while at the same time devising new methods for distributing the optimum yield from these fisheries most equitably among the fishermen. Inevitably, this has meant that the Council has had to experiment with new and innovative management strategies.

The basic concept which underlies this emergency amendment is that weekly trip limitations should be adjusted so that the quarterly catches approximate quarterly quotas. It is also believed that the weekly trip limitation will more equitably spread the catch over the quarter, the result being a continuing supply of cod and haddock to the processing sector and to the consuming public at more stable prices.

It appears that the weekly trip limitations are more practical than those imposed under §651.7 which this emergency regulation amends. Under the former daily limitation, vessels often made a large catch on the first day at sea greater than that allowed by the regulation and, therefore, either had to throw away a portion of the catch or lay idle at sea additional days in order to avoid penalties. This amendment will enable fishermen to stop fishing when they catch the appropriate quantity and return to port for the remainder of the period, thus saving fuel costs and probably significant amounts of fish, and providing a fresher, higher quality fish to the consumer.

The trip limitation is based on a week running from any Sunday through the following Saturday.

Those vessels which make trips covering portions of more than one weekly period, can have the catch count toward the weekly limitation for the period in which it is actually caught if a log detailing daily catches is maintained. If a log book is not maintained, fish shall count against the limitation of the week in which they are actually landed.

An "over-run" of 5,000 pounds per week is permitted. Any over-run, no matter what amount, shall be deducted from the trip limitation for the following week. A vessel shall not be permitted to fish for any species for weekly periods equal to the over-run amount divided by the applicable trip limitation. No "borrowing" from succeeding weekly periods shall be permitted.

Fishermen are reminded that the 40 percent rule of §651.7(d) remains in effect without change by this amendment. Fishermen are further advised that the Assistant Administrator for Fisheries may find it necessary to publish a notice verifying that 40 percent of the quarterly quota has been taken and that appropriate adjustments in the new weekly trip limitations are necessary.

The Assistant Administrator for Fisheries recognizes the continuing critical conservation needs of these fisheries and has determined that an emergency exists which justifies the promulgation of emergency regulations under section 305(e) of the Act to amend the Groundfish Plan for 1978 developed by the New England Fishery Management Council. The Assistant Administrator also finds that notice of proposed rulemaking under the Administrative Procedure Act (5 U.S.C. 553) is impractical and contrary to the public interest.

NOTE.—The Administrator also finds that this action does not constitute a major Federal action requiring the preparation of either an environmental impact statement or an economic impact analysis under E.O. 11821 and 11949.

Signed at Washington, D.C., this 19th day of April, 1978.

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

AUTHORITY: 16 U.S.C. 1801 et seq. as amended.

These amendments are to the emergency regulations published in the FEDERAL REGISTER on April 10, 1978, at 43 FR 14968.

Amend §651.7 by revising paragraphs (a) and (b); by redesignating paragraphs (c), (d), and (e) as (d), (e), and (f); and by adding a new paragraph (c) as follows:

§ 651.7 Landing restrictions.

(a) For each weekly period (0001 hours Sunday through 2400 hours Saturday), no person or vessel may land haddock or cod in amounts greater than the following:

(1) For vessels under 60 gross registered tons: 7,000 pounds landed weight of each species.

(2) For vessels of 61-125 gross registered tons: 14,000 pounds landed weight of each species.

(3) For vessels over 125 gross registered tons: 20,000 pounds landed weight of each species.

(4) For vessels of any size using fixed gear (hooks or gill nets): 16,000 pounds landed weight of each species.

(b) If a vessel is at sea in more than one weekly period, the cod and haddock on board the vessel may, at the option of the vessel operator, be considered landed in the weekly period in which they were actually caught if the vessel operator maintains a log book recording the amounts of cod and haddock caught each day. If such a log book is not maintained, all cod and haddock shall be counted against the landing restriction of the weekly period in which they were landed.

(c) Any licensed trawl vessel may land up to 5,000 pounds of either cod or haddock, or both, in excess of the quantity of cod or haddock permitted to be landed under subsections (a) and (b) above. Any excess quantity so landed shall be deducted from the weekly trip limitation during the week immediately following such landing.

[FR Doc. 78-11077 Filed 4-21-78; 8:45 am]

proposed rules

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

[6210-01]

FEDERAL RESERVE SYSTEM

[12 CFR Part 226]

[Reg. Z; Docket No. R-0152]

TRUTH IN LENDING

Disclosure of Varying Payments Scheduled to Repay the Indebtedness

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed revised interpretation.

SUMMARY: This proposed revised interpretation would permit additional methods of disclosing the payments scheduled to repay the indebtedness as required by §226.8(b)(3) of Regulation Z in consumer credit transactions in which the amounts of those payments vary. In any such transaction, creditors could disclose the entire payment schedule on the reverse of the disclosure statement or on a separate page or pages, or, in certain transactions described in the interpretation, creditors could provide the customer with an abbreviated disclosure that indicates the progression of the payment amounts. In addition, a number of conflicting public information letters and official staff interpretations would be rescinded.

DATES: Comments must be received on or before May 24, 1978.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FOR FURTHER INFORMATION CONTACT:

Anne Geary, Chief Staff Attorney, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2761.

SUPPLEMENTARY INFORMATION:

(1) In response to a number of inquiries regarding the proper method of disclosure of the payments scheduled to repay the indebtedness in transactions in which the amounts of such payments vary, the Board is proposing to revise Interpretation §226.808. If adopted by the Board, this interpretation would facilitate compliance with the requirement of §226.8(b)(3) that creditors disclose the number, amount and due dates or periods of payments. The disclosure method would be chosen by the creditor.

The creditor could, in any transaction which the amounts scheduled to repay the indebtedness vary, provide the customer with a complete payment schedule on the reverse of the disclosure statement or on a separate page or pages (conspicuously referenced in the disclosure statement), notwithstanding the requirement of §226.8(a) that all disclosures be made on one side of a single page.

The Board solicits comments on whether the disclosure of a complete payment schedule on the reverse of the statement or a separate page would detract from the value of the disclosures to customers. The Board also wishes to know if providing such a schedule would involve operational difficulties in computing the payments for disclosure purposes, particularly for creditors that engage in transactions in which the amounts collected from the customer include non-credit items, such as credit life and disability insurance premiums which are excluded from the amount financed.

In addition, the interpretation would provide that in certain transactions (which are described briefly below), the creditor could give the customer an abbreviated schedule of payments which would disclose the number of payments, the amount of certain payments, and a description of the variation in the payment amounts.

Those transactions are:

(a) Transactions in which a level amount is collected from the customer, and that level amount includes varying charges, such as credit life and disability insurance premiums that are not financed but remitted to the insurer as they become due, and which are therefore not part of the amount financed or finance charge (Example I).

(b) Transactions in which each payment includes an equal amount to be applied to reduction of the unpaid principal balance and a finance charge that varies because it is computed by application of a rate to the decreasing unpaid principal balance (Example II, Transaction A). This is the transaction addressed by the present Interpretation §226.808.

(c) Transactions similar to the transactions described in (b) but with irregular first and last payments (Example II, Transaction B).

(d) Transaction in which the payments vary annually or more frequently because a finance charge (such as certain mortgage guarantee insurance premiums) is computed by application

of a rate to the decreasing unpaid principal balance (Example III).

The board solicits comment on whether abbreviated schedules should be permitted in other types of transactions. Central to this issue is whether an abbreviated schedule will provide the customer with sufficient information concerning the progression of the payment amounts. Thus, transactions with payments that vary in unusual patterns or at lengthy intervals would not appear to be proper subjects for such treatment. It should again be pointed out that creditors could give a complete payment schedule in any transaction with varying payments.

The Board solicits comment on whether or not the abbreviated payment schedules authorized by the interpretation would provide customers with sufficient information as to the amounts of the payments.

As presently provided in the interpretation, creditors that disclose in accordance with the examples could not take advantage of the exemption for purchase money loans for dwellings or sales of dwellings from the disclosure requirements of §§226.8(b)(3), 226.8(c)(8) and 226.8(d)(3) (total of payments, deferred payment price and total finance charge disclosures).

The proposed interpretation also provides that creditors could disregard deviations in the pattern of the payment amounts caused by the fewer days in February than in other months when disclosing in accordance with the three examples. The Board solicits comment on whether this should be permitted and whether creditors should be permitted to ignore similar minor deviations.

A number of public information letters and official staff interpretations would be affected by this interpretation. The following interpretations would be rescinded; comments are solicited on whether others should also be rescinded.

Public information letters	Official staff interpretations
169	
632	FC-0003
684	FC-0025
735	FC-0030
799	FC-0031
833	FC-0104
834	
850	
1021	
1158	
1164	
1186	

¹Final paragraph only.

Letters 632, 735 and 850 deal with the disclosure of optional, cancellable

credit life and disability insurance premiums. They conflict with the position of the proposed interpretation that charges not included in the amount financed or the finance charge may not be included in the payments scheduled to repay the indebtedness. The last paragraph of Letter 834 also misstates that position. The remaining letters conflict in some way with the proposed interpretation.

(2) To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, comments or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 24, 1978. The comments will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR Part 261.6(a)).

(3) Pursuant to the authority granted in 15 U.S.C. 1604 (1968), the Board proposes to revise Regulation Z, 12 CFR 226.808, to read as follows:

§ 226.808 Disclosure of varying payments scheduled to repay the indebtedness.

(a) Section 226.8(B)(3) requires the creditor to disclose, among other things, the "number, amount, and the due dates or periods of payments scheduled to repay the indebtedness." The Payments scheduled to repay the indebtedness include only the amount financed and the finance charge. The question arises how these requirements may be met in transactions in which the amounts of such payments vary.

(b) In such transactions, a creditor may satisfy the requirements of § 226.8(b)(3) with respect to the number, amount, and due dates or periods of payments by disclosing the required information on the reverse of the disclosure statement or on a separate page(s), notwithstanding the requirements of § 226.8(a) concerning location of disclosures: *Provided*, That the following notice appears with the other required disclosures: "NOTICE: See [reverse side] [accompanying statement] for the schedule of payments."

(c) Alternatively, if a transaction is of a type described below, a creditor may disclose in accordance with the applicable example.

EXAMPLE I

A transaction in which a level sum is collected from the customer each month. Included in the amount collected from the customer are charges which are not part of the amount financed or the finance charge (such as certain credit life and disability insurance premiums) and which constantly decrease because they are based on the unpaid principal balance. As these charges

decrease, the amounts scheduled to repay the indebtedness constantly increase.

The amount collected each month from the customer is \$50.

The credit life insurance premiums decline from \$1.50 in month 1 to \$0.10 in month 12.

The amounts that repay the indebtedness increase from \$48.50 in month 1 to \$49.90 in month 12.

The creditor may disclose that there will be 12 monthly payments to repay the indebtedness, that the first payment will be \$48.50, and that the payments will increase, with a last payment of \$49.90. At the creditor's option, the creditor may disclose the amount collected from the customer, \$50, as additional information under § 226.6(c).

EXAMPLE II

A transaction in which the amount of each payment scheduled to repay the indebtedness (other than a first or last payment) includes an equal amount to be applied to principal and a finance charge computed by application of a rate to the decreasing unpaid principal balance.

Transaction A

The principal portion of each monthly payment is \$125 and the finance charge portion of the monthly payments declines from \$30 in month 1 to \$1.25 in month 24. The payment in month 1 is \$155 (\$125 principal, \$30 finance charge).

The payment in month 24 is \$126.25 (\$125 principal, \$1.25 finance charge).

The creditor may disclose that there will be 24 monthly payments, that the first payment will be \$155, and that the payments will decrease, with a last payment of \$126.25.

Transaction B

The first and last payments are irregular, and each of the intervening payments includes a principal portion of \$120 and a finance charge portion which declines from \$29.25 in month 2 to \$2.85 in month 23.

The payment in month 1 is \$93 because the first payment period is short (\$75 principal, \$18 finance charge).

The payment in month 2 is \$149.25 (\$120 principal, \$29.25 finance charge).

The payment in month 23 is \$122.85 (\$120 principal, \$2.85 finance charge).

The payment in month 24 is \$286.65 (\$285 principal, \$1.65 finance charge).

The creditor may disclose that (i) there will be 24 monthly payments, (ii) the first payment will be \$93, (iii) the second payment will be \$149.25, (iv) the following payments will decrease to a twenty-third payment of \$122.85, and (v) the last payment will be \$286.65.

EXAMPLE III

A transaction in which the payments scheduled to repay the indebtedness vary annually or more frequently because a finance charge (such as mortgage insurance premiums) is computed by the application of a rate(s) to the decreasing unpaid principal balance.

Each monthly payment includes a portion for principal and finance charges exclusive of mortgage insurance premiums (\$250) and a portion for mortgage insurance premiums (\$25 each month in year 1 and declining once a year until no premiums are due in year 30).

Payments 1 through 12 are \$275 (\$250 principal and finance charges exclusive of mortgage insurance premiums).

Payments 349 through 360 are \$250 (\$250 principal and finance charges, no mortgage insurance premiums).

The creditor may disclose that there will be 360 monthly payments, that the first payment will be \$275, and that the payments will decrease once a year with a last payment of \$250.

If disclosures are made in accordance with Examples I, II, or III, the exceptions provided under paragraphs (b)(3), (c)(8), and (d)(3) of § 226.8 shall not apply.

Any irregularity in the upward or downward progression in the payment amounts resulting from the fewer days in February than in other months may be disregarded if disclosures are made in accordance with Examples I, II, or III.

By order of the Board of Governors,
April 18, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-10997 Filed 4-21-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 78-NW-9-AD]

AIRWORTHINESS DIRECTIVE

Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making (NPRM).

SUMMARY: This notice proposes to issue an airworthiness directive requiring inspections or replacement of main landing gear lock system components on Boeing Model 727 series airplanes whose failure have or could have resulted in a gear-up landing.

DATES: Comments must be received on or before June 20, 1978. Proposed compliance times as prescribed in the body of the AD.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, 9010 East Marginal Way South, Seattle, Wash. 98108.

FOR FURTHER INFORMATION CONTACT:

Gerald R. Mack, Airframe Section, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108 telephone 206-767-2516.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed

rule by submitting such written data, views or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, 9010 East Marginal Way South, Seattle, Wash. 98108. All communications received on or before June 20, 1978, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Seventeen known failures in the main landing gear lock system have occurred which caused gear door/gear out-of-sequence conditions and subsequent jamming of the door and gear. Several failures resulted in gear-landings. Other failures have occurred which resulted in inability to extend the landing gear, either by normal or emergency means. Fatigue testing has been performed on the main landing gear lock system components. The results of this testing indicate that some of the components, including several which have not failed in service, have life limits. Since this condition is likely to exist or develop in other 727 series airplanes, the proposed airworthiness directive would require inspections or replacement of the main landing gear lock system components on Boeing Model 727 series airplanes. It should be noted that those components for which existing airworthiness directives apply are not included in this proposal so as to not disrupt their present inspection programs. Also, the proposed AD does not include components which have life limits considerably higher than the present high time Model 727 airplanes. Those components and their corresponding life limits will be included in a forthcoming revision to Type Certificate Data Sheet No. A3WE.

DRAFTING INFORMATION

The principal authors of this document are Gerald R. Mack, Engineering and Manufacturing Branch, FAA Northwest Region, and Richard Salwen, Acting Regional Counsel, FAA Northwest Region.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend

§ 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive.

BOEING: Applies to all Boeing Model 727 series airplanes certificated in all categories.

Compliance: required as indicated. To prevent main landing gear-up landings as a result of a structural failure in the lock system, accomplish the following:

A. Within the next 1500 landings from the effective date of this AD, or prior to the accumulation of the threshold listed in the table below, whichever occurs later, unless

already accomplished, replace the components listed in the table below in accordance with Boeing Service Bulletin Nos. 727-32-211, Revision 3, or 727-32-237, Revision 1, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. As an alternate to replacement, the applicable components may be inspected for cracks in accordance with Boeing Service Bulletin 727-32-211, Revision 3, or later FAA approved revisions, at the intervals specified in the table.

Parts found cracked must be replaced prior to further flight.

Component	Part No.	Threshold (landing)	Inspect at intervals not to exceed
Downlock torque shaft.....	6578698 -1,-2,-3,-4,-5,-6.....	35,000	1,000 landings.
Downlock rod assembly.....	69-20527-2.....	12,000	1,500 landings.
	69-33654-1.....	12,000	Do.
	69-33654-2.....	12,000	Do.
	69-33654-4.....	12,000	Do.
	69-33654-5.....	35,000	Do.
Downlock torque tube assembly.....	65-26921-17,18.....	37,000	Do.
Uplock universal block.....	65-24488-1.....	(¹)	1,500 flight hours.
Uplock upper shaft assembly.....	6525851 -1,-2,-5,-2.....	35,000	1,000 landings.
Uplock lower crank.....	65-49325 -1,2,-5,6,-7,8.....	3,000	Do.
Uplock universal bolt.....	NAS1106-44D, 69-47743-1.....	11,000	Replace parts.
Uplock lower crank bolt.....	NAS1105-28.....	7,000	Do.
	BACP18T5-().....	7,000	Do.
	MS20392-5C(), (oversize option).....	12,000	Do.
Downlock rod bolt (inboard).....	NAS1105-13DW, BACB30LJ5U13 (BACB30NE-13 BACB30GE5-14 NAS1105-14 optional), BACB30NE-15 (BACB30LJ5U15 BACB30LJ5-16 optional), BACB30NE5-15 (BACB30GE5-16 BACB30LJ5U15 optional).	20,000	Do.
Downlock rod bolt (outboard).....	NAS110513DW, BACB30LM5DU12 (BACB30NE5D12 BACB30GE5D12 NAS1305-12D optional).	20,000	Do.

¹10,000 flight hours or 4 yr, whichever occurs first.

B. Unless already accomplished, within the next 3,000 landings from the effective date of the AD, replace (1) the main gear manual extension gearbox horizontal support, P/N 65-24575, with P/N 65-69156 and (2) the main gear manual extension support yoke, P/N 65-26300-1/2 or -7/-8 with P/N 65-26300-11/-12,-21/-22, or -23/-24 in accordance with applicable procedures of Boeing Service Bulletin Numbers 32-164, Revision 1, and 727-32-204, Revision 1, or later FAA approved revisions or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. As an alternate to replacement, the main gear manual extension gear box horizontal support and support yoke may be inspected in a manner (inspection method and intervals) approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. Parts found cracked must be replaced prior to further flight.

C. Within the next 1,500 landings from the effective date of this AD, unless accomplished within the last 3,500 landings, and thereafter at intervals not to exceed 5,000

landings, accomplish the rotational force tests on the uplock hook assembly in accordance with Paragraph III of Boeing Service Bulletin No. 727-32-212, Revision 1, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. If parts are found defective, prior to further flight, rework or replace any defective parts of the uplock assembly in accordance with the service bulletin, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

D. Unless already accomplished, within the next 3,000 landings from the effective date of this AD, accomplish the main landing gear manual extension support yoke attach bolts (2 per side) inspection/clean-up and replacement, as necessary, in accordance with Figures 1 and 2, as applicable, of Boeing Service Bulletin No. 727-32-251, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

E. Unless already accomplished, within the next 1,500 landings for airplanes with more than 4,500 landings on the effective date of this AD, or prior to the accumulation of 6,000 landings for airplanes with less than 4,500 landings on the effective date of this AD, accomplish the one-time inspection of the main landing gear uplock lower shaft assembly per Figure 1 of Boeing Service Bulletin No. 727-32-257, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. Replace or rework, as required, in accordance with Figures 1, 2, and 3, in the service bulletin, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

F. Airplanes may be ferried to a maintenance base for replacement of parts in accordance with FAR 21.197.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—An evaluation of the anticipated impact has been made and it is expected that the proposal is neither costly nor controversial. The preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949, and OMB Circular A-107 is not required.

Issued in Seattle, Wash., April 13, 1978.

C. B. WALK, JR.,
Director, Northwest Region.

[FR Doc 78-10806 Filed 4-21-78; 8:45 am]

[4910-13]

[14 CFR Part 39]

[Docket No. 78-WE-3-AD]

AIRWORTHINESS DIRECTIVES

Lockheed-California Co. Model L-1011-385
Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require inspection, protection, repair or replacement of the Lockheed Model L-1011 Series airplane center engine "S" duct flexible fire seal that could, if allowed to wear beyond certain limits, or become torn, compromise the function of the fire wall and permit the transfer of potentially hazardous quantities of vapors from the engine compartment into the afterbody section.

DATES: Comments must be received on or before May 23, 1978.

ADDRESSES: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway

Postal Center, Los Angeles, Calif. 90009. Persons affected by this AD may obtain copies of the applicable service bulletin from: Lockheed-California Co., P.O. Box 551, Burbank, Calif. 91520, Attention: Commercial Support Contracts, Department 63-11, U-33, B-1. Also, a copy of the service bulletin may be reviewed at, or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591, or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. Telephone 213-536-6351.

SUPPLEMENTARY INFORMATION:

An L-1011 operator has found a 42 inch long tear in the center engine "S" duct flexible fire seal, Lockheed P/N 1506933-101. This tear has been attributed to long term wear resulting from interference between the center engine "S" duct flexible fire seal and an "S" duct structural reinforcement "T" ring, P/N 1537892-135, under dynamic conditions.

The center engine "S" duct flexible fire seal, in conjunction with a titanium flame shield, constitutes a firewall which isolates the engine compartment, (a designated fire zone), from the afterbody of the airplane, as required by the regulations which constitute the certification basis of the L-1011 airplane.

A torn fire seal will compromise the function of the firewall which could permit the transfer of potentially hazardous quantities of vapors from the engine compartment into the unpresurized fuselage afterbody section.

Subsequent to the discovery of the torn seal noted above, the manufacturer has conducted an investigation on seven additional airplanes as well as bench tests to establish wear rate and seal performance as a function of pressure and seal thickness. The results of these investigations have been considered by the FAA in the proposed AD for the establishment of compliance times for inspection, repair or replacement action.

Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed AD would require inspection, repair or replacement as necessary of the center engine "S" duct flexible fire seal and include provisions for terminating action.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data,

views, or arguments as they may desire. Information on the economic, environmental, and energy impact that might result because of the adoption of the proposed rule is also requested. Communications should identify the airworthiness docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received before the closing date will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in the notice may be changed in light of comments received. All comments will be available, both before and after the closing date for comments, in the Airworthiness Rule Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rule Docket.

DRAFTING INFORMATION

The principal authors of this document are Joseph P. Grieco, Aircraft Engineering division, and Richard G. Wittry, Office of the Regional Counsel.

PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend §39.13 of Part 39 of the Federal Aviation Regulation (14 CFR 39.13) by adding the following new airworthiness directive:

Lockheed-California Company: Applies to Lockheed-California Co. Model L-1011-385 Series airplanes certificated in all categories.

Compliance required as indicated, unless previously accomplished.

To prevent the transfer of potentially hazardous quantities of vapors from the engine compartment into the afterbody of the airplane, accomplish the following:

(a) For airplanes with 7,500 or more hours total time in service as of the effective date of this AD, within the next 1,000 hours time in service, inspect flexible fire seal per paragraph (c) below.

(b) For airplanes with less than 7,500 hours total time in service as of the effective date of this AD, prior to the accumulation of 8,500 hours total time in service, inspect center engine "S" duct flexible fire seal per paragraph (c) below.

(c) Visually inspect the flexible fire seal for depth of groove and/or tears per the procedures set forth in paragraph 2.A of Lockheed-California service Bulletin 093-54-030 dated March 28, 1978, or later FAA approved revisions, (hereinafter referred to as SB 093-54-030).

(d) If there are no tears, and no evidence of grooving is observed, or if groove depth is determined to be less than 0.035 inch using the procedures of paragraph 2.A of SB 093-54-030, the seal may be retained in service with performance of repetitive inspections

at intervals not to exceed 1,500 hours total time in service.

(e) If there are no tears and seal is worn to a groove depth greater than 0.035 inch but less than 0.050 inch:

(1) Continue worn part in service and reinspect within 1,000 hours additional time in service; or

(2) Repair seal per paragraph 2.C of SB 093-54-030, and reinspect within 8,500 hours additional time in service; or

(3) Replace seal with like serviceable part per paragraph 2.B of SB 093-54-030 and reinspect per paragraph 2.A of SB 093-54-030 within 8,500 hours additional time in service.

(f) If seal is worn to a groove depth equal to or greater than 0.050 inch but is intact, within 500 hours additional time in service, repair seals per paragraph 2.C of SB 093-54-030 or replace seal per paragraph 2.B of SB 093-54-030 and reinspect per paragraph 2.A of SB 093-54-030 within 8,500 hours additional time in service.

(g) If seal is worn through or torn, prior to further flight, repair seal per paragraph 2.C of SB 093-54-030 or replace seal per paragraph 2.B of SB 093-54-030 and reinspect per paragraph 2.A of SB 093-54-030 within 8,500 hours additional time in service.

(h) Actions required per this AD may be terminated when chafing protection (Belt Assembly Part Number 1619429-101) is installed per paragraph 2.D of SB 093-54-030 in conjunction with a new, used, or repaired center engine "S" duct flexible fire seal which meets the criteria of paragraph (d). Revert to routine maintenance/inspection practices.

(i) Equivalent inspection procedures and repairs may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(j) Special flight permits may be issued in accordance with FARs 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or maintenance required by this AD.

(k) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Engineering Division, FAA Western Region may adjust the initial and repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on April 11, 1978.

ROBERT H. STANTON,
Director,
FAA Western Region.

[FR Doc. 78-10809 Filed 4-21-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-SW-3]

FEDERAL AIRWAYS

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter V-17, V-17E, V-68S, V-161 and V-163W in the vicinity of San Antonio, Tex. A new navigation aid (VORTAC) will be commissioned at Center Point, Tex. The proposed airway alterations using that VORTAC will assist in reducing the congestion and improving the air traffic flow in the San Antonio area.

DATES: Comments must be received on or before May 8, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southwest Region, Attention: Chief, Air Traffic Division, Docket No. 78-SW-3, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before May 8, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

A person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would utilize a new VORTAC to be commissioned at Center Point, Tex. (Lat. 29°55'20"N., Long. 99°12'50"W.) to alter the affected airways and reduce congestion and improve the air traffic flow in the San Antonio area. The proposed amendments would have the following effects:

1. Realign a segment of V-17 between Cotulla, Tex., and San Antonio, Tex., via the INT of the Cotulla 046°T(037°M) and the San Antonio 198°T(189°M) radials.

2. Realign a segment of V-17E between Cotulla and San Antonio via the INT of Cotulla 046°T(037°M) and the San Antonio 183°T(174°M) radials.

3. Realign a segment of V-68S between Junction, Tex., and San Antonio via Center Point.

4. Alter V-161 to begin at Three Rivers, Tex., via Center Point to Llano, Tex., thence as presently designated.

5. Realign a segment of V-163W between Three Rivers and San Antonio via the INT of Three Rivers 327°T(318°M) and San Antonio 183°T(174°M) radials.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307) as follows:

1. In V-17 "INT Cotulla 047" and San Antonio, Tex., 198° radials; San Antonio, including an east alternate via the INT Cotulla 047° and San Antonio 183° radials;" is deleted and "INT Cotulla 046° and San Antonio, Tex., 198° radials; San Antonio, including an east alternate via the INT Cotulla 046°

and San Antonio 183° radials;" is substituted therefor.

2. In V-68 "INT Junction 144° and San Antonio 290° radials;" is deleted and "Center Point, Tex.;" is substituted therefor.

3. In V-161 "From Llano, Tex., via" is deleted and "From Three Rivers, Tex., via Center Point, Tex.; Llano, Tex.;" is substituted therefor.

4. In V-163 "INT Three Rivers 326° and San Antonio 183° radials;" is deleted and "INT Three Rivers 327° and San Antonio 183° radials;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

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

Issued in Washington, D.C., on April 18, 1978.¹

WILLIAM E. BROADWATER,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 78-11129 Filed 4-21-78; 8:45 am]

[4910-13]

[14 CFR Parts 71 and 73]

[Airspace Docket No. 78-RM-11]

TEMPORARY RESTRICTED AREAS

Proposed Establishment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate seven temporary restricted areas in the vicinity of Fort Carson, Colorado Springs, Colo., to contain a military joint readiness exercise called "BRAVE SHIELD 18." These proposed actions will provide for the safe and efficient use of the navigable airspace by prohibiting unauthorized flight operations of nonparticipating aircraft within the areas during the proposed time the areas are designated.

DATE: Comments must be received on or before May 24, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Rocky Mountain Region, Attention: Chief, Air Traffic Division, Docket No. 78-RM-11, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010. Send comments on the environmental aspects to: Department of the Air Force, Attention:

¹Map filed as part of the original document.

Mr. Gil Burnet, Headquarters, Tactical Air Command (DEEV), Langley AFB, Va. 23365. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Rocky Mountain Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010. All communications received on or before May 24, 1978, will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058.

Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering amendments to Section 71.151 of Part 71 and Section 73.26 of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to designate temporary restricted areas identified as R-2605A, R-2605B, R-2605C, R-2605D, R-2605E, R-2605F, and R-2605G in the vicinity of Fort Carson, Colorado Springs,

Colo., to contain a military joint readiness exercise called "BRAVE SHIELD 18." Those restricted areas that penetrate the Continental Control Area would also be included as controlled airspace for the duration of their designation. This training exercise "BRAVE SHIELD 18" will involve close air support, interdiction, electronic warfare, reconnaissance, air defense, tactical airlift and unconventional warfare missions to include aerial delivery of personnel/supplies. Total air traffic associated with this exercise is expected to be approximately 175 sorties per day. Municipal/private airports within exercise airspace will be given relief by providing a three-nautical mile radius and 1,200 feet AGL clear zone excluded from the exercise area. Lines of communication will be installed with appropriate FAA facilities in order to coordinate movement of nonexercise air traffic through the exercise area when exercise activity permits. In addition, local business phone numbers (reverse charge) will be established and published for coordination of nonexercise air traffic.

The U.S. Army (U.S. Forces Command) will serve as the lead agency for purposes of compliance with the National Environmental Policy Act. The proposed restricted areas would be designated as joint use and IFR/VFR operations in the areas may be authorized/permitted by the controlling agency when the areas are not in use by the using agency. The controlling agency for the proposed restricted areas would be the FAA, Denver ARTC Center.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (43 FR 344 and 659) as follows:

In §71.151 (43 FR 344) the following temporary restricted areas are added for the duration of their time of designation from 0001 MDT, August 18, 1978, to 0001 MDT, August 25, 1978:

R-2605A BRAVE SHIELD XVIII, Colorado.
R-2605B BRAVE SHIELD XVIII, Colorado.
R-2605C BRAVE SHIELD XVIII, Colorado.
R-2605D BRAVE SHIELD XVIII, Colorado.
R-2605E BRAVE SHIELD XVIII, Colorado.
R-2605F BRAVE SHIELD XVIII, Colorado.
R-2605G BRAVE SHIELD XVIII, Colorado.

In §73.26 (43 FR 672, 9596) the following temporary restricted areas are added:

R-2605A BRAVE SHIELD XVIII, Colorado. Boundaries: Beginning at Lat. 39°15'00"N., Long. 106°00'00"W.; to Lat. 39°15'00"N., Long. 104°57'00"W.; to Lat. 38°15'00"N., Long. 104°57'00"W.; to Lat. 38°55'00"N., Long. 105°30'00"W.; to Lat. 38°44'00"N., Long. 106°00'00"W.; to the point of beginning. The airspace 1,200 feet AGL and below within 3 NM of all municipal/private airports is excluded.

Designated altitudes: 100 feet AGL to and including 15,000 feet MSL.

Time of designation: Continuous, 0001 August 18 to 0001, local time, August 25, 1978.

Controlling agency: Federal Aviation Administration, Denver ARTCC.

Using agency: U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-2605B BRAVE SHIELD XVIII, Colorado. Boundaries: Beginning at Lat. 38°44'00"N., Long. 106°00'00"W.; to Lat. 38°55'00"N., Long. 105°30'00"W.; to Lat. 38°55'00"N., Long. 104°57'00"W.; to Lat. 38°51'00"N., Long. 104°57'00"W.; to Lat. 38°40'00"N., Long. 104°45'00"W.; to Lat. 38°23'00"N., Long. 104°45'00"W.; to Lat. 38°25'00"N., Long. 105°02'00"W.; to Lat. 38°29'00"N., Long. 105°02'00"W.; to Lat. 38°29'00"N., Long. 106°00'00"W.; to the point of beginning excluding R-2601 and R-2602. The airspace 1,200 feet AGL and below within 3 NM of all municipal/private airports is excluded.

Designated altitudes: 100 feet AGL up to and including FL 200.

Time of designation: Continuous, 0001 August 18 to 0001, local time, August 25, 1978.

Controlling agency: Federal Aviation Administration, Denver ARTCC.

Using agency: U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-2605C BRAVE SHIELD XVIII, Colorado. Boundaries: Beginning at Lat. 38°32'00"N., Long. 104°45'00"W.; to Lat. 38°32'00"N., Long. 104°41'00"W.; to Lat. 38°25'30"N., Long. 104°41'00"W.; to Lat. 38°23'00"N., Long. 105°45'00"W.; to the point of beginning.

Designated altitudes: 100 feet AGL up to and including 7,000 feet MSL.

Time of designation: Continuous, 0001 August 18 to 0001, local time, August 25, 1978.

Controlling agency: Federal Aviation Administration, Denver ARTCC.

Using agency: U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-260D BRAVE SHIELD XVIII, Colorado. Boundaries: Beginning at Lat. 38°25'00"N., Long. 105°02'00"W.; to Lat. 38°23'00"N., Long. 104°45'00"W.; to Lat. 38°19'00"N., Long. 104°50'00"W.; to Lat. 38°15'00"N., Long. 104°50'00"W.; to Lat. 38°17'00"N., Long. 105°19'00"W.; to the point of beginning.

Designated altitudes: 300 feet AGL up to and including 7,000 feet MSL and FL 180 up to and including FL 200.

Time of designation: Continuous, 0001 August 18 to 0001, local time, August 25, 1978.

Controlling agency: Federal Aviation Administration, Denver ARTCC.

Using agency: U.S. Air Force Tactical Air Command/USAF Readiness Command

(TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-2605E BRAVE SHIELD XVIII, Colorado. Boundaries: Beginning at Lat. 38°17'00"N., Long. 105°19'00"W.; to Lat. 38°15'00"N., Long. 104°15'00"W.; to Lat. 38°04'00"N., Long. 104°49'00"W.; to Lat. 37°55'00"N., Long. 104°38'00"W.; to Lat. 37°40'00"N., Long. 104°43'00"W.; to Lat. 37°36'00"N., Long. 105°05'00"W.; to Lat. 37°36'00"N., Long. 105°30'00"W.; to Lat. 37°50'00"N., Long. 105°30'00"W.; to the point of beginning excluding the airspace within 3 NM of Lat. 37°58'00"N., Long. 104°47'00"W.; and within 3 NM of Lat. 38°02'30"N., Long. 104°47'00"W.; and within tangent lines joining these 3 NM areas. Also, the airspace 1,200 feet AGL and below within 3 NM of all municipal/private airports is excluded.

Designated Altitudes: 500 feet AGL up to and including 17,000 feet MSL.

Time of designation: Continuous, 0001 August 18 to 0001, local time, August 25, 1978.

Controlling agency: Federal Aviation Administration, Denver ARTCC.

Using agency: U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-2605F BRAVE SHIELD XVIII, Colorado. Boundaries: Beginning at Lat. 38°17'00"N., Long. 105°19'00"W.; to Lat. 38°12'00"N., Long. 103°59'00"W.; to Lat. 38°04'00"N., Long. 103°27'00"W.; to Lat. 37°26'00"N., Long. 103°47'00"W.; to Lat. 37°24'00"N., Long. 104°21'00"W.; to Lat. 37°36'00"N., Long. 105°30'00"W.; to Lat. 37°50'00"N., Long. 105°30'00"W.; to the point of beginning.

Designated altitudes: 16,000 feet MSL up to and including FL 210.

Time of designation: Continuous, 0001 August 18 to 0001, local time, August 25, 1978.

Controlling agency: Federal Aviation Administration Denver ARTCC.

Using agency: U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-2605G BRAVE SHIELD XVIII, Colorado. Boundaries: Beginning at Lat. 38°17'00"N., Long. 105°19'00"W.; to Lat. 38°15'00"N., Long. 104°50'00"W.; to Lat. 38°04'00"N., Long. 104°49'00"W.; to Lat. 37°55'00"N., Long. 104°38'00"W.; to Lat. 36°49'00"N., Long. 105°00'00"W.; to Lat. 36°49'00"N., Long. 105°47'00"W.; to Lat. 37°50'00"N., Long. 105°30'00"W.; to the point of beginning.

Designated altitudes: FL 180 up to and including FL 290.

Time of designation: Continuous, 0001 August 18 to 0001, local time, August 25, 1978.

Controlling agency: Federal Aviation Administration, Denver ARTCC.

Using agency: U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

(Sec. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

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

Issued in Washington, D.C., on April 20, 1978.¹

WILLIAM E. BROADWATER,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 78-11130 Filed 4-21-78; 8:45 am]

[4910-13]

[14 CFR Part 75]

[Airspace Docket No. 78-SW-4]

JET ROUTE

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign J-87 between Humble, Tex., and Dallas-Fort Worth, Tex., via Navasota, Tex. This realignment would convert a vector route to a jet route which will be charted and thereby reduce flight planning and communication coordination time. The present routing of J-87 is not used because of the traffic flow in the Houston, Tex., area.

DATES: Comments must be received on or before May 8, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southwest Region, Attention: Chief, Air Traffic Division, Docket No. 78-SW-4, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic

¹Map filed as part of the original document.

Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before May 8, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of advisory circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Part 75 of the Federal Aviation regulations (14 CFR Part 75) that would realign jet route J-87 between Humble, Tex., and Dallas-Fort Worth, Tex., via Navasota, Tex. The route via Navasota is used extensively and the present routing of J-87 is not used because of the traffic flow in the Houston, Tex., area. This action will reduce flight planning and communication coordination time by providing a charted route that is now used as a vector route.¹

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of the Federal Aviation regulations (14 CFR Part 75) as republished (43 FR 714) as follows:

In jet route No. 87 "From Humble, Tex., via" is deleted and "From Humble, Tex., via Navasota, Tex.:" is substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order

¹Map filed as part of the original document.

11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on April 17, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 78-10956 Filed 4-21-78; 8:45 am]

[4910-13]

[14 CFR Part 93]

[Docket No. 12565; Reference Notice No. 73-6]

SPECIAL VFR WEATHER MINIMUMS: CHICAGO MIDWAY CONTROL ZONE

Withdrawal of Proposal To Eliminate Special VFR Operations by Fixed-Wing Aircraft in the Chicago Midway Control Zone

AGENCY: Federal Aviation Administration/(FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This notice withdraws notice No. 73-6, that was published in the FEDERAL REGISTER on February 21, 1973 (38 FR 4717). That notice proposed amending the Federal Aviation regulations to eliminate special VFR operations by fixed wing aircraft in the Chicago Midway control zone. Since its publication, traffic at Chicago Midway has substantially changed in character and declined in volume to the extent that the elimination of the special VFR operation is no longer justified.

FOR FURTHER INFORMATION CONTACT:

William E. Broadwater, Chief, Airspace and Air Traffic Rules Division (AAT-200), Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3731.

SUPPLEMENTARY INFORMATION: As stated in notice No. 73-6, a study of conditions at Chicago Midway Airport during the year ending March 31, 1971, indicated that the existing special VFR operations in the Chicago Midway control zone potentially could adversely affect the safe and efficient movement of air traffic in that zone. That study was based on the volume of Midway's instrument operations, air carrier operations, and instrument approaches, the bulk of which involved high performance air carrier and corporate aircraft.

During the period when responses to the docket were being considered, aircraft operations at Chicago Midway Airport declined. Consequently, FAA delayed further action on the proposal pending a later review of the traffic situation there.

Since then, traffic at Chicago Midway has continued to decline sub-

stantially. In 1975, there were approximately two-thirds the number of instrument operations, one-tenth the number of air carrier operations, and one-half the number of instrument approaches as compared to the study period that formed the basis for the notice. Because of the changed circumstances at Midway, elimination of the special VFR operations in the Midway control zone would now place additional restrictions and economic burdens on the airport's users without an appreciable increase in the safe and efficient movement of air traffic. Consequently, the volume and character of air traffic in the Midway control zone has reduced to such an extent that it no longer justifies the elimination of the special VFR operations.

By reason of the foregoing, the FAA has decided not to eliminate the special VFR operations by fixed-wing aircraft in the Chicago Midway control zone, and to withdraw notice No. 73-6. This withdrawal does not commit the FAA to any course of action and does not preclude the FAA from issuing similar proposals in the future.

DRAFTING INFORMATION

The principal authors of this document are Charles Stratton, Airspace and Air Traffic Rules Division, and Jack Zimmerman, Office of the Chief Counsel.

THE WITHDRAWAL

Accordingly, notice No. 73-6, published in the FEDERAL REGISTER on February 21, 1973 (38 FR 4717), is hereby withdrawn, effective immediately.

(Secs. 307, 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on April 14, 1978.

RAYMOND G. BELANGER,
Director, Air Traffic Service.

[FR Doc 78-10954 Filed 4-21-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 200]

[Docket No. R-78-530]

ONE- AND TWO-FAMILY DWELLINGS, THERMAL INSULATION

Proposed increases in Thermal Requirements for HUD Minimum Property Standards

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development.

ACTION: Proposed rule.

SUMMARY: This rule proposes increases in thermal requirements for the HUD Minimum Property Standards for One- and Two-Family Dwellings. These increases are necessary in order to conserve fossil fuel energy.

DATES: Comments must be received on or before May 24, 1978.

ADDRESS: Comments should be addressed to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410. Copies of any comments received will be available for examination during business hours at this address.

FOR FURTHER INFORMATION CONTACT:

Mr. Mervin Dizenfeld, Mechanical Engineer, Standards Branch, Office of Technical Support, Department of Housing and Urban Development, Washington, D.C. 20411, telephone 202-755-6590.

SUPPLEMENTARY INFORMATION: HUD Minimum Property Standards are published in handbooks: Minimum Property Standards for One- and Two-Family Dwellings in Handbook 4900.1, Multifamily Dwellings in Handbook 4910.1, and Care-Type Housing in Handbook 4920.1. The Minimum Property Standards are incorporated by reference into 24 CFR 200.929. All changes in the Minimum Property Standards are required by 24 CFR 200.933 to be published in the FEDERAL REGISTER using the same procedure as for the publication of regulations. The Minimum Property Standards for which these changes are proposed are available for examination in all HUD Field Offices and in Room 6170 of the HUD Headquarters at the above address during business hours.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

It is hereby certified that the economic and inflationary impacts of 24 CFR Part 200 Subpart S, have been carefully evaluated in accordance with Executive Order No. 11821.

The proposed changes follow: (Existing MPS requirements not revised here are to remain unchanged).

507-3.4 *Conditions of use*

a. Foam plastic insulation surfaces shall have a flame spread rating of 0-75 tested in accordance with ASTM E-84. In all habitable rooms and in nonhabitable areas such as utility rooms, garages and basements, foam plastic insulation shall be installed within the cavity of a masonry wall or shall

be covered and protected by an interior finish material having a finish rating of at least 15 minutes such as ½ in. gypsum wall board.

b. When installing insulation in attics, caution shall be exercised to assure complete and adequate application of insulation. When eave vents are provided, a 2 in. clearance under the roof deck must be allowed to permit the upward flow of the incoming air above the surface of the insulation. To insure that the clearance is provided when blown or poured type insulation is used, baffles of durable material shall be installed prior to the insulation.

c. Vermiculite and perlite used as a fill insulation in masonry walls shall be of the water repellent type.

508-5.1 *General*

When metal windows or sliding glass doors are proposed in areas subject to 4500 or more winter degree days (base 65° F), insulating frames shall be provided. Criteria shall be as set forth in AAMA 1502.8, Voluntary Standards and tests of Thermal Performance of Residential Insulating Windows and Sliding Glass Doors. Where wood is used as the insulator it shall be water repellent preservative treated.

607-3 BUILDING INSULATION

607-3.2 *Overall coefficient of heat transmission*

a. All buildings which are heated or cooled mechanically shall be constructed to comply with the U values shown in Tables 6-7.1 and 6-7.2. U values shown do not include adjustments for framing in walls, ceilings or floors, nor for the sash frame in windows or glass doors.

b. Where the stated U value of any one component of roof deck, ceiling, wall or floor cannot be practically obtained, such U value may be increased to the minimum figure attainable and the U value for other components decreased until the overall heat gain or heat loss does not exceed the total resulting from conformance to the stated U values.

607-3.3 *Component coefficient values*

For ceilings, walls, floors and openings, U values shall not exceed those shown in Table 6-7.1.

TABLE 6-7.1

Maximum U Values for Ceiling, Wall and Floor Sections for Electric Resistance Heat (E.R.) and Heat Pump or Fossil Fuel Heat (F.F.)

Winter Degree Days (65 F Base)	Ceilings(1)		Walls		Floors (2)		Windows And Sliding Glass Doors(3)		Storm Doors(4)(5)	
	E.R.	F.F.	E.R.	F.F.	E.R.	F.F.	E.R.	F.F.	E.R.	F.F.
1000	.05	.05	.08	.08	.08	--	1.13	1.13	No	No
1001 to 2500	.04	.05	.07	.08	.07	--	.69	1.13	No	No
2501 to 4500	.03	.04	.05	.07	.05	.07	.69	1.13	No	No
4501 to 7000	.03	.03	.05	.07	.05	.07	.47	.69	Yes	No
7001	.026	.03	.05	.05	.05	.05	.47	.69	Yes	Yes

NOTES

(1) Includes roof/ceiling assemblies, in which the finished ceiling is the underside of the roof deck.

(2) For floors of heated spaces over unheated basements, unheated garages or unheated crawl spaces.

A basement, crawl space or garage shall be considered unheated unless it is provided with a positive heat supply to maintain a minimum temperature of 50 F. Positive heat supply is defined by ASHRAE as "heat supplied to a space by design or by heat losses occurring from energy-consuming systems or components associated with that space."

Where the walls of an unheated basement or crawl space are insulated in lieu of floor

insulation, the total heat loss attributed to the floor from the heated area shall not exceed the heat loss calculated for floors with required insulation.

(3) Maximum glass area shall not exceed 15 percent of the gross area of all exterior walls enclosing heated spaces, except when demonstrated that the winter daily solar heat gain exceeds the 24 hour heat loss.

(4) A 1½ inch metal faced door system with an insulated core and durable weatherstripping providing a U value equal or better than 0.34, and an infiltration rate no greater than .50 cfm per foot of crack length, tested according to ASTM E-382 at 2.86 psf of air pressure, may be substituted for a conventional door and storm door. All exterior doors shall be weatherstripped.

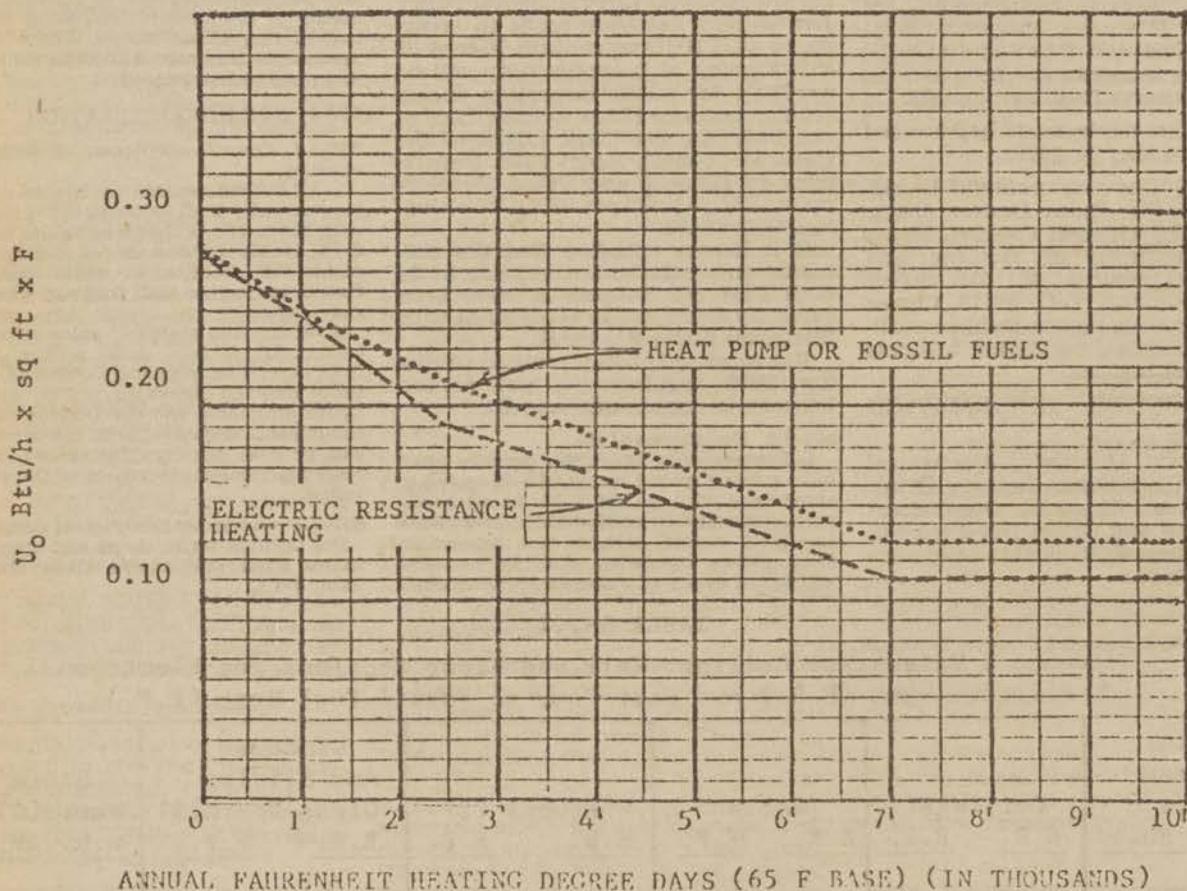
(5) In areas with 2501 or more winter degree days, a storm door is required when the primary door is a hollow core door or is over 25 percent glass.

607-3.4 Alternate performance criteria

a. As an alternative to conformance with Table 6-7.1, dwellings which conform to the performance criteria of this section shall be considered acceptable.

b. U_o (gross wall)—Total exterior wall area (opaque wall and window and door) shall have a combined thermal transmittance value (U value) not to exceed the values shown in Figure 1. Equation 1 shall be used to determine acceptable combinations to meet the requirements of Figure 1.

GROSS WALLS - FIGURE 1



EQUATION 1 FORMULA FOR DETERMINING COMBINATIONS (SEE FIGURE 1)

$$U_o = \frac{U_{wall} A_{wall} + U_{window} A_{window} + U_{door} A_{door}}{A_g}$$

where:

U_o = the average thermal transmittance of the gross wall area, Btu/h × sq. ft. × F.

A_g = the gross area of all exterior walls enclosing heated spaces, sq. ft.

U_{wall} = the thermal transmittance of all elements of the opaque wall area, Btu/h × sq. ft. × F.

A_{wall} = opaque wall area enclosing heated spaces, sq. ft.

U_{window} = the thermal transmittance of the window area, Btu/h × sq. ft. × F.

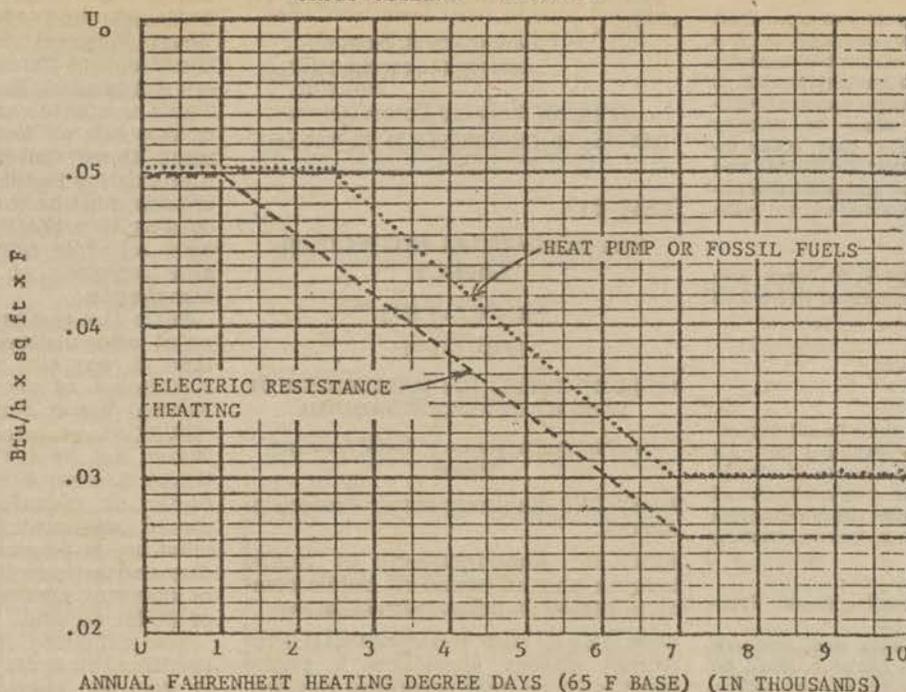
A_{window} = window area (including sash), sq. ft.

U_{door} = the thermal transmittance of the door area, Btu/h × sq. ft. × F.

NOTE.—Where more than one type of wall, window and/or door is used, the $U \times A$ term for that exposure shall be expanded into its sub-elements, as: $U_{wall} A_{wall} + U_{wall} A_{wall}$, etc.

c. U_o (gross ceiling)—Total ceiling area (opaque ceiling and skylights) shall have a combined thermal transmittance value (U_o value) not to exceed the values shown in Figure 2. Equation 2 shall be used to determine acceptable combinations to meet the requirements of Figure 2.

GROSS CEILING - FIGURE 2



EQUATION 2 FORMULA FOR DETERMINING ROOF/CEILING COMBINATIONS

$$U_o = U_{roof} A_{roof} + U_{skylight} A_{skylight} / A_o$$

where:

U_o = the average thermal transmittance of the gross roof/ceiling area, Btu/h × sq. ft. × F.

A_o = the gross area of a roof/ceiling assembly, sq. ft.

U_{roof} = the thermal transmittance of all elements of the opaque roof/ceiling area, Btu/h × sq. ft. × F.

A_{roof} = opaque roof/ceiling area, sq. ft.

$U_{skylight}$ = the thermal transmittance of all skylight elements in the roof/ceiling assembly, Btu/h × sq. ft. × F.

$A_{skylight}$ = skylight area (including frame), sq. ft.

NOTE.—Where more than one type of roof/ceiling and/or skylight is used, the $U \times A$ term for that exposure shall be expanded into its sub-elements, as:

$$U_{roof} A_{roof} + U_{roof_1} A_{roof_1} + U_{roof_2} A_{roof_2}, \text{ etc.}$$

607-3.5 Overall Structure Performance Alternative

Structures which can be shown by accepted engineering practice to have energy consumption equal to or less than that which would be obtained by conformance to the criteria of 607-3.3 or 607-3.4 shall be considered acceptable. The following requirements shall govern in determining comparability.

a. The methodology shall be cost effective to the energy consumer.

b. The methodology shall not adversely affect the structural capacity, durability, or safety aspects of the structure.

c. All data and calculating must show valid performance comparisons between the proposed option and a structure comparable in size, configuration, orientation and occupant usage designed in accordance with 607-3.3 or 607-3.4.

607-3.6 Basement or Crawl Space Foundation Walls

Insulation may be omitted from floors over heated basement areas or heated crawl spaces if foundation walls are insulated. Foundation walls of heated areas below grade need not be insulated except where habitable rooms are provided or where more than 50 percent of the wall is exposed to outside air. The U value of foundation wall sections shall not exceed the value shown in Table 6-7.2 except where the alternative methods, shown in 607-3.4, or 607-3.5 are employed and foundation walls are included in the determination of the average thermal transmittance of the gross wall area.

TABLE 6-7.2

Maximum U Values of the Foundation Wall Sections of Heated Basement or Heated Crawl Space

Winter Degree Days (65 F Base)	Maximum U Value
2500 or less	No Requirement
2501 to 4500	0.17
4501 or more	0.10

607-4 CAULKING

Caulk, gasket or otherwise seal around all openings in the exterior envelope of the conditioned atmosphere of the home, at all joints between dissimilar materials and at junctions of major components such as wall-to-floor, etc. Caulking shall be silicone rubber base or butyl rubber base, conforming to Federal Specifications TT-S-1543 and TT-S-1657 respectively, or materials demonstrating equivalent performance in resilience and durability.

607-5 FLASHING and 607-6 GUTTERS AND DOWNSPOUTS will be renumbered 607-5 and 607-6 respectively.

604-7 MASONRY FIREPLACES

604-7.1 General

Fireplace construction shall be safe, durable and suitable for its intended use. All site-built fireplaces, solid fuel or gas burning, shall be provided with a direct source of combustion air from outside the conditioned atmosphere of the home to the combustion chamber.

610-1 FACTORY-BUILT FIREPLACES AND FIREPLACE STOVES

All factory-built fireplaces and fireplace stoves, solid fuel or gas burning, shall be provided with a direct source of combustion air from outside the conditioned atmosphere of the home to the combustion chamber.

615-2.6 Combustion air

Furnaces, boilers and domestic water heaters energized by fossil fuels shall be sealed combustion types or shall be separated from the conditioned atmosphere of the home. Combustion and ventilating air shall be provided in the required amounts from outside the conditioned atmosphere of the home.

APPENDIX C

507-3 BUILDING INSULATION

Cork board, FS HH-I-561.
Cellular glass, FS HH-I-551.
Cellulose, vegetable or wood fiber, FS HH-I-515.
Expanded polystyrene insulation board, FS HH-I-524.
Fiberboard, FS LLL-I-535, Class C or E, or ASTM C-209.
Insulation board (urethane), FS HH-I-530.
Mineral fiber, board (roof), FS HH-I-526.
Mineral fiber, insulation blanket, FS HH-I-521.
Mineral fiber, pneumatic or poured, FS HH-I-1030.
Perimeter insulation, FS HH-I-524, Type II, FS HH-I-558, Form A, Class 1 or 2.
Perlite, FS HH-I-574 or ASTM C-549.
Reflective, thermal, ES HH-I-1252.
Structural fiberboard insulating roof deck, AIMA IB, Spec. No. 1.
Urea-based foam, UM-74.
Vermiculite (used as masonry wall filler), FS HH-I-585 Class 2 (for other uses), ASTM C-516.

(Sec. 7(d) of the Department of HUD Act (42 U.S.C. 353(d)).)

Issued at Washington D.C., April 17, 1978.

LAWRENCE B. SIMONS
Assistant Secretary for
Housing,
Federal Housing Commissioner.

[FR Doc. 78-10999 Filed 4-21-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION
AGENCY

[40 CFR Part 257]

[FRL 887-5]

PROPOSED CRITERIA FOR CLASSIFICATION OF
SOLID WASTE DISPOSAL FACILITIESHearing and Extension of Public Comment
Period

AGENCY: Environmental Protection Agency.

ACTION: Announcement of public hearing and extension of public comment period on proposed regulation.

SUMMARY: The Environmental Protection Agency announces a public hearing to be held regarding the proposed criteria for the classification of solid waste disposal facilities. The purpose of the hearing is to gather information and data relevant to the regulation of these facilities. The agency also announces an extension in the period of time provided for submission of comments on the proposed criteria.

DATES: The public hearing will be held on June 5, 1978. The public comment period will extend to June 12, 1978.

ADDRESSES: The public hearing will be held in the auditorium of the Agency's Environmental Research Center located at 26 West St. Clair Street, Cincinnati, Ohio. The mailing address for all comments is: Office of Solid Waste (WH-564), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, Attention: Mr. Shuster, Docket 4004.

FOR FURTHER INFORMATION
CONTACT:

Mrs. Gerri Wyer, Public Participation Officer, Office of Solid Waste (WH-562), U.S. EPA, Washington, D.C. 20460, phone 202-755-9157.

SUPPLEMENTARY INFORMATION: On February 6, 1978, the Environmental Protection Agency published in the FEDERAL REGISTER the proposed regulation "Criteria for Classification of Solid Waste Disposal Facilities" (43 FR 4942).

The proposed regulation contains minimum criteria for determining which solid waste disposal facilities shall be classified as posing no reasonable probability of adverse effects on health or the environment. The regu-

lation is required by Sections 1008(a)(3) and 4004(a) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580). Under Sections 4005(c) and 4003 (2) and (3) of this Act, all facilities which do not meet these Criteria are prohibited. Any existing facility not meeting these criteria must be closed or upgraded according to a State-established compliance schedule containing an enforceable sequence of actions leading to compliance.

Since the regulation covers the disposal and utilization of sludges on land, it was also proposed as partial fulfillment of Section 405(d) of the Federal Water Pollution Control Act (FWPCA), as amended by the Clean Water Act of 1977 (Pub. L. 95-217). Under Section 405(e) of FWPCA, the owner or operator of any publicly owned wastewater treatment works must use or dispose of sludge in accordance with these Criteria, if the owner or operator chooses to use or dispose of sludge on land.

The proposed regulation has been published in order to allow opportunity for the public to review it and submit comments to the Agency. All comments received which are post-marked on or before June 12, 1978, will be considered by the Agency in the final promulgation of the regulation. All comments must be mailed to the above address.

Notice of three public hearings on the proposed regulation was published on March 27, 1978 (43 FR 12726). Due to delays which the Agency has incurred, the draft environmental impact statement will not be available for these hearings. Therefore, the Agency will hold an additional hearing in June. The draft environmental impact statement will be available for this hearing.

Notice of availability of the draft environmental impact statement on the proposed regulation was published in the FEDERAL REGISTER on April 21, 1978. In order to provide further opportunity for the public to express its views on the proposed regulation and the draft environmental impact statement, the Agency will hold an additional public hearing. The hearing will be held on June 5, 1978, at the above address and is scheduled in two sessions. The first session will commence at 1 p.m. and terminate at 5:30 p.m. The second session will commence at 7 p.m. and terminate at 10:30 p.m. Participants may register during the thirty minutes immediately preceding each session.

Witnesses at the hearing may submit written testimony and/or deliver an oral statement of up to ten minutes in length. The number of witnesses desiring to be heard may require adjustment of the amount of

time allotted to each. Additional time will be reserved for questions and comments from a panel of experts and written questions from the audience.

Requests to participate in the hearing should be directed to the Public Participation Officer at the address provided above. Such requests must be received prior to the close of business (4:30 p.m.) five working days preceding the date of the hearing. Requests must include the names, addresses, and phone numbers of individuals or organizations seeking to make a public statement and an estimate of the time required to make the statement. At least one legible copy of the prepared statement must be provided to the Agency at the time of the public hearing.

Dated: April 18, 1978.

THOMAS C. JORLING,
Assistant Administrator for
Water and Hazardous Materials.

[FR Doc 78-11078 Filed 4-21-78; 8:45 am]

[4110-08]

**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**

Office of the Secretary

[45 CFR Part 46]

PROTECTION OF HUMAN SUBJECTS: PROPOSED REGULATIONS ON RESEARCH INVOLVING THOSE INSTITUTIONALIZED AS MENTALLY INFIRM

Decision To Develop Regulations

AGENCY: DHEW, Office of the Secretary.

ACTION: Notice of decision to develop regulations.

SUMMARY: Regulations are to be drafted providing additional protections for subjects of DHEW conducted or supported research involving the mentally ill, mentally retarded, and other mentally infirm individuals confined to institutions. Such regulations will be based on recommendations submitted by the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research to the Secretary of Health, Education, and Welfare and published on March 17, 1978, in the FEDERAL REGISTER. The recommendations define the circumstances under which such research can be conducted or supported, describe procedures for the review and approval of the research, and identify the requirements for informed consent to participation in research by and for such subjects.

FOR FURTHER INFORMATION CONTACT:

D. T. Chalkey, Ph. D., Director,
Office for Protection from Research

Risks, National Institutes of Health, Bethesda, Md. 20014, 301-496-7005.

Dated: April 4, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

[FR Doc. 78-11006 Filed 4-21-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Endangered Status for the Bonytail Chub and Threatened Status for the Razorback Sucker

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the bonytail chub (*Gila elegans*) to be Endangered and the razorback sucker (*Xyrauchen texanus*) to be Threatened. This action is being taken because of the alteration and destruction of their habitat which has greatly reduced populations of both species and the present threatened modification of their habitat which would further threaten their continued existence. This proposal would seek to protect the remaining populations of these species and their habitat. These species are known from the Colorado River drainage in California, Nevada, Arizona, New Mexico, Colorado, and Utah.

DATES: Comments from the public must be received by June 26, 1978. Comments from the Governors of States involved with this action must be received by July 24, 1978.

ADDRESSES: Submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 4(a) of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) states:

General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

- (1) The present or threatened destruction, modification, or curtailment of its habitat or range;
- (2) Overutilization for commercial, sporting, scientific, or educational purposes;
- (3) Disease or predation;
- (4) The inadequacy of existing regulatory mechanisms; or
- (5) Other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director.

SUMMARY OF FACTORS AFFECTING THE SPECIES

These findings are summarized herein under each of the five criteria of Section 4(a) of the Act. These factors, and their application to (a) bonytail chub and (b) razorback sucker, are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* (a) Historically, the bonytail chub (*Gila elegans*) was found throughout the large turbid mainstream rivers of the Colorado River basin. This habitat alternated between swift water canyons characterized by torrential rapids and slow, meandering, sand-bottomed stretches. Within the large turbid mainstream rivers, the chub's habitat preference appears to be eddies adjacent to fairly swift current.

The Colorado River has been greatly altered by impoundments and diversions, both mainstream and tributary, eliminating much of the bonytail's original habitat. The lower Colorado River basin is presently a series of reservoirs and cold tailwaters. Large adult bonytails have been found in Lakes Mead and Mohave and spawning has been observed, but no young have been found. Therefore, present populations in these reservoirs probably will disappear as the fish senesce and die. Cold tailwaters do not offer the warm (approximately 65° F) temperature needed for the bonytails to spawn, thus utilization of this artificial habitat appears non-existent. Portions of the lower Colorado basin, primarily the Gila River system, have been dewatered by irrigation projects. Hence, bonytail habitat was lost and populations extirpated by loss of instream flows. Decline in chub populations due to inter-specific competition with introduced species of fish is another probable factor in the decline of the bonytail. Exotic species now outnumber native species in the Colorado basin.

Bonytail chub are nearly extinct in the lower basin and have declined dramatically in the upper basin over the last 10-20 years. Reasons for decline in the upper basin are less obvious than for the lower basin where habitat al-

terations have been more numerous. Microhabitat alteration by tributary dams, and competition with exotic species appear the most likely reasons for decline in the upper basin but perhaps a synergistic effect of both factors is responsible.

The most dramatic decline has occurred in the Green River of Dinosaur National Monument during the 1960's. This portion of the river was drastically altered by the 1962 closure of the Flaming Gorge Dam. The decline in bonytails apparently started after 1966 when the reservoir became stabilized near its planned capacity. No reproduction has been noted in the last ten years for the bonytail, although biologists have looked specifically for young bonytails. The most recent (1974) collection of adult bonytails is from Desolation Canyon of the Green River, Utah. The recent decline in Dinosaur National Monument suggests that minor changes in water quality may cause serious declines of the bonytail, hence any alteration of the mainstream or tributaries might result in the species' extinction.

(b) The historical range of the razorback sucker, *Xyrauchen texanus*, included the large river habitat of the entire Colorado River basin. The razorback, as the name implies, has a very pronounced, bony keel on its back, just behind the head. The razorback prefers slow backwater areas where it feeds on the bottom detritus and perhaps plankton. Historically abundant, it was caught and sold as food by early settlers.

Alteration of the Colorado River and its tributaries by large dams for power generation and irrigation during the 20th century has altered much of the original river ecosystem. Much of the Gila River no longer has a permanent flow due to impoundment and irrigation diversion. Large numbers of adult razorbacks are usually found in reservoirs soon after dam closure, and these adult populations persist for approximately 30 years, and then disappear. At present, large numbers are found in Lakes Mead, Mohave, and Havasu. Spawning has been observed in these areas, but no juveniles have been found. The adults are quite old, but some individuals are young enough to suggest at least some recruitment since closure of the dams. Whether this recruitment is enough to maintain the population is not known. Razorbacks apparently have a maximum age of about 30 years. They grow to large sizes in the reservoirs and are relatively abundant, but past experience suggests recruitment is not sufficient to maintain populations there.

Similar to other endemic large river fishes in the Colorado basin, razorbacks are not found in the cold tailwaters of the high dams. It appears they have been extirpated from the

Grand Canyon portion of the Colorado for this reason.

Razorback suckers are found throughout most of their original range in the upper basin, but in small numbers, where they congregate in backwater areas, thereby giving a false appearance of abundance. They are not nearly as abundant as early settlers and biologists found them. Reasons for their decline in the upper basin are not obvious, but appear to be due to minor habitat alterations by upstream impoundments and water withdrawals, perhaps in conjunction with competition and predation by introduced fishes.

It is not known whether razorbacks are reproducing in the upper basin. Ripe and/or spawned fish were found at the mouth of the Yampa River in 1975 and 1976, and also in a gravel pit in the Colorado River near Grand Junction, Colo., in 1975. No juvenile razorbacks have been found in recent surveys, probable because they appear very similar to the more abundant flannelmouth sucker, *Catostomus latipinnis*. Subadults have been reported recently as they are more easily identified. Most experts agree that at present recruitment appears to be maintaining some upper basin population level and, therefore, reproduction is assumed.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable.

3. *Disease or predation.* (a) Predation by introduced species may be an important factor in the decline of the bonytail chub. Loss of young fish to introduced predators such as bass, sunfish, and catfish is probable, although these species are not abundant in the upper basin. Predation on larval chubs by the red shiner (*Notropis lutrensis*) and reidside shiner (*Richardsonius balteatus*) has been suggested by several authorities as probable. The extent of the problem is not known, but it may be considerable in some areas.

(b) The large numbers of introduced fishes in the Colorado River system suggest their predation on native fishes also may be an important factor in the decline of native fish, including the razorback sucker. Predation is probably most significant in young native fishes, such as larval and juvenile razorbacks. Several biologists have suggested the red shiner (*Notropis lutrensis*) and the reidside shiner (*Richardsonius balteatus*) are serious potential predators on larval razorback suckers, but the extent of the problem is not known. Introduced bass were able to virtually eliminate native fishes in the lower Black River in Arizona, including two species of suckers, two years after their introduction.

4. *The inadequacy of existing regulatory mechanisms.* Not applicable.

5. *Other natural or manmade factors affecting its continued existence.* Not applicable.

EFFECT OF THE RULEMAKING

Section 7 of the Act, entitled "Inter-agency Cooperation" states:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to Section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

A definition of the term "Critical Habitat" was published jointly by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of January 4, 1978 (43 FR 870-876). Although no Critical Habitat has been proposed for these species, the other provisions of Section 7 are applicable.

All Federal departments and agencies shall, in accordance with Section 7 of the Act, consult with the Secretary of the Interior with respect to any action which is considered likely to affect the species or their habitats. Consultation pursuant to Section 7 should be carried out pursuant to new regulations published on January 4, 1978, in the FEDERAL REGISTER (43 FR 870-876) (to be codified as 50 CFR Part 402) to assist Federal agencies in complying with Section 7 of the Endangered Species Act of 1973.

The effects of these determinations and this rulemaking include, but are not necessarily limited to, those discussed below.

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered species. All of those prohibitions and exceptions also apply to any Threatened species unless a special rule pertaining to that Threatened species has been published and indicates otherwise. The regulations referred to above, which pertain to Endangered species, are found at § 17.21 of Title 50 and are summarized below.

With respect to the bonytail chub, all prohibitions of Section 9(a)(1) of the Act, as implemented by 50 CFR 17.21, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in

the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce these species. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies. Permits for scientific purposes or for the enhancement of propagation or survival would be available in accordance with 50 CFR 17.22. Economic hardship permits would be available under 50 CFR 17.23.

With respect to the razorback sucker, the prohibitions of 50 CFR 17.31 will apply. Generally, these prohibitions are the same as those applicable to Endangered species as described above. However, a special rule is proposed pursuant to 50 CFR 17.31(c) which will allow the razorback sucker to be taken in accordance with State law. The special rule will allow sport fishing for the razorback sucker under State supervision.

Regulations published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412) provided for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances. Such permits involving Endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered by a person if such relief were not available.

Pursuant to Section 4(b) of the Act, the Director will notify the Governors of California, Nevada, Arizona, New Mexico, and Utah with respect to this proposal and request their comments and recommendations before making final determinations.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate and

effective in the conservation of any Endangered or Threatened species as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests or any other party interested in any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to the bonytail chub and razorback sucker;

(2) The location of habitat of the bonytail chub and razorback sucker that should or should not be determined to be Critical Habitat as provided for by Section 7 of the Act;

(3) Additional information concerning the range and distribution of the bonytail chub and razorback sucker.

Final promulgation of the regulations on the bonytail chub and razorback sucker will take into consideration the comments and any additional information received by the Director. Also, such communications may

lead him to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C., and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this document is Dr. James D. Williams, Office of Endangered Species, 202-343-7814.

REGULATIONS PROMULGATION

Accordingly, it is hereby proposed to amend Title 50 CFR Part 17 as follows:

1. Amend § 17.11 by adding in alphabetical order the following to the list of animals:

§ 17.11 Endangered and threatened wildlife

Species		Range					When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion of range endangered	Status			
Fishes:								
Chub, bonytail	<i>Gila elegans</i>	NA	U.S.A. (Colorado River basin).	Entire...	E .....	.....	N/A	
Sucker, razorback...	<i>Xyrauchen texanus</i> .	NA .....	.....do .....	.....do...	T .....	.....	17.44(g).	

§ 17.44 [Amended]

2. Amend § 17.44 by adding a new paragraph (g) as follows:

(g) Razorback sucker (*Xyrauchen texanus*).

(1) All provisions of § 17.31 apply to this species, except that it may be taken in accordance with applicable State law.

(2) Any violation of State law will also be a violation of the Act.

NOTE.—The 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.

Dated: April 13, 1978.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc 78-10944 Filed 4-21-78; 8:45 am]

notices

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

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

SHEEP MOUNTAIN WILDERNESS

Availability of Wilderness Report and Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement and wilderness study report of the Sheep Mountain wilderness study area, Angeles, and San Bernardino National Forests, Calif., USDA-FS-DES (Leg/Adm)78-03.

The wilderness report discusses the study area and its resources, the social and economic environment, plans and programs of others, and public involvement to date. The environmental statement contains five alternatives for 68,500 acres of the Angeles and San Bernardino National Forests and an analysis of each alternative. A 28,000-acre area in the geographic center of the study area is proposed for inclusion in the national wilderness preservation system. The remaining 40,500 acres is proposed for other multiple-use activities.

Resources in the study area include scenic values, back-country recreation, minerals, watershed, potential wilderness, and wildlife. The study area is the home of a herd of Nelson bighorn sheep and one alternative emphasizes maintenance and improvement of the bighorn sheep habitat. The other three alternatives emphasize back-country recreation without wilderness designating the entire 68,500 acres as wilderness; an alternative of 44,500 acres for wilderness.

The wilderness report and draft environmental statement were transmitted to the Environmental Protection Agency (EPA) on April 14, 1978.

Copies of this document are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3210, 12th Street and Independence Avenue SW., Washington, D.C. 20250.

Angeles National Forest, Supervisor's Office, 150 South Los Robles Avenue, Pasadena, Calif. 91101.

Mount Baldy Ranger District, 110 North Wabash Avenue, Glendora, Calif.

USDA, Forest Service, Regional Office, 630 Sansome Street, Room 529, San Francisco, Calif. 94111.

San Bernardino National Forest, 144 North Mountain View Avenue, San Bernardino, Calif. 92408.

Valyermo Ranger District, 34146 Longview Road, Pearblossom, Calif.

Cajon Ranger District, Lytle Creek Ranger Station, Fontana, Calif.

In addition to these offices, copies have been sent to the following public libraries for public review: Pasadena Main Branch, Altadena, Claremont, La Verne, San Dimas, Duarte, Monrovia, Azusa, Glendora, Sierra Madre, Palm-dale, Lancaster, and Arcadia, Calif. A limited number of single copies are available upon request from Forest Supervisor, Angeles National Forest, 150 South Los Robles Avenue, Pasadena, Calif. 91101.

Copies of this document have been sent to various Federal, State, and local agencies for review and comment as outlined in the Council on Environmental Quality guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental effects for which comments have not been specifically requested.

Comments concerning the proposed action, and requests for additional information should be addressed to Forest Supervisor, Angeles National Forest, 150 South Los Robles Avenue, Pasadena, Calif. 91101. Comments must be received within 60 days after transmittal to EPA in order to be considered in the preparation of the final environmental statement and report.

R. MAX PETERSON,
Deputy Chief, Forest Service.

APRIL 14, 1978.

[FR Doc. 78-11097 Filed 4-21-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 31870]

BALTIMORE/WASHINGTON-HOUSTON

Low-Fare Route Case; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hear-

ing in the above-entitled proceeding will be held on June 14, 1978 at 10 a.m. (local time), at the Baltimore-Washington International Airport, International Arrivals Building, Pier E, before the undersigned.

For information concerning the issues involved and other details in the proceeding, interested persons are referred to the prehearing conference report served April 4, 1978, and other documents that are filed in the docket of this proceeding in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., April 18, 1978.

BURTON S. KOLKO,
Administrative Law Judge.

[FR Doc. 78-11048 Filed 4-21-78; 8:45 am]

[6320-01]

[Docket 31491]

ST. LOUIS-LOUISVILLE AND SAN FRANCISCO BAY AREA

Nonstop Case; Hearing

A hearing will be held in this proceeding on May 16, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room B, 1875 Connecticut Avenue NW., Washington, D.C.

The issues involved in this proceeding are discussed in Orders 77-10-26, 77-12-113, and 78-3-104, in the report of the prehearing conference in this proceeding, and in various other documents all of which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

STEPHEN J. GROSS,
Administrative Law Judge.

APRIL 18, 1978.

[FR Doc. 78-11049 Filed 4-21-78; 8:45 am]

[6320-01]

[Docket 30777 Agreement C.A.B. 27064 R-1 through R-7; Agreement C.A.B. 27183 R-1 through R-4; Order 78-4-80]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Free Baggage Allowances and Excess-Baggage Charges

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of April, 1978.

Agreements have 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 U.S. and foreign member air carriers of the Traffic Conferences of the International Air Transport Association (IATA). The agreements, which have indirect application in air transportation as defined by the Act, were adopted at the Composite Passenger Traffic Conference in Cannes in October 1977, and are proposed for effectiveness from April 1, 1978, through March 31, 1979.

Agreement CAB 27064 would re-adopt weight-based free baggage allowances and excess-baggage charges for passenger air transportation in all areas of the world except within TC1 (Western Hemisphere) and to/from United States points.¹ Free baggage allowances would remain at 30 kilograms (66 pounds) for first-class passengers and 20 kilograms (44 pounds) for economy-fare passengers; excess-baggage charges would continue to be assessed at the rate of one percent of the one-way first-class fare per kilogram. The agreement would also re-adopt the present weight-based system of special charges for skiing and golfing equipment, bulky baggage, and baggage shipped as cargo; increase the excess-baggage rate between Nicosia and Tel Aviv; and amend the resolutions governing carriage of pets to permit free transportation of dogs trained to assist the deaf.

Agreement CAB 27183 would re-adopt the weight-based free baggage allowances and excess-baggage charges applicable to passenger air transportation

within TC1 (excluding transportation to/from United States points, between Canada and the Caribbean area, and within portions of the Caribbean area), as well as the existing weight-based special charges for skiing, golfing, and skin-diving equipment, bulky baggage, and baggage shipped at cargo rates.

We will disapprove the agreements insofar as they would maintain baggage allowances and charges based on a weight system rather than a piece system. In March 1976, in the *Baggage Allowance Tariff Rules in Overseas and Foreign Air Transportation Case*, Docket 24869, we found the weight-based IATA free baggage allowances and excess-baggage charges to be unjust and unreasonable, adverse to the public interest, and in violation of section 404(a) of the Act.² As we stated in that decision, the aircraft flown by virtually all international carriers can accommodate the amount of baggage normally carried by the majority of travelers with no loss in performance or effect on other cargo, and it is clear that space, not weight, is the proper factor determining the cost of baggage services. Since the conversion from a weight to a piece system represents a major change in the treatment of baggage allowances and charges, we allowed the carriers more than a year to revise their baggage systems. On April 20, 1977, we approved agreements which instituted a piece-based system of baggage allowances and charges for passenger transportation to and from United States points; to give the carriers time to reach agreement, we also approved resolutions which main-

tained the weight system for transportation in various other areas (Order 77-4-97). In January 1978, we approved a piece-based system of allowances and charges for transportation to and from Canada (Order 78-1-68). It has now been two years since we issued our decision, however, and the carriers have apparently made no further progress toward the adoption of a piece system. As long as the present weight system remains in effect, United States citizens traveling abroad will continue to be subjected to artificial, unjustified baggage-allowance restrictions and exorbitant excess-baggage fees on sectors beyond the U.S.-foreign gateway sector of their journeys. We must therefore disapprove the agreements proposed here, which would simply re-establish the same unjust and unreasonable weight-based free baggage allowances and excess-baggage charges. For the same reasons, we will disapprove those portions of the agreements which would re-establish weight-based special charges for sporting equipment, bulky baggage, and baggage shipped as cargo, as well as the resolution increasing the weight-based excess-baggage charge between Nicosia and Tel Aviv.

We will, however, approve that portion of Agreement C.A.B. 27064 which permits free transportation of dogs trained to assist the deaf. The resolution incorporates provisions similar to those now applicable to dogs trained to lead the blind, and is clearly justified on humanitarian grounds. United States carriers have already filed similar rules domestically and for service to and from the United States.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Federal Aviation Act, makes the following findings:

1. It is found that the following resolutions, which have indirect application in air transportation as defined by the Act, are adverse to the public interest and in violation of the Act:

¹By Order 77-4-97, April 20, 1977, the Board approved various agreements establishing a piece-based system of free baggage allowances, excess-baggage charges, and other baggage charges for passenger air transportation between the U.S. and most European, African, and Asian countries. Agreement CAB 27084, which the Board ap-

proved by Order 78-1-68, January 17, 1978, established similar piece-based baggage allowances and charges for passenger air transportation between Canada and various countries in Europe and Southern Africa.

²See Orders 77-3-36, March 7, 1977, 76-5-26, May 10, 1976, and 76-3-81, March 12, 1976.

Agreement CAB	IATA No.	Title	Application
27064:			
R-1.....	002a.....	Special Revalidation Resolution.....	3;2/3
R-2.....	002b.....	Standard Revalidation Resolution.....	2
R-3.....	002c.....	Standard Revalidation Resolution.....	1/2;1/2/3
R-4.....	002d.....	Special Revalidation Resolution.....	1/2;1/2/3
R-5.....	002e.....	Special Revalidation Resolution.....	3/1
R-7.....	311.....	Baggage Excess Weight Charges Except to/from U.S.A. and U.S. Territories (Amending).	2
27183:			
R-1.....	LA13.....	TC1 Limited Agreement—Baggage (New).....	1
R-2.....	001p.....	Special Baggage Escape—Canada.....	1
R-3.....	001ss.....	Special Baggage Escape (New).....	1
R-4.....	002f.....	Special Revalidation Resolution.....	1

2. It is not found that the following resolution, which has indirect application in air transportation as defined by the Act, is adverse to the public interest or in violation of the Act.

Agreement C.A.B	IATA No.	Title	Application
27064: R-6.....	310c.....	Pets Except to/from U.S.A. and U.S. Territories (Amending).	1;2;3;1/2;2/3;3/1;1/2/3

Accordingly, *it is ordered*, That

1. Those portions of Agreements CAB 27064 and CAB 27183 set forth in finding paragraph 1 above are disapproved; and

2. That portion of Agreement CAB 27064 set forth in finding paragraph 2 above is approved.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.³

PHYLLIS T. KAYLOR,
Secretary.

³All members concurred.

[FR Doc. 78-11052 Filed 4-21-78; 8:45 am]

[6320-01]

[Docket 30332, 32284, 32298; Agreement C.A.B. 26707 R-17; Order 78-4-63]

**INTERNATIONAL AIR TRANSPORT
ASSOCIATION**

**Tariff Revisions Filed by Various Carriers
Proposing Increased Rates for Horses**

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of April 1978.

By Order 77-8-114, August 23, 1977, the Board approved, with conditions, an IATA agreement establishing rates for live animals at 100 percent of the applicable general cargo rate for cold-blooded animals, and 110 percent of the general cargo rate for warm-blooded animals. The IATA resolution contained an exception for the carriage of horses, however, which established a fixed charge per horse computed at 1000 kgs. times the per kg. charge of 110 percent of the applicable general cargo rate, regardless of the horse's actual weight.

The carriers have filed tariff revisions proposing to institute this charge, effective April 15 or April 18, 1978. Complaints urging suspension pending investigation of the tariffs have been filed by The American Horse Council, Inc. (AHC). In support of its complaint, AHC states the proposal would nearly double the cost of shipping horses; no cost data or other justification for the proposal has been submitted; there is no justification for the proposed minimum shipping weight, since the average weight for U.S. horses exported during 1977 was 946 pounds,¹ and the usual reasons for a minimum weight requirement are absent;² the present rates for horses adequately cover the applicable costs

¹Shipment data were provided to AHC by air freight forwarders.

²AHC states that minimum charges are usually applied to reflect terminal costs for

of carriage; and the higher charges will have a chilling effect on the growing market for equine exports, a concern also expressed by the U.S. Department of Agriculture.

AHC also complains against a separate, existing tariff rule which sets forth a charge for the animal's stall based on 250 kgs. per horse. Under this rule a shipper must pay for carriage of the stall, in addition to the transportation charge for the horse, and the stall charge is computed by multiplying 250 kgs. times the number of horses being shipped times the basic 1000 kg. rate per horse. AHC contends that the actual weight of a stall for three horses, for example, is about 1250 lbs., or 567 kgs. therefore, a stall charge based on 750 kgs. (250 kgs. × 3) is unreasonable.

The Foreign Agricultural Service (FAS) of the U.S. Department of Agriculture, in a letter supporting AHC's complaint against the 1000 kg. minimum, states that FAS has been engaged with the American Quarter Horse Association in a joint market development program, which has resulted in increasing exports to more than 4000 head per year; and the proposed rates could easily double the costs of transporting horses to important European and Pacific markets, impeding the exports of American breeding horses.

No answers to the complaints have been filed by air carriers.

Upon consideration of the information supplied by AHC the Board has decided to withdraw its approval of the underlying IATA agreement and to reject the carriers' tariff revisions containing the 1000 kg. minimum weight provision. The carriers did not submit any specific justification for the minimum, and such a provision appears clearly unreasonable in view of the

small size shipments, or to encourage heavier loading by shippers.

facts now available to us that most horses shipped average well under 1000 kg. The only support offered by the carriers was the statement that they were filing in order to implement the IATA agreement. Without the Board's approval of the agreement, the filings no longer satisfy the economic justification requirements of section 221.165 of the Board's Economic Regulations. They will, therefore, be rejected.³

We will not take action against the IATA-agreed charges for stalls, which we have approved and which AHC also believes to be objectionable. AHC says that horses are shipped in three-horse stalls which are loaded on a separate pallet, and its data show the average number of horses shipped per pallet in 1977 was 2.26 (1.92 to the United Kingdom). Using AHC's figure of 1250 lbs. for the stall weight, and an average of 2.26 horses shipped per stall, the average stall weight for each horse is 553 lbs.,⁴ or about 250 kgs., which is the basis for the existing stall charge for each horse. Although one could argue that three-horse shipments are overcharged and one and two-horse shipments are undercharged by this system, on balance the charge does not appear unreasonable and the Board will not tamper with it.⁵

The Board, acting pursuant to sections 102, 204(a), and 412 of the Federal Aviation Act of 1958, finds the following resolution, incorporated in Agreement CAB 26707 as indicated, to be adverse to the public interest and in violation of the Act:

³The carriers may, of course, refile the rates with justification.

⁴1250 lbs. ÷ 2.26 = 553 lbs.

⁵We would note that AHC's 1250 lb. figure for the stall weight understates the actual weight of the equipment used to transport horses since each stall must be loaded on a pallet which would add significantly to the gross weight.

Agreement CAB	IATA No.	Title	Application
26707: R-17.....	511.....	Rates for Live Animals (Revalidating and Amending) subparagraph 1(c).	3; 1/2, 2/3; 3/1; 1/2/3

Accordingly, pursuant to sections 102, 204(a), 403 and 412 of the Act,

It is ordered, That:

1. That portion of Agreement CAB 26707, R-17, described in the finding paragraph above, is disapproved;
2. The tariff revisions set forth in the Attachment hereto are rejected;
3. Except to the extent granted herein, the complaints of the American Horse Council, Inc. in Dockets 32284 and 32298 are dismissed; and
4. Copies of this order shall be filed in the tariffs named in the Attachment hereto, and shall be served upon Air Tariffs Corp. and counsel for the American Horse Council, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.⁶

PHYLLIS T. KAYLOR,
Secretary.

AIR TARIFFS CORPORATION, AGENT

Transatlantic Cargo Rate Tariff No. I-2,
CAB No. 50, 15th Revised Page 186-A
Transpacific Cargo Rate Tariff No. I-3,
CAB No. 51, 17th Revised Page 117.

[FR Doc. 78-11050 Filed 4-21-78; 8:45 am]

[6320-01]

[Dockets 31177, 31260, 31259; Order 78-4-69]

PIEDMONT AVIATION, INC. ET AL.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of April, 1978.

In the matter of Piedmont Aviation, Inc., Allegheny Airlines, Inc. and Delta Air Lines, Inc.

On July 22, 1977, Piedmont Aviation filed an application in Docket 31177 for an amendment of its certificate of public convenience and necessity for Route 87, accompanied by a motion for an expedited hearing. Piedmont requests unrestricted nonstop authority between Boston, Mass., on the one hand, and Greensboro/High Point, N.C., Richmond, Va., and New York, N.Y., on the other. Piedmont suggests that its authority in eight Boston markets be restricted to two-stop,¹ and included a request that its application be granted by show-cause procedures.²

A number of parties have filed pleadings in response to the Piedmont

⁶All members concurred.

¹The eight Boston markets are Cincinnati, Lexington/Frankfort, Louisville, Memphis, Nashville, Newport News, Norfolk, and Parkersburg/Marietta.

²Piedmont Motion for Hearing, at p. 17.

application and motion. Allegheny submitted an answer, an application (Docket 31260) for removal of its own one-stop restriction in the Boston-New York market, and a motion to consolidate its application with Piedmont's. In its answer, Allegheny states that it has no objection to an award of non-stop authority to Piedmont in the Boston-Greensboro and Boston-Richmond markets, provided that Piedmont accepts a few additional restrictions on its service to beyond points also served by Allegheny. Allegheny objects to an award of Boston-New York authority to Piedmont unless the Board lifts Allegheny's own restriction; it also demands comparative consideration of its application for unrestricted authority in this market.

Delta Air Lines filed similar pleadings: An answer to the Piedmont motion; an application (Docket 31259) for unrestricted authority in the Atlanta-Greensboro and Atlanta-Raleigh markets; and a motion to consolidate this application with Piedmont's. Delta has no substantive objection to grant of the Piedmont application, but argues that its application should receive comparative consideration.

United Air Lines filed an answer to the Delta motion to consolidate.

A number of civic parties filed pleadings. The Commonwealth of Virginia and the Roanoke Valley Chamber of Commerce answered in support of the Piedmont application. The Massachusetts Port Authority/Boston Chamber of Commerce filed a consolidated answer which supported grant of the Piedmont application but opposed Allegheny's motion to consolidate.³ The Greensboro/High Point Airport Authority filed an answer in support of the Piedmont motion for hearing, but took no position on Piedmont's underlying application.

Piedmont filed an answer in opposition to the motions to consolidate of Allegheny and Delta.⁴

Eastern Air Lines filed three answers, one in opposition to the Piedmont motion for hearing, a second in opposition to Allegheny's motion to consolidate, and a third in opposition to Delta's motion to consolidate.

Piedmont subsequently filed an unauthorized reply to the Eastern answer with a motion for leave to file an otherwise unauthorized document.⁵

³The answers of the Commonwealth of Virginia, the Roanoke Valley Chamber of Commerce, and the Massachusetts Port Authority/Boston Chamber of Commerce were received after the time for answers had expired. The documents were accompanied by motions for leave to file late. We will grant these motions.

⁴This document was also received after time had expired and was accompanied by a motion for leave to file late. We will grant this motion.

⁵We will grant this motion.

In support of its application, Piedmont argues that approval will result in a variety of service improvements: first single-plane service in the Boston-Greensboro/Roanoke/Knoxville markets; new competitive service in the Boston-Charlotte/Richmond/New York markets; improved single-plane service in the New York-Roanoke/Richmond/Charlotte markets; and improved connecting service between Boston and fourteen other cities on Piedmont's system. Piedmont also contends that award of the requested authority will contribute to its operating efficiency; that extension to Boston will add a length of hop 57 percent longer and a length of haul 63 percent longer than those on its existing system; that the traffic density in these new markets will enable it to operate at lower costs; and that diversion from incumbent carriers will be minimal. Piedmont presents exhibits designed to show that its new service will be profitable and that this profit will help strengthen a small carrier and reduce its dependence on subsidy. Piedmont also indicates that its new services will permit a substantial number of Boston passengers to avoid the congested airports at Washington, D.C. and New York.

Eastern, in its answer in opposition to Piedmont's application and motion for hearing, asserts that the applicant has not shown itself entitled to priority of hearing under the Board's standards. It criticizes Piedmont's traffic and financial forecasts in numerous respects, asserting that traffic stimulation, if any, in many of the markets at issue would be considerably less than Piedmont forecasts, that Piedmont's share of the traffic would also be much less, and that Piedmont has greatly understated self-diversion from its own existing services. On the basis of these adjustments, Eastern claims that Piedmont's proposed operations would be unprofitable. It also asserts that they would divert substantially more traffic and revenues from Eastern than shown in Piedmont's exhibits—\$2.9 million by one calculation (EA-7), \$2.6 million by another (EA-11).

On the basis of the facts and arguments set forth in the pleadings and other facts of which we may take judicial notice, we have concluded that we need not and should not give simultaneous consideration to Allegheny's and Delta's applications, which accordingly will not be consolidated. Focusing solely on Piedmont's application, we have tentatively concluded that there does not exist any substantial dispute as to material determinative facts such as would require a formal oral hearing for its resolution. Accordingly, we have tentatively determined that no such hearing need or should be held. Finally, on the basis of the

record before us, we have tentatively decided to award Piedmont the authority it seeks, subject to certain restrictions which will be discussed below. All interested parties will be offered an opportunity to show cause why our tentative findings and conclusions should not be made final.

MOTIONS TO CONSOLIDATE

We find that consolidation of Delta's and Allegheny's applications would not be conducive to the proper dispatch of the Board's business, and would unduly delay disposition of Piedmont's application. Delta's application deals with entirely different, unrelated markets, and delta does not suggest that consolidation of this application is required as a matter of law. If, as Delta contends, the markets it cites are deserving of attention in their own right, it should make them the subject of an independent petition for expedited hearing or other relief.⁶

Allegheny's application for removal of its one-stop restriction in the Boston-New York market is in no way mutually exclusive with Piedmont's application for "entry mileage" authority in that market. Boston-New York is the largest interstate air passenger market in terms of passengers emplaned, generating in excess of 1.8 million annual passengers in the most recent year. It is served by six trunkline carriers, including the five largest in the domestic industry, which collectively provide approximately 50 daily nonstop round trips. In order to consolidate Boston-south and New York-south traffic flows, Piedmont proposes to route two daily round trips over the Boston-New York segment, and expects to carry on these flights a modest amount of local Boston-New York traffic, which it estimates at no more than 2 percent of the total market flow. Obviously, the addition of a small carrier like Piedmont operating a minimum amount of service—a new entrant at Boston, and with only a modest previous identity at New York—will have no discernible effect on the overall state of competition in the market. Piedmont's presence will have no bearing on whether or not, in some future proceeding, the Board will find that the public convenience and necessity require the removal of Alle-

gheny's restriction.⁷ Accordingly, there is no legal requirement to consolidate Allegheny's application here. As will be seen from the subsequent discussion, our tentative conclusion to grant Piedmont's application does not rest on any findings concerning a need for additional service in the Boston-New York market; hence, contemporaneous consideration of Allegheny's application would not result in any economy of effort, and would simply delay the expeditious processing of Piedmont's application. Accordingly, both motions to consolidate will be denied.

NEED FOR AN ORAL HEARING

Our conclusion that no formal oral evidentiary hearing is required because no material determinative facts are in issue stems from our view as to what it is the Board needs to determine as a prerequisite for granting Piedmont's application. In the first place, no party disputes the fact that the new service proposed by Piedmont, if it can be operated successfully, will be substantially beneficial to the traveling public, as will be discussed in greater detail below. Piedmont does not seek subsidy support for this service, and the subsidy spill-over condition we will impose will prevent increases in subsidy payments. The authority granted will be permissive, so that Piedmont will be free to curtail or eliminate the service it proposes if, in fact, it proves to be unprofitable.

Under these circumstances, the Board believes that the public convenience and necessity require authorization of the service without further proof, unless a substantial probability is shown that it will be seriously harmful to the domestic air transportation system. The fact that Piedmont might lose some of its own stockholders' money in an unsuccessful attempt to operate the proposed service on a profitable basis would not constitute such harm to the air transportation system. Neither would diversion of traffic and revenues from Eastern or other carriers who do not provide or seek authority to provide the new and improved services proposed by Piedmont, unless it were shown that this diversion would be so great as to threaten an affected carrier's ability to perform its certificate obligations, or would necessarily result in termination of essential services which would not be replaced by the applicant or by other carriers.⁸

⁷Piedmont would neither need nor be entitled to protection against Allegheny's possible future nonstop operations.

⁸The Board has recently had occasion to discuss its views on diversion from an incumbent carrier as a factor in the public convenience and necessity in Ohio/Indiana Points Nonstop Service Investigation, Order 78-2-71, February 14, 1978, at pp. 7-10, and in "Greenville/Spartanburg-Washington/

Here there has not been, and, in the nature of things, cannot well be any such demonstration. Eastern is the only carrier suggesting injury, and the injury Eastern claims—revenue diversion of between \$2.5 and \$3 million—represents such a tiny fraction of Eastern's gross annual revenues of \$2 billion that it could not plausibly impair its ability to perform its obligations. Eastern has not so suggested, nor could it credibly do so. Under the circumstances, the remaining dispute over the exact amount of diversion which Eastern could expect to sustain—the approximately \$800,000 forecast by Piedmont (PI-504), or the larger sums claimed by Eastern—simply is not material to a determination of whether or not Piedmont's application should be granted.⁹

Accordingly, on the record before us, we conclude that there is no dispute over material determinative facts such as would require an oral evidentiary hearing for its resolution. There is no doubt that, if Piedmont institutes the services it proposes, some amount of traffic and revenue will be diverted from Eastern. If, as Eastern contends, the services are unprofitable to Piedmont, they will undoubtedly soon be terminated, and the diversion will be merely temporary. On the other hand, if the services prove profitable, the diversion will continue until made up by market growth. But in any case it is

New York Subpart M Case," Order 77-10-1, October 3, 1977. See also Transpacific Route Investigation, 51 CAB 161, 168-69 (1969); "Reopened Service to Omaha and Des Moines Case," Order 75-9-19, September 8, 1975, at pp. 15-16. Of course, there have been periods during the Board's history when it has given greater weight to the factor of diversion from incumbent carriers (a factor having significance only because of its impact on profitability)—when, indeed, it has virtually ceased to grant new route authority on this and other grounds. These periods, however, have typically been those of cyclical downturn for the airline industry, characterized by widespread financial distress and concern for the profitability of the industry as a whole. At the present time, in contrast, the industry's financial condition and prospects are excellent.

⁹We note that both of Eastern's diversion forecasts (EA-7, EA-11) are based on the "projected participation" theory, whereas Piedmont has calculated diversion separately under both this theory and the "growth offset" theory. As we have made clear on a number of occasions (see cases cited in preceding footnote), growth offset is the proper method for calculating diversion where an applicant proposes valuable new services and the carrier affected by diversion does not offer and is not an applicant for authority to offer these services. Thus Eastern's "projected participation" diversion estimates would not be acceptable in any case. No useful purpose would be served by recalculating Eastern's estimates on a "growth offset" basis, however, since for the reasons stated in the text our ultimate conclusion would be the same under either calculation.

⁶Delta's prior request for expedited relief from its Charlotte restrictions in Docket 25897 is now covered by its more general route realignment petition in Docket 29774. The Board has recently made clear its intention to go forward with a program of route realignments for trunkline and local service carriers alike. Western Route Realignment, Order 77-11-74, November 17, 1977. Delta's application is next in line after Western's and will go forward in the near future. It would be inefficient to deal here with these restrictions, which are entirely unrelated to Piedmont's application.

not important to calculate an exact dollar figure for the diversion, since it is clear that in no event will it be of sufficient magnitude to warrant denial of Piedmont's application.¹⁰

From what has been said above, it will be seen that we do not intend hence forth to, require an applicant proposing new services advantageous to the traveling public to convince us that they will necessarily be profitable, so long as these services will be permissive and ineligible for subsidy.¹¹ The truth is that, when new services are proposed, it is frequently not possible to foresee with any degree of certainty whether they will be immediately profitable. The existing traffic in the markets at issue is a known fact, but the future growth of this traffic, the degree to which it will be stimulated by new services, and a new carrier's participation in the traffic so stimulated, can frequently be no more than an educated guess, or series of such guesses. As the court of appeals said in another context, this is an area where a month of experience is worth more than a year of hearings. The only thing reasonably certain is that, if the applicant carrier's estimates prove to be too optimistic, and the new services prove in reality to be unprofitable over any substantial period of time, they will be discontinued. We consider it more consistent with the public convenience and necessity that such experiments be tried, and if necessary fail, rather than that they not be tried at all. The only control we retain, for the present, is that the applicant make a reasonably plausible showing that the experience could be a success. We require this, not because we consider it an indispensable element of the public convenience and necessity, but as a

¹⁰For the present, at least, we will continue to expect applicants to submit estimates of diversion, calculated on a "growth offset" basis except where this is inappropriate. Opposing parties claiming harmful diversion will likewise be expected to submit diversion estimates, again calculated on a "growth offset" basis (and also, if they wish, on a "projected participation" basis, with a statement of why this is more appropriate). But disagreements as to the amount of diversion will not be treated as creating a significant issue of material disputed fact unless the opposing party sets forth in its pleading a prima facie showing that the diversion it claims is likely to have the drastically harmful effects referred to in the text above.

¹¹We recently stated in *Ohio/Indiana Points Nonstop Service Investigation*, supra, at p. 29, that we find nothing in the Federal Aviation Act which compels us to find that a proposed service will be profitable before we can authorize it. Many earlier cases can be cited in which new routes were awarded which were expressly not anticipated to be profitable in the short run. See also "Improved Authority to Wichita Case," Order 78-3-78, March 16, 1978; *United Air Lines Cleveland-San Diego Subpart N Application*, Order 78-3-77, March 16, 1978.

matter of the prudent use of the Board's resources, so that the significant amount of time and energy required to grant authority by nonhearing procedures will not be wasted on proposals which have no chance for success whatsoever.

We accordingly will continue for the present to expect applicants for this type of new authority to submit exhibits, as Piedmont has done here, showing the specific schedules they propose to operate and the traffic they expect to carry, and making a plausible showing that the services could be operated with financial success within the reasonable near future.¹² Opponents, by the same token, will have an opportunity to demonstrate, if they can, that on no plausible set of assumptions could the services proposed be successful.

What we do not consider necessary, however, is to conduct a full oral evidentiary hearing simply to air differences in judgment as to the various elements of growth, stimulation, and participation which go into a calculation of a precise future-year profit forecast for the proposed new operations. Once we are satisfied, in other words, that on some plausible set of assumptions the proposed operations could be economically feasible, we do not intend to be drawn into a lengthy proceeding designed to quantify exactly the probability that the various conflicting assumptions will be borne out by experience, or to estimate the precise dollar amount of profit which will be realized on any particular set of assumptions. The time which has heretofore been spent in attacking, defending, and adjudicating such detailed future year profit forecasts will in our judgment be far more fruitfully spent, in cases such as this, in allowing resourceful carrier management to attempt to demonstrate the economic feasibility of its service proposal in the marketplace. The judgment of the marketplace will be far more convincing, and will in most cases be more in accord with the public interest, than any conclusion we are likely to be able

¹²"Financially successful" or "economically feasible" or "profitable" operations, as the terms are used here, are those which will produce a net financial benefit to the carrier within a reasonable period. Accordingly, we will not require an applicant, whether a trunkline or local service carrier, to show a full regulatory return on investment from its proposed services. In the past, for trunkline applicants, the Board's general rule has been that a service proposal would be considered economically feasible if it could be shown to generate an operating profit, or if, even though short-term operating losses might be in prospect, these would be such as the applicant could reasonably be expected to bear until the services became profitable after a reasonable period of development. We intend to apply this rule henceforth to all applicants.

to derive from even the most extended consideration of witnesses' testimony and lawyers' arguments.

What we intend to do, in cases such as this, is in short no more than to conduct an initial screening, based upon the showings made by the applicant and by opposing parties in their opening pleadings, designed simply to satisfy ourselves whether or not there exists some plausible set of assumptions which would render the proposed services economically feasible for the applicant carrier.^{13a} If we so conclude, if the services appear potentially beneficial to the traveling public, and if as discussed above no showing is made that their provision will have a substantial harmful effect on the air transportation system, then we will proceed directly to our final conclusions as to the public convenience and necessity without stopping to make detailed specific profit forecasts, and will rely on the practical test of the marketplace to prove or disprove the economic feasibility of the services proposed.

In the case at hand, we are satisfied from the pleadings that the possibility of profitable operations for Piedmont is sufficiently plausible to satisfy this test. Basically, we find that there is enough traffic in the markets which Piedmont proposes to serve to sustain profitable operations—if not the precise flight pattern proposed by Piedmont in its application, then a modified version thereof.

Looking at Piedmont's detailed traffic and financial forecast, we note that Eastern does not seriously quarrel with Piedmont's figures for the existing traffic base, or with its modest normal growth estimate of 5 percent per year.¹³ In calculating stimulation from the new services it proposes and its own participation in the traffic so stimulated, Piedmont relies essentially on the Bureau's QSI (quality of service index) methodology. Eastern argues that lower stimulation and participation factors should be used. For purposes of making a plausible prima facie showing of potential profitabil-

^{13a}Since we propose to conduct this initial screening test only as part of the process of setting priorities among the various cases on our docket, and not as a determination or partial determination of the public convenience and necessity, a party who disagrees with our conclusion as to whether or not the test has been met will not thereby become entitled to an oral hearing on his disagreement, any more than he would on a disagreement with the order in which we choose to hear the cases coming before us, or the scope of any particular proceeding. See *City of San Antonio v. CAB*, 374 F. 2d 326 (C.A.D.C. 1967).

¹³Eastern claims that certain New York connecting traffic is double-counted in Piedmont's forecast. Correction of this error, if it is one, however, would have a very minor effect on the ultimate calculation.

ity, however, we think Piedmont's use of the QSI technique is entirely appropriate. The QSI technique stems from a large-scale staff study of traffic response to service changes in markets already having single-plane service.¹⁴ Although incomplete (it does not cover traffic response to first single-plane service or to other types of service changes, such as low-fare service) and doubtless subject to updating and improvement, the QSI technique has often been relied on by the Board in the past, and remains the best presently available predictive tool in the situations to which it applies, in what is necessarily an inexact science. Although the Board has felt free in numerous past cases to adopt traffic estimates differing from those calculated under the QSI technique on the basis of its judgment about a particular factual situation, we are not prepared to say that a traffic forecast based on this technique is so implausible as to fail to satisfy the test we are applying here.

In the three markets where Piedmont proposes first single-plane service, its forecast employs stimulation factors of 75, 70, and 65 percent. Eastern wants to substitute a stimulation factor of only 40 percent in these markets, on the grounds that this was the factor employed by Piedmont in a different docket. Our view is that, while Piedmont's stimulation factors may be a little on the high side, they are certainly not so far out of line as to render its forecast implausible.¹⁵ A similar observation can be made about Piedmont's participation factors in these markets.

Finally, in markets where it proposes only on-line connection service, Piedmont forecasts an overall average stimulation factor of 15 percent, and claims a participation equal to the stimulated traffic only. Since several of these markets already have single-plane service to Boston at the present time, Eastern attacks the 15 percent figure as too high, and, in these particular markets, it probably is. On the other hand, in the considerable number of markets which today have no such single-plane service (and in a number of cases not even any published connections), we would expect stimulation of more than 15 percent, and we would also expect that Piedmont's participation would far exceed the newly stimulated traffic alone. In

view of the fact that on-line connecting traffic represents a relatively small part of Piedmont's overall traffic forecast, we cannot conclude that any required adjustment of its stimulation and participation factors in these markets would destroy the plausibility of its overall forecast.¹⁶

Finally, Eastern challenges Piedmont's calculation of self-diversion. Piedmont, in response, shows that its service proposal will be profitable even if Eastern's method of calculating self-diversion is used. Apart from Piedmont's rebuttal, we are not disposed to give much weight to the factor of self-diversion in applying the test described above. Self-diversion takes into account the fact that some of the traffic which the applicant expects to carry on its new service will be traffic which it already carries all or part of the way on its existing services. In arriving at an exact profit forecast, self-diversion must be taken into account. But too slavish an adherence to the concept can produce ridiculous results. For instance, self-diversion can be used to show that it is unprofitable for a carrier to increase its service in a monopoly market, since a large portion of the traffic carried on the new flights will be self-diverted. In the context we are considering here, where we are not attempting to arrive at an exact profit forecast, it is our judgment that self-diversion should be given little if any weight. Where, as here, the new services proposed by an applicant will simply divert small amounts of traffic from each of a considerable number of existing flights, we will simply assume that this self-diversion can and will be, to the extent necessary, offset by schedule changes elsewhere on the applicant's system.¹⁷ In most cases we

¹⁶Piedmont claims that 22,190 on-line connecting passengers will use its new services. Eastern's own exhibit (EA-16) shows that, eliminating the markets already having single-plane service, and one-half the traffic in markets already having some form of single-carrier service, there remains a pool of 37,415 passengers from which Piedmont's claimed participation can be drawn. It should be noted also that Piedmont has refrained from including numerous additional on-system Boston markets in which it will have exclusive single-carrier authority.

¹⁷The largest part of Piedmont's self-diversion will be from traffic it is now carrying on its New York-Roanoke services, in a market which it alone serves. The carrier should have no difficulty in adjusting the level of its New York-Roanoke services in line with current demand. The next largest element of self-diversion is from traffic Piedmont now carries in the New York-Richmond market, where it competes with Eastern. There is no reason to believe that the transfer to direct Boston-Richmond flights of some of the traffic Piedmont now carries by way of New York will in any way impair Piedmont's competitive position in

would expect that the effect on the applicant's other services will be negligible, amounting at most to a delay in introducing new flights in some of its existing markets.

We have no doubt that a full evidentiary hearing would allow us to arrive at a traffic and profit forecast considerably more accurate than the one set forth in Piedmont's application—keeping in mind that no such forecast can ever hope to achieve better than order-of-magnitude accuracy. The question here, however, is whether the improvement in the accuracy of the forecast which a full oral hearing could bring is an essential prerequisite for our ultimate determination of the public convenience and necessity. In our view, it is not. We are satisfied that Piedmont's present forecast is sufficiently within the bounds of plausibility to justify us in going forward with its application. We reemphasize what we said earlier, that we do not consider it an essential element of the public convenience and necessity that Piedmont's proposed service be demonstrated in advance to be profitable. As we said earlier, we consider it essential only to screen out proposals which are clearly and patently impractical from an economic standpoint. We are satisfied that Piedmont's is not such a proposal. We are also satisfied, on the basis of the pleadings and our extensive past experience with similar cases, that there is no appreciable likelihood that the further development of the record through an oral evidentiary hearing would result in our reversing this latter conclusion. Thus, we find that an oral hearing is not necessary.

TENTATIVE FINDINGS AND CONCLUSIONS

We tentatively find and conclude, accordingly, that the public convenience and necessity require the grant of Piedmont's application subject to certain restrictions. We find that the implementation of Piedmont's service proposal would significantly benefit the traveling public in a large number of Boston markets, as set forth in the following table:¹⁸

the New York-Richmond market, any more than that the corresponding diversion from Eastern will impair the latter's competitive position. (The two should in fact merely tend to cancel out.) The remaining self-diversion is widely scattered, and is unlikely to affect Piedmont's existing operations or profitability materially, for the reasons explained in the text above.

¹⁸The traffic figures given in this table represent the number of true O&D plus interline connecting passengers moving in the markets listed during the 12 months ended June 30, 1976 (O&D survey, tables 8 and 10), without adjustment for future growth or stimulation. Piedmont claims that a total of approximately 270,000 passengers will actually patronize its new flights in 1979, many of them in markets it already serves.

¹⁴See Exhibit BOR-R-300, Docket 21136; BOR-120, Docket 30309.

¹⁵In past proceedings, the Board has often used stimulation factors for first single-plane service of between 50 and 100 percent, although it has also on occasion used lower factors. Instances where first single-plane service has stimulated traffic to an even greater degree than Piedmont has forecast are by no means unknown.

First single-plane service

Boston to:	
Greensboro/High Point.....	17,810
Roanoke.....	8,660
Knoxville.....	9,760
Total.....	36,230

First competitive service

Boston to:	
Charlotte.....	33,300
Richmond (also first nonstop).....	21,970
Total.....	55,270

First single-carrier connecting service

Boston to:	
Asheville.....	4,120
Beckley.....	150
Fayetteville.....	4,900
Greenbrier/White Sulphur Springs/Lewisburg.....	450
London/Corbin.....	30
Lynchburg.....	3,060
Princeton/Bluefield.....	540
Rocky Mount.....	370
Winston-Salem.....	1,660
Total.....	15,280

Improved single-carrier connecting service

Boston to:	
Lexington/Frankfort.....	7,050
Tri-Cities.....	6,010
Total.....	13,060

SOURCE: O&D survey, tables 8 and 10, year ending June 30, 1976 (and see PI-304, 305).

Not only will travelers in the foregoing Boston markets have new service available to them, but many of those in the first, third, and fourth categories will be enabled to avoid making connections at either Washington National Airport or LaGuardia Airport in New York, two of the most congested terminals in the country.¹⁹ In addition, extension to Boston will enable Piedmont to provide additional flights in markets it already serves; will improve its operating efficiency; and will strengthen the carrier by increasing the length of its average aircraft hop and passenger haul.

The foregoing is sufficient to establish a *prima facie* case for granting Piedmont the authority it seeks. We further find that granting this authority will not result in any serious harm to the domestic air transportation system, and specifically that it will not threaten the ability of Eastern or any other carrier to perform its certificate obligations, or compel the discontinuance of any essential existing services

¹⁹On its Boston flights, Piedmont proposes to serve New York through Newark International Airport, the least congested of the three major terminals serving the New York metropolitan area.

which will not be replaced. We are satisfied, as justification for according Piedmont's application priority of treatment, that a plausible showing has been made that the new services proposed by Piedmont, or some reasonable variant thereof, can be economically feasible. We therefore find that the public convenience and necessity require that Piedmont's proposal be promptly given a fair test in the marketplace. We also find that the public convenience and necessity require that the authority granted Piedmont be permissive in form, so that the services can be cut back or discontinued if in fact they prove to be unprofitable, and furthermore that they be ineligible for subsidy under the new "category II" of such ineligibility, so that they will not increase the carrier's subsidy, directly or indirectly.²⁰

RESTRICTIONS AND CONDITIONS

As previously stated, we propose to make Piedmont's new authority permissive and ineligible for subsidy under "category II" of such ineligibility. We also propose to restrict Piedmont to two-stop authority between Boston, on the one hand, and Norfolk and Newport News, on the other. In both of these markets, a grant of Boston authority not so restricted would give Piedmont one-stop authority (via New York or Richmond in the case of Norfolk, via Richmond in the case of Newport News) which would be directly competitive with Allegheny's existing one-stop service in these two markets. Since Piedmont has neither sought nor shown a need for such competitive authority, and has indeed offered to accept two-stop restrictions in these markets, we will impose the restrictions.

We will not, however, impose such two-stop restrictions in the six additional Boston markets where Piedmont has volunteered to accept them, or in the four additional such markets where Allegheny has requested them.²¹ In the first place, five of these Boston markets²² generate fewer than 10 O&D plus interline connecting passengers per day in each direction, and are thus "minor markets" under the

²⁰See *Phoenix-Des Moines/Milwaukee Route Proceeding, et al.*, Order 78-1-116, January 26, 1978.

²¹We do not consider ourselves bound by the fact that Piedmont volunteered to accept restrictions in certain markets. We consider it our responsibility not to proliferate certificate restrictions for which no need has been shown and which accordingly violate Board policy.

²²The five Boston markets in question, and the traffic they generate, are as follows: Bristol/Kingsport/Johnson City, 6,010 annual passengers; Charleston, W. Va., 6,630; Huntington, 3,520; Lexington, 7,050; and Parkersburg, 2,260. The "minor market" criterion is 7,300 annual passengers.

realignment guidelines we have adopted in the *Western Route Realignment Proceeding*, Order 76-5-101, May 21, 1976 pp. 9-12. In these markets, it is now our policy to grant unrestricted authority to any carrier whose present authority is restricted. It would obviously be anomalous to place restrictions on Piedmont's prospective authority in these Boston markets where, under our route realignment guidelines, it would at once become entitled to have the restrictions removed.²³

The remaining five Boston markets—Cincinnati, Columbus, Louisville, Memphis, and Nashville—are markets of significant size, in which restrictions might be justified under some circumstances, as in the case of Norfolk and Newport News, above. However, in these five Boston-midwest markets, we find that no additional restrictions on Piedmont are required to protect Allegheny. In all five, existing restrictions will preclude Piedmont from operating one-stop service via New York so that its best authority in any event will be one-stop via either Richmond or Greensboro. Not only are these routings significantly circuitous in comparison with the one-stop routings available to Allegheny, but they generate far less intermediate-point traffic than Allegheny's best intermediates: Baltimore and Buffalo in the case of Cincinnati; Pittsburgh and Buffalo in the case of Columbus; Pittsburgh and Philadelphia in the case of Louisville, Memphis, and Nashville.²⁴

²³By the same token, of course, Allegheny is entitled to removal of its present restrictions in the Boston-Charleston and Boston-Lexington markets. This will be accomplished in due course in Allegheny's next route realignment, or at such earlier time as Allegheny indicates a need for removal of its present one-stop restrictions. (Allegheny currently schedules no single-plane service in either market.) In the Boston-Bristol/Huntington/Parkersburg markets, Allegheny's authority is already unrestricted.

We are aware that Allegheny now operates Boston-Parkersburg one-stop service via Pittsburgh. However, this service does not require protection from Piedmont. Since Piedmont is now two-stop-restricted in the New York-Parkersburg market, its best Boston-Parkersburg service would be one-stop via either Richmond or Greensboro—highly circuitous routings via weak intermediates which could not possibly compete in this very small market with Allegheny's routing via the strongest possible intermediate, Pittsburgh.

²⁴The Boston-Cincinnati market is dominated by TWA's nonstop service and its and American's one-stop service; Allegheny currently carries only 13 percent of the traffic. Its existing one-stop service operates via Baltimore, a considerably less circuitous intermediate which generates eight to nine times as much traffic to Boston as do Richmond or Greensboro, and three to four times as much traffic to Cincinnati. Allegheny also possesses one-stop rights via Buffalo, whose advantages as an intermediate

Footnotes continued on next page

In the Boston-New York market, past cautionary practice might have suggested imposing a long-haul restriction, particularly in view of Allegheny's attempt to secure consolidation of a "competing" application in this market. However, we find that no such restriction is necessary. We have already described the Boston-New York market—the largest interstate passenger market, served by six trunkline carriers with some 50 daily round trips. Piedmont will be a new carrier at Boston, and its traffic participation at New York is relatively modest. There is simply nothing in the record to indicate any likelihood whatever that Piedmont is in a position to become a significant competitive factor in the Boston-New York market. It is quite evident, in fact, that it seeks to use its proposed authority in this market only as "entry mileage." We certainly cannot find the need for an additional carrier in the Boston-New York market on the basis of the record before us, but by the same token we equally cannot find a need for a long-haul restriction which would simply

Footnotes continued from last page point over Richmond or Greensboro are nearly as great as Baltimore's.

TWA's nonstop service dominates the Boston-Columbus market, where Allegheny has only a 7 percent share of the traffic. It does not operate its best possible service, one-stop via Pittsburgh, which generates seven to eight times as much traffic to Boston as do Richmond or Greensboro, and five to eight times as much traffic to Columbus. The routing via Pittsburgh has zero circuitry, whereas the routing via Richmond is 26 percent circuitous, and that via Greensboro 46 percent. Buffalo would also be a superior intermediate for Allegheny in this market.

Allegheny is the leading carrier, with 58 percent of the Boston-Louisville market, operating one-stop services via Pittsburgh and via Philadelphia. Philadelphia generates 19 to 22 times as much traffic to Boston as do Richmond and Greensboro, which are also appreciably more circuitous, and three to four times as much traffic to Louisville. Pittsburgh is almost equally superior as an intermediate in the Boston-Louisville market.

In the Boston-Memphis market, American is the leading carrier, but Allegheny carries 34 percent of the traffic. It operates one-stop service via Pittsburgh, and has one-stop authority via Philadelphia. Both of these points generate many times more intermediate-point traffic support than do Piedmont's possible intermediates.

Allegheny, with 46 percent of the traffic, is second only to American in the Boston-Nashville market, where again it operates one-stop service via Pittsburgh and has one-stop rights via Philadelphia. The same remarks apply as in the case of Memphis and Louisville.

It is apparent from the map and from the known traffic statistics, therefore, that such one-stop service by Piedmont could not be competitive with Allegheny's service, and accordingly no restrictions are required in these markets.

command Piedmont to do what it will inevitably do anyway for economic reasons.

By orders 77-4-41/42, April 8, 1977, the Board suspended the payment of license fees pending a reexamination of the license fee regulations. However, we indicated our intention to collect appropriate license fees when they are recalculated in accordance with the principles announced in recent court decisions. We will, therefore, expressly condition the continuing effectiveness of any authority finally awarded to Piedmont upon the timely payment of such license fee as may be required under new rules to be prescribed by the Board. We have used this approach since we suspend the license fee payment requirement on April 8, 1977.

ENVIRONMENTAL IMPACT AND FUEL CONSUMPTION

Piedmont has submitted an evaluation of the environmental impact of its proposed new service.²⁵ On the basis of this material, we tentatively conclude that the award of the requested authority to Piedmont will not constitute a major Federal action significantly affecting the quality of the environment within the meaning of section 102(2)(6) of the National Environmental Policy Act of 1969.

Piedmont also estimated its annual fuel usage if it institutes its new services at Boston at 6.6 million gallons. It calculates that more than 50 percent of this amount will be consumed on services between currently certificated points. In any event, Piedmont's estimated change in annual fuel consumption is below the 10,000,000 gallon threshold proposed by the Board in PDR-42 as a measure of what constitutes a major regulatory action. Therefore, we tentatively conclude that the public benefits stemming from an award to Piedmont more than justify the expenditure of additional fuel.

Interested persons will be given 30 days following the service date of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts 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

²⁵Exhibit PI-602.

not issue an order making final the tentative findings and conclusions stated above and amending the certificate of public convenience and necessity of Piedmont Aviation, Inc., for route 87 so as to authorize the carrier to engage in nonstop operations between Boston, on the one hand, and Greensboro, Richmond, and New York, on the other, subject to the restrictions described above;

2. Any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth here, shall, within 30 days after the date of service of this order, file with the Board and serve upon all persons listed in paragraph 10, a statement of objections together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections. Answers shall be due within 15 days thereafter;

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;²⁶

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;

5. To the extent not tentatively granted in ordering paragraphs 1 through 4, Piedmont's application and motion for hearing in docket 31177 be denied;

6. Allegheny Airlines' motion to consolidate its application in docket 31260 with the Piedmont application in docket 31177 be tentatively denied;

7. Delta Air Lines' motion to consolidate its application in docket 31259 with the Piedmont application in docket 31177 be tentatively denied;

8. Piedmont's motion for leave to file an otherwise unauthorized document be granted;

9. The motions for leave to file late of Piedmont Aviation, Inc., the Roanoke Valley Chamber of Commerce, the Commonwealth of Virginia, and the Massachusetts Port Authority/Boston Chamber of Commerce be granted; and

10. This order shall be served upon Piedmont Aviation, Inc., and all persons contained in the service list attached to its motion for hearing in docket 31177.

This order will be published in the FEDERAL REGISTER.

²⁶Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

By the Civil Aeronautics Board.²⁷
 PHYLLIS T. KAYLOR,
Secretary.
 [FR Doc. 78-11051 Filed 4-21-78; 8:45 am]

[6320-01]

[Docket 25659; Order 78-4-105]

INVESTIGATION OF THE LOCAL SERVICE
 CLASS SUBSIDY RATE

Class Rate VII

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of April 1978.

On June 8, 1977, the Board adopted order 77-6-37 which required Piedmont Aviation, Inc. (Piedmont), to refund to the Civil Aeronautics Board \$1,788,000 of subsidy. This amount reflected the effects of completely removing the tax allowance from the carrier's subsidy rate for calendar year 1975, pursuant to the provisions of class rate VII.¹

On July 5, 1977, Piedmont filed exceptions to order 77-6-37, contending that: (1) Contrary to the Board's findings, the carrier was in a "tax position" during 1975; and, (2) in any event, the Board should not eliminate the tax allowance used to compute the profits from its subsidy ineligible services for profit-sharing purposes. By order 77-12-108, the Board denied Piedmont's exceptions.

On January 11, 1978, Piedmont filed a petition requesting that the Board "reconsider" its determination in order 77-12-108 that the tax allowance originally used in computing the carrier's profit-sharing obligation from subsidy ineligible services was properly eliminated. The carrier requests that a tax allowance be retained in profit-sharing computations.²

The basic thrust of Piedmont's petition is twofold: (1) The Board did not apply the provisions of class rate VII as written; and (2) the Board "violate[d] a fundamental rule of statutory construction." We find no merit to these contentions.

Contrary to Piedmont's assertion, the Board has applied the provisions of class rate VII exactly as written, and we have done so consistently. In fact, it is Piedmont who would have us apply the provisions of that rate inconsistently.³

²⁷All Members concurred.

¹Order 74-1-123.

²Piedmont has not pursued its other exception to Order 77-6-37, i.e., that it was in a "tax position" within the provisions and definitions of section III of class rate VII, order 74-1-123.

³See order 76-2-39, appendix A, where the Board computed Texas International's excess ineligible profit after return and tax without including a Federal tax allowance because the carrier was not in a tax position

Section III of class rate VII sets forth the basic rule that "the subsidy otherwise due and payable under section II shall be increased (where applicable) by a provision for federal income taxes."⁴ This means simply that if a carrier is in a "tax position" for the period,⁵ then taxes are "applicable" and its subsidy pay will be increased so that, after application of a statutory tax rate, the carrier will earn its allowable rate of return. The provisions and definitions contained in section III also apply to section IV. Section IV of the class rate provides a mechanism for the reduction of subsidy otherwise due and payable to a carrier to the extent that it has excess profits from its ineligible services. The amount of the reduction is based on a share of any profits in excess of a return on recognized investment of 12.35 percent. If the carrier is not in an overall "tax position" for the period, then the return allowance logically should not, and in fact does not, include a provision for federal taxes. To this extent, section IV parallels section III. However, even if a carrier is in an overall tax position within the meaning of section III, it does not necessarily follow that a tax allowance is appropriate in the case of its ineligible operations. Ineligible operations are just that—ineligible for direct support under this and previous class rates. If a carrier's ineligible operations show a profit but fail to produce excess profits eligible to offset subsidy need, then an allowance for federal taxes at the statutory rate, as called for in section III, would result in a partial subsidy of ineligible operations by the taxpayers. To avoid such an interpretation, section IV contained the following provisions:⁶

Federal tax computations under this section shall be subject to the applicable provisions and definitions set forth under section III of this rate. However, no taxes shall be provided for ineligible services unless a carrier has excess profits after taxes available for offset to reduce the need of the eligible services. [Emphasis added.]

Piedmont's tax returns for 1975 revealed that the carrier was not in a "tax position." On the basis of this finding, the Board in order 77-6-37 withheld a tax allowance in both its section III and section IV computations. Piedmont continues to argue, however, that it did earn excess profits on its ineligible services and therefore the second sentence of footnote 21 re-

quires the use of a tax allowance in section IV computations if the excess-profits test is met, regardless of whether the carrier was in an overall tax position. According to the carrier, the first sentence relates merely to the manner of making the "computations" of taxes otherwise determined to be "applicable" under the second sentence.

⁴Order 74-1-123, p. 14.

⁵I.e., that it is "actually incurring liability under the Tax Code for the payment of Federal income taxes exclusive of allowable investment tax credits," as defined in section III.

⁶Order 74-1-123, page 19, footnote 21.

quires the use of a tax allowance in section IV computations if the excess-profits test is met, regardless of whether the carrier was in an overall tax position. According to the carrier, the first sentence relates merely to the manner of making the "computations" of taxes otherwise determined to be "applicable" under the second sentence.

As the foregoing discussion should indicate, it is Piedmont's interpretation which is illogical. Piedmont asserts that the second sentence of footnote 21 is controlling in determining ineligible taxes in section IV because, "[it] is the only language in class rate VII which relates specifically to whether a tax is 'applicable' for subsidy ineligible services." This assertion is incorrect. The first sentence of the footnote clearly states that: "Federal tax computations under this section shall be subject to the applicable provisions and definitions found under section III of this rate."⁷ This means that the provisions and definitions found in section III apply with equal force to both eligible and ineligible services. Consequently, if a carrier does not satisfy the definition of being in a tax position for its eligible services, neither does it satisfy that definition for its ineligible services,⁸ and an ineligible tax allowance is no more applicable than an eligible tax allowance. This reading of the tax provisions of class rate VII is in harmony with the Board's long-standing, judicially sustained actual tax policy.⁹

Piedmont's allegation that, under our reading of the footnote, the second sentence becomes "mere surplusage" simply will not withstand scrutiny. The second sentence of the footnote adds a second restriction; i.e., even if a carrier satisfies the prerequisites embodied in the provisions and definitions of section III, a tax allowance for profit-sharing computation purposes will continue to be withheld unless the carrier has excess profits after taxes available for offset to reduce the need of the carrier's eligible services. The word "however" beginning the second sentence therefore means "under no circumstances," or "compliance with section III notwithstanding." The sentence, as noted above, is necessary to prevent the Board from being in the position of

⁷*Ibid.*

⁸We reiterate that being in a tax position requires a carrier to be incurring a liability for the payment of Federal income taxes as shown on a Federal income tax return which, of course, is based on overall results and makes no distinction between eligible and ineligible services.

⁹Order 77-12-108, page 4. Piedmont's continued assertion that a profit on ineligible services "logically" has a corresponding tax liability was fully dealt with in order 77-12-108, and will not be repeated here.

having to pay, through increased subsidy, a tax allowance for ineligible services to a carrier which is in a tax position but not in a profit-sharing position. The provisions of section III might indicate misleadingly that such payments were required if the second sentence of footnote 21 were omitted.

On the basis of the above, we reaffirm our decisions in orders 77-6-37 and 77-12-108, and will deny Piedmont's petition for reconsideration.

Accordingly, it is ordered, That:

1. The petition of Piedmont Aviation, Inc., for reconsideration of order 77-12-108 be denied;

2. This order shall be effective on the date of service; and,

3. This order shall be served upon all parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board,¹⁰

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-11053 Filed 4-21-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric
Administration

ATLANTIC GROUND FISH

Approval of Amendment to Fishery
Management Plan

This Notice is to announce the approval of an amendment to the fishery management plan "Atlantic Groundfish" that revises the landing restrictions for cod and haddock taken with trawl nets. The New England Fishery Management Council, at its meeting of March 22-23, adopted, among other things, proposed changes to trip restrictions that revised the vessel classes based upon gross tonnage, established a specific poundage that may be landed per vessel per week, and provided for over-runs. The analysis provided by the Council demonstrated that no significant changes in the landings of cod and haddock are anticipated because of the revised trip restrictions. The revised trip restrictions are expected to have an overall beneficial effect upon the cod and haddock resources by reducing fishing effort and fish mortality resulting from discarding excess catches. The changes should also provide fishermen with additional operational flexibility.

The Assistant Administrator for Fisheries has determined that a resource emergency exists and prompt action is necessary to alleviate further depletion of cod and haddock. The amendment has been reviewed and approved under a delegation of authority

¹⁰All Members concurred.

from the Secretary to the Assistant Administrator for Fisheries, NOAA.

WINDRED H. MEIBOHM,
Associate Director,

National Marine Fisheries Service.

The fishery management plan is amended as follows:

1. Delete the second and third paragraphs of Section II.C.4.(E) and substitute the following:

Vessel class	Trip limit ¹
Cod and Haddock:	
60 gross reg. tons and under.....	7,000
61 to 125 gross reg. tons.....	14,000
126 gross reg. tons and over.....	20,000
Fixed gear vessels of any size using hooks or gillnets.....	16,000
¹ Pounds per vessel per week.	

Vessels licensed to fish for cod and haddock with trawl gear may have on board and land a quantity of cod or haddock not to exceed 5,000 lbs. in excess of the cod or haddock trip limitation. Any excess quantity so landed shall be deducted from the weekly trip limitation during the week immediately following such landing.

[FR Doc. 78-11057 Filed 4-21-78; 8:45 am]

[3510-11]

Office of the Secretary TRAVEL ADVISORY BOARD Meeting

As noted in the FEDERAL REGISTER dated March 28, 1978, on Page 12903, a meeting of the Travel Advisory Board of the U.S. Department of Commerce will be held on April 27, 1978, at 1 p.m., in Room 4830, of the Main Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

Established in July, 1968, the Travel Advisory Board consists of senior representatives of 15 U.S. travel industry segments who are appointed by the Secretary of Commerce.

Members advise the Secretary of Commerce and Assistant Secretary of Commerce for Tourism on policies and programs designed to accomplish the purposes of the International Travel Act of 1961, as amended (22 U.S.C. 2121), and the Act of July 19, 1940, as amended (16 U.S.C. 18-18d, et seq.).

Agenda items are as follows:

1. Introduction by the Assistant Secretary for Tourism
2. National Tourism Policy Study Briefing
3. USTS' Domestic Tourism Program
4. Adjournment

A limited number of seats will be available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements will be allowed.

Sue Barbour, Travel Advisory Board Liaison Officer of the United States Travel Service, Room 1860, U.S. De-

partment of Commerce, Washington, D.C. 20230, telephone 202-377-4752 will respond to public requests for information about the meeting.

FABIAN CHAVEZ, JR.,
Assistant Secretary for Tourism.

[FR Doc. 78-10978 Filed 4-21-78; 8:45 am]

[3510-04]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for \$0.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161, for \$4 (\$8 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator,
National Technical Information
Service.

U.S. DEPARTMENT OF COMMERCE, National
Technical Information Service, 5285
Port Royal Road, Springfield, Va. 22161.

Patent application 870,385: Smolder and
Flame Resistant Insulation Materials,
Composition and Method; filed Jan. 18,
1978.

U.S. DEPARTMENT OF THE ARMY, Office of
Judge Advocate General, Patent Divi-
sion, Room 2C-455, Pentagon, Washing-
ton, D.C. 20314.

Patent 4,000,419: Apparatus for Adding
Electronic Display Information to a Night
Vision Goggle Display; filed Sept. 26, 1975;
patented Dec. 28, 1976; not available
NTIS.

Patent 4,001,554: Mode Control Computer
Interface; filed Oct. 29, 1975; patented
Jan. 4, 1977; not available NTIS. Patent
4,001,604: Peak Value Detector; filed Apr.
25, 1975; patented Jan. 4, 1977; not avail-
able NTIS.

- Patent 4,001,961: Round Counter; filed Sept. 3, 1975; patented Jan. 11, 1977; not available NTIS.
- Patent 4,002,282: Insulation of Microcircuit Interconnecting Wires; filed Mar. 25, 1976; patented Jan. 11, 1977; not available NTIS.
- Patent 4,002,954: Trigger Circuit; filed Dec. 11, 1975; patented Jan. 11, 1977; not available NTIS.
- Patent 4,002,969: Optimum Length Transmission Line Discriminator With Low Noise Detector; filed Jan. 26, 1976; patented Jan. 11, 1977; not available NTIS.
- Patent 4,002,970: Optimum Threshold Transmission Line Discriminator; filed Jan. 26, 1976; patented Jan. 11, 1977; not available NTIS.
- Patent 4,002,971: Wide Operating Frequency Range Transmission Line Discriminator; filed Jan. 26, 1976; patented Jan. 11, 1977; not available NTIS.
- Patent 4,003,531: Reverse Flow Reaction Control System; filed May 6, 1975; patented Jan. 18, 1977; not available NTIS.
- Patent 4,003,655: Hybrid Silicon Avalanche Quadrant Detector; filed Apr. 17, 1975; patented Jan. 18, 1977; not available NTIS.
- Patent 4,004,212: Mine Detector System; filed Dec. 20, 1972; patented Jan. 18, 1977; not available NTIS.
- Patent 4,004,496: M16A1 Burst Control; filed May 28, 1976; patented Jan. 25, 1977; not available NTIS.
- Patent 4,005,408: Multiple Electron Beam Analog to Digital Converter; filed Oct. 8, 1975; patented Jan. 25, 1977; not available NTIS.
- Patent 4,006,206: Centrifugal Apparatus and Method for Processing Explosives filed Mar. 26, 1976; patented Feb. 1, 1977; not available NTIS.
- Patent 4,007,586: Spin Nozzle and Thrust Augmentor Mechanism; filed Nov. 10, 1975; patented Feb. 15, 1977; not available NTIS.
- Patent 4,007,632: Apparatus for Determining the Textural Qualities of Food; filed Jan. 29, 1976; patented Feb. 15, 1977; not available NTIS.
- Patent 4,008,170: Dry Water; filed Nov. 28, 1975; patented Feb. 15, 1977; not available NTIS.
- Patent 4,008,456: Tactile Target Alerting System; filed June 30, 1975; patented Feb. 15, 1977; not available NTIS.
- Patent 4,008,537: Modification of Rifle Adapter Assembly to Prevent Doubling; filed Oct. 3, 1975; patented Feb. 22, 1977; not available NTIS.
- Patent 4,008,966: Method and Apparatus for Beam Sampling by Acoustic Pulses; filed Oct. 9, 1975; patented Feb. 22, 1977; not available NTIS.
- Patent 4,010,471: Polarization Rotator for Phase Array Antennas; filed June 20, 1975; patented Mar. 1, 1977; not available NTIS.
- U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, 1900 Half Street SW., Washington, D.C. 20324.
- Patent 4,063,508: Munition Dispersion by Interstitial Propelling Charges; filed Mar. 9, 1976; patented Dec. 20, 1977; not available NTIS.
- Patent 4,063,512: Armor Penetrating Projectile; filed Oct. 5, 1966; patented Dec. 20, 1977; not available NTIS.
- Patent 4,063,819: High Energy Laser Pointing and Tracking System Utilizing Beam Angle/Focus Dither Method of Operation; filed Aug. 27, 1976; patented Dec. 20, 1977; not available NTIS.
- Patent 4,064,327: Aluminum-Chlorine Thermal Battery; filed Feb. 9, 1977; patented Dec. 20, 1977; not available NTIS.
- Patent 4,064,535: Method and Apparatus for Effecting Multiple Spectral Wavelength Imaging with Infrared Television; filed July 19, 1976; patented Dec. 20, 1977; not available NTIS.
- U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Services Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782.
- Patent application 725,224: Method of Producing Soybean Milk Yogurt; filed Sept. 22, 1976.
- Patent application 803,191: A Process for Recovering Proteinaceous Matter from Acid Whey and Tannery Unhairing Effluents; filed June 3, 1977.
- Patent application 866,079: Land Imprinter; filed Dec. 30, 1977.
- Patent 4,029,471: Process for Simultaneously Flameproofing and Shrinkproofing Wool; filed Apr. 14, 1976; patented June 14, 1977; not available NTIS.
- Patent 4,029,818: Process for Inhibiting the Deterioration of Wood Due to Marine Boring Organisms via the Use of Dibutylbenzylphenol; filed Apr. 9, 1976; patented June 14, 1977; not available NTIS.
- Patent 4,031,265: Method of Reducing Bitterness in Citrus Juices; filed June 18, 1975; patented June 21, 1977; not available NTIS.
- Patent 4,063,888: Process for Preparing Space-Dyed Yarn; filed Nov. 23, 1976; patented Dec. 20, 1977; not available NTIS.
- Patent 4,064,683: Continuous Mechanized Harvesting of Horticultural Crops; filed May 14, 1976; patented Dec. 27, 1977; not available NTIS.
- Patent 4,069,106: Immobilization of Enzymes on Keratin; filed Jan. 13, 1977; patented Jan. 17, 1978; not available NTIS.
- U.S. DEPARTMENT OF ENERGY, Assistant General Counsel for Patents, Washington, D.C. 20545.
- Patent application 680,605: Corrugated Cover Plate for Flat Plate Collector; filed Apr. 26, 1976.
- Patent application 701,480: Non-Tracking Solar Concentrator with a High Concentration Ratio; filed June 30, 1976.
- Patent application 734,838: Method for Reclaiming Waste Lubricating Oils; filed Oct. 22, 1976.
- Patent application 734,918: Pulse-Actuated Fuel-Injection Spark Plug; filed Oct. 22, 1976.
- Patent application 737,649: Spin Ejector; filed Nov. 2, 1976.
- Patent application 737,753: High Strength, High Ductility Low Carbon Steel; filed 1977.
- Patent application 740,330: Cryogenic Expansion Machine; filed Nov. 9, 1976.
- Patent application 740,338: Examination of Interior Surfaces Using Glow-Discharge Illumination; filed Nov. 9, 1976.
- Patent application 740,339: Process for Diffusing Metallic Coatings into Ceramics to Improve Their Voltage Withstanding; filed Nov. 9, 1976.
- Patent application 744,472: Nose Tip Locking Device; filed Nov. 24, 1976.
- Patent application 744,494: Boron Nitride Insulating Material; filed Nov. 24, 1976.
- Patent application 749,206: Pipe Connector; filed Dec. 9, 1976.
- Patent application 750,317: Omega-X Micro-machining System; filed Dec. 14, 1976.
- Patent application 751,622: Graphite Fiber Reinforced Structure for Supporting Machine Tools; filed Dec. 17, 1976.
- Patent application 751,623: Method for Preparing Metallated Filament-Wound Structures; filed Dec. 17, 1976.
- Patent application 760,305: Variable Orifice Using an Iris Shutter; filed Jan. 18, 1977.
- Patent application 761,037: Gas Scrubbing Liquids; filed Jan. 21, 1977.
- Patent application 763,167: Method of Sealing; filed Jan. 27, 1977.
- Patent 3,991,740: Sea Shell Solar Collector; filed July 28, 1975; patented November 16, 1976; not available NTIS.
- Patent 4,016,237: Process for Separation of the Rare Earths by Solvent Extraction; filed September 8, 1975; patented April 5, 1977; not available NTIS.
- Patent 4,016,768: Traversing Probe System; filed March 15, 1976; patented April 12, 1977; not available NTIS.
- Patent 4,019,156: Active/Passive Mode-Locked Laser Oscillator; filed December 2, 1975; patented April 19, 1977; not available NTIS.
- Patent 4,019,157: Method and Apparatus for Tuning High Power Lasers; filed April 6, 1976; patented April 19, 1977; not available NTIS.
- Patent 4,020,003: Fixation of Tritium in a Highly Stable Polymer Form; filed February 24, 1976; patented April 26, 1977; not available NTIS.
- Patent 4,020,274: Superconducting Cable Cooling System by Helium Gas and a Mixture of Gas and Liquid Helium; filed January 27, 1976; patented April 26, 1977; not available NTIS.
- Patent 4,020,275: Superconducting Cable Cooling System by Helium Gas at Two Pressures; filed January 27, 1976; patented April 26, 1977; not available NTIS.
- Patent 4,024,217: Method of Isotope Separation by Chemical Ionization; filed May 23, 1975; patented May 17, 1977; not available NTIS.
- Patent 4,025,408: Deuterium Separation by Infrared-Induced Addition Reaction; filed May 23, 1976; patented May 24, 1977; not available NTIS.
- Patent 4,026,790: Removal of Zn or Cd and Cyanide from Cyanide Electroplating Wastes; filed March 17, 1975; patented May 31, 1977; not available NTIS.
- Patent 4,028,096: Method of Melting Metals to Reduce Contamination from Crucibles; filed May 13, 1976; patented June 7, 1977; not available NTIS.
- Patent 4,028,154: Ammonium 2,4,5-Trinitroimidazole; filed September 1, 1976; patented June 7, 1977; not available NTIS.
- Patent 4,029,558: Isotope Enrichment by Frequency-Tripled Temperature Tuned Neodymium Laser Photolysis of Formaldehyde; filed October 22, 1976; patented June 14, 1977; not available NTIS.
- Patent 4,029,559: Ion Laser Isotope Enrichment by Photo Predissociation of Formaldehyde; filed June 17, 1976; patented June 14, 1977; not available NTIS.
- Patent 4,030,085: Nonferromagnetic Linear Variable Differential Transformer; filed July 20, 1976; patented June 14, 1977; not available NTIS.
- Patent 4,032,105: Mold with Improved Core for Metal Casting Operation; filed April 25, 1975; patented June 28, 1977; not available NTIS.
- Patent 4,032,306: Isotope Separation by Photodissociation of Van der Waal's Molecules; filed March 8, 1976; patented June 28, 1977; not available NTIS.

Patent 4,038,369: Method for the Abatement of Hydrogen Chloride; filed November 14, 1975; patented July 26, 1977; not available NTIS.

Patent 4,038,622: Superconducting Dipole Electromagnet; filed April 13, 1976; patented July 26, 1977; not available NTIS.

Patent 4,040,802: Activation of Water Soluble Amines by Halogens for Trapping Methyl Radioactive Iodine from Air Streams; filed April 22, 1975; patented August 9, 1977; not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014.

Patent Application 817,016: Blood Cell Separator; filed July 19, 1977.

Patent Application 840,231: Insolubilization of Microsomes; filed October 7, 1977.

Patent Application 840,378: Transport Device for Invalids; filed October 7, 1977.

Patent 4,056,854: Aortic Heart Valve Catheter; filed September 28, 1976; patented November 8, 1977; not available NTIS.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20590.

Patent Application 816,058: System for Producing Orthophotographs; filed July 15, 1977.

[FR Doc. 78-10927 Filed 4-21-78; 8:45 am]

[6315-01]

COMMUNITY SERVICES ADMINISTRATION

EMERGENCY ENERGY ASSISTANCE PROGRAM

Funding Declarations

The Director of the Community Services Administration (CSA) has found, based on criteria indicated in column* (5) of appendix A that energy-related emergencies have existed since the dates indicated in column (3).

Therefore, eligible grantees who cover those areas indicated in column (2) will proceed as follows:

Grantees who receive funds by letter of credit may withdraw and expend funds in the amount approved in column (4) or that portion of that amount which have been granted to them under program account 80, emergency energy assistance program, or

Grantees who normally receive checks are being informed that their checks are being forwarded by the Treasury Department for the total amount of the EEAP grant. However, these grantees immediately may begin obligating funds against this grant in

*All references to "column" refer to appendix A to this notice.

the amount appropriated in column (4) and from the date indicated in column (3).

Column (3) contains the earliest date to our knowledge which provided the basis for a finding by the Director of CSA that an energy-related emergency existed. However, any eligible grantee within those areas covered in column (2) may submit evidence to support the existence of energy-related emergencies which existed between

December 31, 1977, and the date given in column (3) for a finding by the Director of CSA. (See CSA notice 6143-7, section 4, or § 1061.51-3 in the FEDERAL REGISTER (43 FR 9476).

Request for supplemental (additional) funds shall be made in accordance with the provisions of section 11.c. of CSA notice 6143-7.

GRACIELA (GRACE) OLIVAREZ,
Director.

State(s) declared	Areas covered	Emergency declaration date	Approved allocation for area covered	Basis for determination
(1)	(2)	(3)	(4)	(5)
REGION IV				
<i>Counties of</i>				
Georgia	Bartow, Floyd, Gordon, Harolson, Paulding, and Polk.	Mar. 22, 1978	21,300	4.b. (2)(a).
	Banks, Dawson, Forsyth, Franklin, Hambersham, Hart, Lumpkin, Rabun, Stephens, Towns, Union, and White.	Mar. 21, 1978	42,000	4.b. (2)(a).
	Cherokee, Fannin, Gilmer, Murray, Pickens, and Whitfield.	Mar. 30, 1978	28,400	4.b. (2)(a).
	Catoosa, Chattooga, Dade, and Walker.	Mar. 24, 1978	28,400	4.b. (2)(a).
Mississippi	Entire State	Apr. 05, 1978	455,000	8.b. (2)(a).
REGION VI				
Louisiana .....	.....do	Jan. 01, 1978	1,420,000	4.b. (2)(a).
REGION VIII				
Montana .....	.....do	Apr. 03, 1978	370,006	4.b. (1) and 4.b. (2)(a).

[FR Doc. 78-10813 Filed 4-21-78; 8:45 am]

[3810-71]

DEPARTMENT OF DEFENSE

Department of the Navy

NAVY RESALE SYSTEM ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Navy Resale System Advisory Committee will meet on May 22, 1978, at the Madison Hotel, 15th and M Streets NW., Washington, D.C. The meeting will commence at 9 a.m. and terminate at approximately 12 noon. The meeting will be closed to the public from 10:30 a.m. to 12 noon.

The Secretary of the Navy has determined in writing that the public in-

terest requires that the second half of the meeting, which will involve discussion of information relating solely to either internal agency personnel rules and practices or trade secrets, or confidential and privileged business information, be closed to the public. These matters fall within the exemptions listed in subsections 552b (c)(2) and (c)(4) of title 5, United States Code. The first half of the meeting, which will involve other non-privileged matters related to the Navy Exchange Resale System, will be open to the public.

For further information concerning this meeting, contact: Commander J. D. Felt, USN, Navy Supply Systems Command, NAVSUP 09B, Room 801, Crystal Mall, Building No. 3, Arlington, Va. 20376, telephone number 202-695-5457.

Dated: April 19, 1978.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy,
Deputy Assistant Judge Advocate,
General (Administrative Law).

[FR Doc. 78-11018 Filed 4-21-78; 8:45 am]

[3810-70]

Office of the Secretary

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

Working Group C (Mainly Imaging and Display) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, New York, N.Y. on 23 May 1978.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This special device area includes such programs as Infrared and Night Vision Sensors. The research will include classified program details throughout.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in Section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: April 19, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Directives,
Washington Headquarters Service,
Department of Defense.

[FR Doc. 78-11003 Filed 4-21-78; 8:45 am]

[6450-48]

DEPARTMENT OF ENERGY

[ERDA-1545-D]

ROCKY FLATS PLANT SITE

Public Hearing Concerning Draft Environmental Impact Statement

The Energy Research and Development Administration (ERDA) issued the draft Environmental Impact State-

ment, ERDA-1545-D, Rocky Flats Plant Site, Jefferson County, Golden, Colo., on September 23, 1977 for public review and comments. Pursuant to the Department of Energy Organization Act of 1977, ERDA was abolished on October 1, 1977 and the responsibility for activities at the Rocky Flats Plant Site was assumed by the Department of Energy (DOE).

The Environmental Impact Statement was prepared to support continued operation of the Rocky Flats Plant and other activities at the Site. The statement assesses the potential cumulative environmental impacts associated with the current site activities, including the operation of the plant, and with the alternatives to current plant operations.

Notice is hereby given that DOE will conduct a public hearing in connection with the draft statement commencing at 9 a.m. on May 24, 1978 at the U.S. Post Office Building, 1823 Stout Street, Denver, Colo.

The purpose of the hearing is to afford further opportunity for public comment regarding the draft statement and for the furnishing of any additional information which will assist DOE in the continued operation of the Plant. In order to sharpen and focus the major issues for discussion and examination at the hearings DOE will make available a staff statement summarizing and addressing the substantive points raised in the written comments on the draft environmental statement.

These points include: (1) the mission and location of the Rocky Flats Plant; (2) health effects of the operation of the plant, and the method of calculating the dose of radiation to the population; (3) seismology of the area; (4) emergency plans; (5) environmental monitoring, analysis and standards; (6) accident analysis and control systems; (7) transport of radioactive materials in the environment; (8) transportation of radioactive materials; and (9) energy conservation.

The above issues will be addressed and appropriate revisions made in the final Environmental Impact Statement, which is expected to be issued in early 1979.

The hearing will be conducted by a three-person Presiding Board. Two members of the Board will constitute a quorum if one member is the Chairman.

Persons, organizations, or governmental agencies wishing to appear and make a presentation are encouraged to become "full participants" in the proceedings by filing with Mr. W. H. Pennington, Director, Office of NEPA Coordination, U.S. Department of Energy, Mail Station E-201, Washington, D.C. 20545, 301-353-4241, not later than close of business on May 15, 1978, a notice of intention to partici-

pate. The notice shall set forth: (1) the name and address of the participant; (2) the nature of the participant's interest in the proceeding, or his organizational affiliation; (3) the text of any statements to be presented at the hearing, or a reasonably detailed summary thereof; (4) the names and addresses of all witnesses to be produced at the hearing by the participant and a summary of the substance of the proposed testimony; and (5) the amount of time desired to complete the presentation. The presiding Board will endeavor to schedule the full amount of time requested by full participants (those who file a timely notice) subject to the imposition of such reasonable time limits as may be consistent with orderly procedures and as will assure other full participants a meaningful opportunity to present their views.

Persons, organizations, or governmental agencies wishing to participate, but who do not file a timely notice as specified herein, may notify Mr. Pennington before the hearing or the Presiding Board during the hearing of their desire to make a presentation. Such parties shall be admitted as "limited participants" and shall be heard at such times as the Presiding Board shall permit for a period of not more than 15 minutes each, unless the Presiding Board, in its direction, allows additional time.

The public hearing will be legislative rather than adjudicatory in nature. Formal discovery, subpoena of witnesses, cross-examination of participants, testimony under oath and similar formal procedures appropriate to a trial-type hearing will not be provided. Participants may, but need not, be represented by counsel. Participants and their counsel will reference and produce, on request of the Presiding Board, the documents on which they rely.

The Department will make available appropriate witnesses to explain the background and purpose of the operation of the Rocky Flats Plant and the contents of the draft environmental statement and to respond to appropriate questions. Questions may be posed to participants (including DOE staff members) during the course of the hearing by other participants (including DOE staff members) and the Presiding Board, either orally or in writing, provided that: (a) all questioning shall be subject to the control and discretion of the Presiding Board, (b) questions shall be permitted from participants who have not provided advance notice of their participation only to the extent that they are relevant to the issues identified in the staff statement, and (c) any participant (including DOE staff members) may elect to answer any such questions either orally at the hearing or in

a written submittal to be filed with the Presiding Board before the close of the hearing record, which date shall be determined by the Board.

In addition to controlling the course of the hearing, the Presiding Board may examine participants in order to elicit fuller information, probe sensitive issues, and discover the bases and sources of views, so as to produce a satisfactory record upon which the Department may evaluate the concerns of the interested public.

A transcript of the hearing will be made. The record of the hearing shall consist of the transcript, all documents received into the record by the Presiding Board, and a Report of the Presiding Board as provided below. The record will be placed in the DOE public document rooms noted below as soon as practical after the close of the hearing, where it will be available for inspection by members of the public. These documents will be considered in the preparation of the final environment statement and in making determinations concerning the continued operation of the Rocky Flats Plant.

After the close of the hearing record, the Presiding Board shall render its Report. The Report shall be based upon the Presiding Board's review of the draft environmental statement and the hearing record and shall: (a) identify those unresolved issues raised at the hearing which the Presiding Board deems to be critical to future decisions concerning the operations, and (b) present the recommendations of the Presiding Board concerning the treatment of these issues in the final environmental impact statement in a manner which will promote informed decisionmaking. In discharging its function, however, the Presiding Board shall not undertake to resolve issues or render judgment concerning the course of the operations.

Copies of the draft Environmental Impact Statement, the formal comments received, and the staff statement are available for public inspection at the DOE public document rooms located at:

DOE Headquarters, 20 Massachusetts Avenue NW., Washington, D.C.
 Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, N. Mex.
 Chicago Operations Office, 9800 South Cass Avenue, Argonne, Ill.
 Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Ill.
 Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.
 Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nev.
 Oak Ridge Operations Office, Federal Building, Oak Ridge, Tenn.
 Richland Operations Office, Federal Building, Richland, Wash.
 Rocky Flats Area Office, Rocky Flats Plant Site, Golden, Colo.
 San Francisco Operations Office, 1333 Broadway, Oakland, Calif.

Savannah River Operations Office, Savannah River Plant, Aiken, S.C.

In addition, the above documentation will also be available for public inspection at the Regional Energy/Environment Information Center, Denver Public Library, 1357 Broadway, Denver, Colo.

Copies of the staff statement can be obtained from Mr. Pennington or the DOE Rocky Flats Area Office at the Rocky Flats Plant Site, telephone: 303-497-2026.

Dated at Washington, D.C. this 19th day of April 1978.

For the United States Department of Energy.

WILLIAM S. HEFFELFINGER,
 Director of Administration.

[FR Doc. 78-11020 Filed 4-21-78; 8:45 am]

[6450-48]

CRUDE OIL

Inquiry on the Transportation System Serving the Northern Tier and Inland States

AGENCY: Department of energy.

ACTION: Notice of inquiry.

SUMMARY: The Department of Energy ("DOE") is considering various transportation system alternatives to deliver Alaskan and other crude oil to northern tier and inland States. The northern tier States are considered to include Washington, Oregon, Idaho, Montana, Wyoming, North Dakota, Minnesota, Wisconsin, Michigan, Illinois, Indiana, and Ohio. The inland States are considered to be those States other than the northern tier States and other than California, Alaska, and Hawaii. DOE seeks initial comments and information at this time prior to the development and issuance of a report analyzing and recommending, if necessary, a transportation alternative which could resolve both the surplus of crude oil on the west coast and projected supply problems in northern tier States.

COMMENTS BY: May 31, 1978.

ADDRESS TO: Public Hearing Management, Box 55, 2000 M Street NW., Room 2313, Washington, D.C. 20461. Hearings: 9:30 a.m., Monday, Tuesday, May 15-16, 1978, Everett McKinley Dirksen Federal Building, 219 South Dearborn Street, Room 2502, Chicago, Ill. 60604; 9:30 a.m., Thursday, Friday, May 18-19, 1978, fourth Auditorium, Federal Building, 915 2nd Avenue, Seattle, Wash. 98174. Requests to speak by May 15, 1978. Address to: Chicago—Charles Swank, Region 5, DOE, 175 West Jackson Boulevard, Chicago, Ill. 60604; Seattle—Lee Johnson, Federal Building, 915 2nd Avenue, Room 1992, Seattle, Wash. 98174.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), Public Hearing Management, 2000 M Street, NW., Room 2222, Washington, D.C. 20461, 202-254-5201. Ed Vilade (Media Relations), 12th and Penn Avenue, Room 3104, Washington, D.C. 20461, 202-566-9833.

Mario Cardullo (Office of Policy and Evaluation, DOE), 12th and Pennsylvania Avenue, Room 4112, Washington, D.C. 20461, 202-566-9133.

Paul Douglass (Office of General Counsel, DOE), 12th and Pennsylvania Avenue, Room 2140, Washington, D.C. 20461, 202-566-9782.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

The Department of Energy ("DOE") and its predecessor agency, the Federal Energy Administration ("FEA"), performed a number of detailed studies during the last several years with respect to supply alternatives for certain northern tier States.

Similar FEA and DOE studies were conducted with respect to the disposition of Alaskan North Slope ("ANS") crude oil. These studies proved too narrow in themselves to formulate long-term solutions to the crude oil transportation problem.

DOE has begun a major new study which will consider all major alternatives capable of transporting the ANS and other crude oils to northern tier and inland States. The results of this study will form the basis for recommendations which will be made to the President. The study is also intended to assist the Department of the Interior ("DOI") with respect to the need for a system which has been proposed by the Northern Tier Pipeline Co. The need analysis will be used in the environmental impact statement being prepared by DOI for the Northern Tier Pipeline Co., which proposes to build a pipeline from Port Angeles, Wash., to Clearbrook, Minn. DOE intends to issue its draft report in conjunction with DOI's draft environmental impact statement.

II. SCOPE OF STUDY

The DOE study will consider the petroleum supply alternatives for northern tier and inland States through the year 2000. Specifically, the study will address the following:

(a) Energy demand, particularly petroleum product demand, in northern tier and inland States during the period 1980-2000.

(b) Petroleum supply scenarios in the northern tier and inland States during the period 1980-2000.

(c) Transportation alternatives, including but not limited to: (1) The proposed Northern Tier pipeline; (2) Sohio pipeline from Long Beach, Calif., to Midland, Tex.; (3) expansion

of the midcontinent pipeline system; (4) unit trains; (5) expansion of the Williams pipeline system which now serves Minnesota; (6) use of the Northern pipeline from Wood River, Ill., to Minneapolis, Minn.; (7) a new pipeline from the Powder River Basin, Wyo., to Billings, Mont.; (8) a proposed Canadian west coast oil port; (9) reversal of the Trans-Mountain pipeline between Cherry Point, Wash., and Edmonton, Alberta; (10) a new pipeline which parallels the Alcan gas route or the Mckenzie Delta route; and (11) use of iceberg tankers.

III. CRITERIA

The DOE study will analyze the transportation system alternatives based on the following criteria:

(A) Environmental impacts of such a system and the capability of the system to minimize environmental risks resulting from transportation of oil.

(B) The amount of crude oil available to northern tier and inland States and the projected demand in those States;

(C) Transportation costs and delivered prices of crude oil by region;

(D) Construction schedules and possibilities for delay in such schedules or for delay occurring as a result of other factors;

(E) Feasibility of financing;

(F) Capital and operating costs, including an analysis of the reliability of such estimates and the risk of cost overruns;

(G) Net national economic costs and benefits of such proposal, as compared with all other systems proposed;

(H) Application of the provisions of section 410 of Pub. L. 93-153;

(I) International relations, including the status and time schedule for any necessary Canadian approvals and plans;

(J) Impact upon competition;

(K) Safety and efficiency of design and operation;

(L) Potential for interruption of deliveries of crude oil from the west coast;

(M) Capacity and cost of expanding the system to transport additional volumes of crude oil in excess of initial system capacity;

(N) National security considerations, particularly the security of supply;

(O) Relation of the recommended crude oil transportation system to national energy policy; and

(P) Such other factors as deemed to be appropriate.

IV. PROCEDURES FOR SUBMISSION OF WRITTEN COMMENTS AND PUBLIC HEARING

A. WRITTEN COMMENT PROCEDURES

Interested persons are invited to participate in this proceeding by submit-

ting data, views, or arguments with respect to the specific items for comment set forth in this notice to Public Hearing Management, Department of Energy. Comments should be identified on the outside of the envelope and on documents submitted to DOE with the designation, "Northern Tier Public Inquiry," Box SS. Fifteen copies should be submitted. All written comments should be submitted by 4:30 p.m. on May 30, 1978. All comments received by DOE will be available for public inspection in the DOE Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

B. PUBLIC HEARING

1. *Request procedure.* A public hearing to receive oral presentation of data, views, and arguments from interested persons will be held at the time and place indicated earlier in this notice.

Any person who has an interest in the subject matter of this notice, or who is a representative of a group or class of persons which has such an interest, may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Public Hearing Management, 2000 M Street NW., Box SS, Washington, D.C. 20461, and must be received before 4:30 p.m. on May 12, 1978, for the Chicago hearing and May 17 for the Seattle hearing. A request should be labeled both on the document and on the envelope "Northern Tier Public Inquiry."

The person making the request should be prepared to describe the interest concerned, if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest and to give a concise summary of the proposed oral presentation and a phone number where he or she may be reached through May 12, 1978.

Each person selected to be heard will be notified by DOE before 4:30 p.m., May 10, 1978, and must submit 100 copies of his or her statement to Public Hearing Management, 2000 M Street NW., Box SS, Washington, D.C. 20461.

2. *Conduct of hearings.* DOE reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. Each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing and there will

be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing to the presiding official at the above address before 4:30 p.m., on the day prior to the hearing. Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question in writing to the presiding officer. DOE, or the presiding officer if the question is submitted at the hearing, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer. Any further procedural rules needed for the proper conduct of this hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection in the DOE Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

Issued in Washington, D.C., April 19, 1978.

WILLIAM S. HEFFELFINGER,
Director, Administration.

[FR Doc. 78-11021 Filed 4-21-78; 8:45 am]

[6450-48]

Office of Hearings and Appeals

SYSTEM TO MONITOR NO. 2 (HOME)
HEATING OIL PRICES

Notice of Rules of Procedure To Be Followed
by the Office of Hearings and Appeals in
Connection With an Evidentiary Hearing Regarding
No. 2 (Home) Heating Oil

AGENCY: Department of Energy,
Office of Hearings and Appeals.

ACTION: Notice of rules of procedure.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy hereby announces the adoption of certain interim rules of procedure. These rules have been established for the sole purpose of governing the conduct of an evidentiary hearing which the Office of Hearings and Appeals plans to hold on August 21, 1978. Parties wishing to participate in the hearing must file requests by

May 15, 1978. The purpose of the evidentiary hearing will be to consider the need for further regulatory action with regard to the pricing and allocation of No. 2 (home) heating oil in light of information compiled by the Department of Energy and other information submitted to it by parties in connection with the hearing. The Office of Hearings and Appeals will receive written comments with respect to these rules.

EFFECTIVE DATES: April 18, 1978; comments with respect to interim rules by May 8, 1978.

ADDRESSES: Send written comments to: Public Hearing Management, Department of Energy, Box SV, Room 2313, 2000 M Street NW., Washington, D.C. 20461.

Send petitions to intervene to: Office of Hearings and Appeals, Department of Energy, 2000 M Street NW., Washington, D.C. 20461, telephone 202-254-9681.

FOR FURTHER INFORMATION CONTACT:

George B. Breznay, Office of Hearings and Appeals, Department of Energy, 2000 M Street NW., Washington, D.C. 20461, telephone 202-254-9681.

SUPPLEMENTARY INFORMATION:

- I. Background.
- II. Discussion.
- III. Rules of Procedure.

I. BACKGROUND

On January 13, 1978, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announced that it had adopted a program designed to monitor the prices of No. 2 (home) heating oil during the 1977-78 heating season. 43 FR 2917 (January 20, 1978). At that time, the ERA described a number of different approaches which it and the Energy Information Administration (EIA) planned to undertake in order to monitor and evaluate the performance of refiners, wholesalers, and retailers with regard to the marketing of No. 2 heating oil. The ERA also stated that it would publish a summary of its findings with respect to home heating oil prices during the 1977-78 heating season. Finally, the ERA indicated that a hearing would be held before the Office of Administrative Review in August 1978 concerning the prices of No. 2 heating oil. The ERA noted that the hearing would be an evidentiary hearing, open to the public, and that its purpose would be to consider the need for further regulatory action with regard to No. 2 heating oil in light of the information which had been collected as a result of the monitoring program and any other information which was submitted to the DOE in connection with the hearing. On March 30, 1978, the Office of Hear-

ings and Appeals of the DOE was created, and that Office has assumed the responsibilities which previously had been exercised by the Office of Administrative Review. Consequently, the Office of Hearings and Appeals will be responsible for conducting the August 1978 evidentiary hearing.

The issues which a party may address at the evidentiary hearing fall into three broad categories: (1) the accuracy of the data regarding the pricing of No. 2 heating oil and the validity of the procedures which have been used by the ERA and the EIA to collect and analyze that data; (2) the effect of the exemption of No. 2 heating oil from price and allocation controls on prices of that product and the reasonableness of these prices to ultimate consumers; and (3) the projected effects of market forces and various types of regulatory measures, including the imposition of price and allocation controls, on the prices of No. 2 heating oil in the next heating season. A detailed statement of those issues appears below. Additional issues may arise during the course of ERA's current monitoring program and interested persons may suggest issues which should be examined at the hearing. Furthermore, the Office of Hearings and Appeals may resolve particular issues prior to the date of the hearing.

STATEMENT OF ISSUES

The following issues may be considered in the course of this proceeding:

I. The validity of the procedures which were used by the ERA and the EIA in its current monitoring program to collect and analyze data with respect to the pricing of No. 2 heating oil.

A. The sufficiency and accuracy of the data collected with respect to actual market conditions.

B. The validity of the ERA's proposed basis for the evaluation of the data.

1. With respect to refiners, the use of hypothetical controlled price indices for comparison with actual prices charged by refiners.

2. The use of "benchmark" gross margins in order to evaluate the reasonableness of the actual gross margins realized by wholesalers and retailers.

II. The effect on the marketing of home heating oil of the exemption of this product from price and allocation controls and the impact of deregulation in view of the objectives stated in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 (EPAA).

A. The reasonableness of increased prices to ultimate consumers.

1. The extent to which the prices of home heating oil have increased at each level of distribution as a result of the exemption of home heating oil

from Federal price and allocation controls.

2. The degree to which any increases in price reflect changes in product costs or increases in gross margins. (In other words, whether the deregulation of this product has permitted sellers to increase their prices to an extent which exceeds the increased costs which the sellers have incurred.)

3. Whether competitive market forces have satisfactorily constrained price increases in sales to residential customers.

4. The nature of any adverse effects experienced by ultimate consumers in particular localities, regions or across the Nation as a result of price increases in home heating oil.

B. Nature and intensity of competition at each level of distribution in the home heating oil industry during the period of deregulation.

C. The effect of deregulation on the economic viability of individual firms which operate in various market sectors of the home heating oil industry.

III. The projected effect of market forces and various forms of regulation on the prices of home heating oil in view of EPAA objectives.

A. The adequacy of market forces in restraining excessive price increases of home heating oil.

B. The impact which the partial or complete reimposition of price and allocation controls would have on the home heating oil industry and market.

1. The impact on the economic viability of firms in the industry.

2. The impact on competition in the various marketing sectors and geographic regions of the home heating oil market.

3. The effect on the supply and demand of home heating oil.

C. Whether some form of monitoring home heating oil prices should be implemented during the 1978-79 heating season.

II. DISCUSSION

The rules of procedure which are set forth in this Notice are being adopted in order to govern the conduct of an evidentiary hearing which the Office of Hearings and Appeals will hold in August 1978. As noted above, that hearing will focus principally on the marketing of No. 2 (home) heating oil, and the ultimate issue to be decided is whether further regulatory action should be taken with respect to that product.

According to these rules, any person who wishes to participate in the evidentiary hearing must submit a Petition to Intervene to the Office of Hearings and Appeals of the DOE. The Petition should contain a description of the petitioner's business or organizational activities and the interests which it represents, and it should attempt to demonstrate the reasons

why the Office of Hearings and Appeals should designate it as a party to the evidentiary hearing. Petitions of this type must be filed no later than May 15, 1978. After considering the Petitions and any other relevant material which it has received or obtained, the Office of Hearing and Appeals will determine which of the petitioners shall be permitted to participate as parties in the evidentiary hearing. The Office of Hearings and Appeals intends to issue a Decision and Order designating the parties to this proceeding on or before May 31, 1978.

Persons who have been designated parties shall then be required to file a document which describes the factual position that the party intends to advance at the evidentiary hearing and the manner in which it intends to support that position. The purpose of this requirement is to ensure that each party determines well in advance of the hearing the approach which it plans to take with respect to the issues involved in the hearing. In addition, it is intended to provide the Office of Hearings and Appeals with information sufficient to identify any factual issues which must be resolved and determine which matters should be treated as uncontroverted, or stipulated facts.

The rules also require that the DOE Office of Fuels Regulation make available certain material which it is in the process of compiling in connection with its current program to monitor the prices of No. 2 heating oil. See 43 FR 2917 (January 20, 1978). For example, the Office of Fuels Regulation will be required to furnish each party to the proceeding with a copy of a summary of its study of home heating oil prices. On or before August 14, 1978, the Office of Hearings and Appeals intends to issue a Decision and Order which identifies the facts which remain in issue and those which shall be considered as being stipulated. Other procedural rules, in addition to those set forth in this Notice, may be specified in that Decision and Order.

The hearing, which will be open to the public, will be convened at 10 a.m. on August 21, 1978, in Room 2105, 2000 M Street NW., Washington, D.C. The Office of Hearings and Appeals will arrange for a transcript to be taken of the proceedings.

Following the close of the hearing, each person who has been made a party to the proceeding will be afforded an opportunity to submit final comments which set forth the findings of fact and conclusions of law which it proposes be adopted by the DOE.

These rules of procedure are being adopted by the Office of Hearings and Appeals on an interim basis for immediate implementation. Final rules will be promulgated after consideration of all comments which are received. Com-

ments on these rules must be received by May 8, 1978. The interim rules have been established for the sole purpose of governing the conduct of the evidentiary hearing which the Office of Hearings and Appeals plans to convene on August 21, 1978. All persons are invited to submit written comments regarding these interim rules as well as additional rules of procedure which they believe should be adopted with respect to the conduct of the evidentiary hearing. Comments should be submitted to the address indicated in the "addresses" section of this preamble and should be identified by labeling the envelope "Rules of Procedure Regarding August 1978 Evidentiary Hearing." Fifteen copies should be submitted. All comments received by the Office of Hearings and Appeals regarding procedures in this matter may be inspected in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., between 1 p.m. and 5 p.m., Monday through Friday.

Issue in Washington, D.C., April 18, 1978.

MELVIN GOLDSTEIN,
Director, Office of Hearings
and Appeals, Department of Energy

III. RULES OF PROCEDURE

RULE 1—PRELIMINARY DATA TO BE MADE AVAILABLE BY THE OFFICE OF FUELS REGULATION

(a) *Requests for Data.* After May 1, 1978, the Office of Fuels Regulation of the Economic Regulatory Administration shall furnish the information described in Paragraph (b) of this Rule to any person that so requests. Requests for this material should be in writing and addressed to Barton R. House, Assistant Administrator for Fuels Regulation, Office of Fuels Regulation, Department of Energy, 2000 M Street NW., Washington, D.C. 20461. The Office of Fuels Regulation shall also place a copy of the information on file in the Public Docket Room of the Office of Hearings and Appeals.

(b) *Nature of the Data.* The material which the Office of Fuels Regulation shall provide by May 1, 1978 shall consist of the data which the Energy Information Administration (EIA) has collected on a national and regional basis with regard to monthly average sales prices and average gross margins of refiners, wholesalers, and retailers of No. 2 heating oil during the period November 1977 through February 1978. Data indicating the average monthly prices charged to residential users in sales of No. 2 heating oil during the period November 1977 through February 1978 for selected states shall also be made available.

RULE 2—PETITION TO INTERVENE

(a) *Filing Requirement.* Any person who wishes to be designated a party to

this proceeding shall file a Petition to Intervene no later than May 15, 1978.

(b) *Contents of Petition to Intervene.* Each Petition shall contain (i) a detailed description of the interests which the petitioner represents; (ii) the specific reasons why the petitioner's involvement in the proceeding will substantially contribute to a complete and equitable resolution of the issues to be considered in the proceeding; (iii) a statement of the position which the petitioner intends to assert at the hearing; (iv) a specific identification of the witnesses and type of evidence which the petitioner proposes to introduce in support of its position; if the identities of the witnesses are not yet known, provide a description of the types of witnesses to be presented; (v) a description of the nature and scope of the factual or legal information which the petitioner plans to present; and (vi) a description of the relevancy of this information and the reasons why the testimony of the witnesses is necessary to establish the asserted position.

RULE 3—DECISION WITH RESPECT TO PETITION TO INTERVENE

(a) The Office of Hearings and Appeals may in its discretion conduct conferences for the purpose of determining whether a petition to intervene should be granted and may convene a hearing pursuant to the provisions of 10 CFR 205.172 in order to hear oral argument with respect to the petition.

(b) After considering all of the petitions which it has received, supporting documents and any other relevant information received or obtained during the proceeding, the Office of Hearings and Appeals shall enter an Order identifying the petitioners who will be accorded status as parties to the evidentiary hearing. To the greatest extent possible, an attempt will be made to ensure that all of the various interests involved will be adequately represented at the hearing. The Office of Hearings and Appeals may, however, aggregate two or more petitioners into a class on the basis of the similarity of the interests which they represent or the views they intend to advance at the hearing and designate one petitioner to represent all of the petitioners in a particular class.

(c) The Order of the Office of Hearings and Appeals with respect to a Petition to Intervene shall not be subject to further administrative review or appeal. The Office of Hearings and Appeals intends to issue a determination with respect to Petitions to Intervene no later than May 31, 1978.

RULE 4—STATEMENT OF FACTUAL POSITION

(a) *Filing Requirement.* A Statement of Factual Position shall be filed by

each party no later than June 30, 1978.

(b) *Contents of Statement of Factual Position.* The Statement of Factual Position shall contain a full and detailed discussion of the factual positions which the party intends to establish at the hearing with respect to each of the issues to be addressed at the hearing. The Statement shall also contain a description of the manner in which the party intends to prove the factual representations which it maintains are correct and a description of the manner in which it will dispute or support the factual representations which appear in the preliminary data provided by the Office of Fuels Regulation.

RULE 5—REPORT OF THE OFFICE OF FUELS REGULATION

No later than June 30, 1978, the Office of Fuels Regulation shall publish a detailed report which sets forth its analysis of the data which the EIA has gathered in connection with the current program to monitor the prices of home heating oil. This report shall contain specific findings of fact and conclusions which the Office of Fuels Regulation has reached regarding its study of home heating oil prices during the 1977-78 heating season. A copy of the report shall be mailed or otherwise made available to each party involved in the evidentiary hearing no later than June 30, 1978.

RULE 6—RESPONSE TO STATEMENTS OF FACTUAL POSITION AND REPORT OF THE OFFICE OF FUELS REGULATION

The Office of Fuels Regulation and any person which has been designated a party to the evidentiary hearing shall file comments in response to each Statement of Factual Position which has been submitted by another party within fifteen (15) days of the date of filing of that Statement. All parties shall also file comments with regard to the June report of the Office of Fuels Regulation within fifteen (15) days of the date of issuance of that document. The comments filed pursuant to this Rule shall identify:

(i) The particular factual representations which the party considers to be correct;

(ii) The particular factual representations which the party asserts are incorrect;

(iii) The particular factual representations whose validity the party is not in a position to either accept or deny;

(iv) The particular factual representations whose validity the party challenges and wishes proven by the submission of evidence; and

(v) The particular factual representations which the party is prepared to dispute through the submission of testimony of its own witnesses or through the submission of verified documents.

RULE 7—DECISION AND ORDER WITH RESPECT TO STATEMENTS OF FACTUAL POSITION AND RELATED DOCUMENTS

(a) After receiving the submissions of the parties with respect to the Statements of Factual Position, the June report prepared by the Office of Fuels Regulation, and any responses filed by the parties to these documents, the Office of Hearings and Appeals may in its discretion conduct conferences with parties for the purpose of resolving any differences of view.

(b) After considering the Statements of Factual Position, the June report of the Office of Fuels Regulation, Responses filed pursuant to Rule 6 and any other relevant information received or obtained during the proceeding, the Office of Hearings and Appeals shall issue an Order specifying the particular issues of fact which will be considered at the evidentiary hearing. In addition, the Order shall specify the particular factual representations whose validity has not been challenged by either the Office of Fuels Regulation or any party and which as a result will be denominated as stipulated facts which will not be subject to examination at the evidentiary hearing.

(c) The Order of the Office of Hearings and Appeals shall also describe the format to be used for the evidentiary hearing and the conclusions of the Office with respect to the following specific procedural matters:

(i) Burden of proof;

(ii) Standard of proof; and

(iii) The rules which will be applied to the introduction of written and oral testimony and other evidence.

(d) The Order of the Office of Hearings and Appeals with respect to the Statements of Factual Position and related documents shall not be subject to further administrative review or appeal.

RULE 8—EVIDENTIARY HEARING

(a) The evidentiary hearing shall be conducted by the Director of the Office of Hearings and Appeals or by his designee.

(b) The presiding officer of the hearing shall arrange for a transcript to be taken of the proceedings. A copy of the transcript, with such modification as is necessary to ensure the confidentiality of information protected from disclosure under the provisions of 18 U.S.C. 1905 and 5 U.S.C. 552, will be placed on file in the Public Docket Room as described in 10 CFR 205.15 within a reasonable time following the conclusion of the evidentiary hearing.

(c) The hearing will be open to the public. However, the presiding officer may direct that any party or member of the public be excluded from attending those portions of the hearing that

involve a discussion of proprietary financial data which is protected from disclosure under the provisions of 18 U.S.C. 1905 and 5 U.S.C. 552.

(d) The presiding officer of the evidentiary hearing shall afford the parties an opportunity to present evidence which:

(i) Directly relates to a particular issue of fact which has been set forth for hearing; and

(ii) Is material and relevant in establishing the validity of the position which the party asserts the DOE should adopt.

(e) The presiding officer may take reasonable measures to exclude duplicative material from the hearing. The presiding officer may also require that evidence be submitted through affidavits or other written form if he concludes that the presentation of evidence through the direct testimony of witnesses will unduly delay the orderly progress of the hearing and would add little substantive value in resolving the issues involved in the hearing.

(f) In all instances in which a party presents evidence through the testimony of a witness, the presiding officer of the hearing shall ensure that reasonable opportunity is provided to the other parties for cross-examination.

(g) The presiding officer of the hearing may administer oaths and affirmations, rule on objections and dispose of procedural requests, determine the format of the hearing, direct that written motions or briefs be provided with respect to issues raised during the course of the hearing and otherwise regulate the course of the hearing.

(h) The provisions of 10 CFR 205.8 which relate to subpoenas and witness fees shall apply to the evidentiary hearing.

(i) Following the presentation of all evidence the presiding officer shall afford the parties an opportunity to present oral argument as to the Decision and Order which the Office of Hearings and Appeals should issue with respect to the matter. The presiding officer may direct that written memoranda, briefs or other documentary material be submitted in support of any position which a party advances or with respect to any issue otherwise specified by the presiding officer.

RULE 9—FINAL COMMENTS

Within fifteen (15) days following the date on which the evidentiary hearing is adjourned, each of the parties shall submit final comments, in the form of a summation brief, to the Office of Hearings and Appeals. The summation brief shall include the findings of fact and conclusions of law which the party requests be adopted by the Office of Hearings and Appeals.

In addition, it shall include a recommendation as to the regulatory action, if any, which the DOE should take with regard to the pricing and allocation of No. 2 heating oil and a detailed discussion of the manner in which the record in the proceeding supports the position advanced.

RULE 10—ISSUANCE OF DECISION AND ORDER WITH RESPECT TO EVIDENTIARY HEARING

(a) After considering the submissions of the parties and the DOE, the transcript of the hearing, and any other relevant information received or obtained in connection with the evidentiary hearing, the Director of the Office of Hearings and Appeals or his designee shall issue an appropriate Decision and Order. The determination shall include a written statement setting forth the relevant facts and legal basis supporting the Decision and Order.

(b) The Office of Hearings and Appeals shall serve a copy of the Order upon each person who was designated a party to the evidentiary hearing. In addition, a copy of the Decision and Order shall be placed on file in the Public Docket Room of the Office of Hearings and Appeals. The Office of Hearings and Appeals shall delete from these copies those portions of the Decision and Order which contain confidential information which is protected from disclosure under 18 U.S.C. 1905 and 5 U.S.C. 552.

RULE 11—EX PARTE COMMUNICATION

(a) No person who is not employed or otherwise supervised by the Office of Hearings and Appeals shall submit an ex parte communication to the Director or any person employed or otherwise supervised by the Office with respect to any matter involved in the evidentiary hearing. This Rule shall be effective during the period from the date on which the evidentiary hearing is convened through the date of issuance of the Decision and Order by the Office of Hearings and Appeals with respect to the matters considered at the evidentiary hearing.

(b) Ex parte communication includes any ex parte oral or written communication with respect to the issues involved in the evidentiary hearing. The term shall not, however, include requests for status reports, inquiries as to procedures, or the submission of statistical or technical data or reports containing proprietary or confidential information requested after notice to all parties by a person employed or otherwise supervised by the Office of Hearings and Appeals.

(c) If a communication occurs that violates the provisions of this Rule, the Office of Hearings and Appeals shall take appropriate action to mitigate the adverse impact to any party of the ex parte contact.

RULE 12—EXTENSION OF TIME; INTERIM AND ANCILLARY ORDERS

The Director of the Office of Hearings and Appeals or his designee may in his discretion permit a document referred to in these Rules to be filed at a time which is different from the time period specified in a particular provision of these Rules. The Director or his designee may also issue any interim or ancillary Orders or make any ruling or determination which he deems necessary to ensure that the proceedings specified in these Rules are conducted in an appropriate manner and that the resolution of the issues presented in the proceeding are not unduly delayed.

RULE 13—GENERAL FILING REQUIREMENTS

(a) The Petition to Intervene, the Statement of Factual Position, comments in response to the Statement of another party and any other motions or documents filed in connection with the evidentiary hearing shall be filed with the National Office of Hearings and Appeals, Department of Energy, 2000 M Street NW., Washington, D.C. 20461.

(1) Any document referred to in this Rule shall be filed in triplicate.

(2) If a party claims that any portion of a document referred to in this Rule contains confidential information, such information should be deleted from two (2) of the copies which are filed. One copy from which confidential information has been deleted will be placed in the Public Docket Room of the Office of Hearings and Appeals.

(b) Parties shall serve a copy of their Statements of Factual Position, Responses filed pursuant to Rule 6 and any other motions or documents which they file in this proceeding upon the Office of Fuels Regulation and upon each person who has been designated a party by the Office of Hearings and Appeals.

(c) Any filing made under these Rules shall include a certification of compliance with the provisions of these Rules, the names and addresses of each person served, and the date and manner of service.

[FR Doc. 78-11075 Filed 4-21-78; 8:45 am]

[1505-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 879-1; OPP-33000/537 AND 538]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Date to be Considered in Support of Applications

Correction

In FR Doc. 78-9485, appearing at page 15001 in the issue for Monday,

April 10, 1978, some material was printed twice and some material was omitted. On page 15003, in the third column, the applications beginning with "EPA File Symbol 39910-A" and ending on page 15004 in the first column with the application "EPA File Symbol 41301-R" should be deleted. These applications appear elsewhere on page 15003. In their place, insert the following omitted applications:

EPA File Symbol 41301-E. Progressive Products. POLY-CIDE BLEND. Active Ingredients: Poly(oxethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride) 20.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 41394-R. Beauty Pools, Inc., Transit Rd., @ Aurora Expwy., West Seneca NY 14224. BEAUTY KLEAR. Active Ingredients: Sodium Hypochlorite 12.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 41547-R. Etani Intl., Inc., West Townsend MA 01474. ALGAECIDE AQUAPILL 5. Active Ingredients: Poly(oxethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride) 60.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 41569-R. Culligan Water Conditioning of Kingsport, Inc., 640 E. Sullivan St., Kingsport TN 37680. CUL-20. Active Ingredients: Poly(oxethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride) 20.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 41569-E. Culligan Water Conditioning of Kingsport, Inc., CUL-SP. Active Ingredients: Poly(oxethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride) 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

[6560-01]

[OPP-30146]

PESTICIDE PROGRAMS

Receipt of Application To Register a Pesticide Product Containing a New Active Ingredient

Dow Chemical Co., P.O. Box 1706, Midland, Mich. 48640, has submitted to the Environmental Protection Agency (EPA) an application to register the pesticide product Bromine Chloride Antimicrobial (EPA File Symbol 464-LLN), containing 99 percent of the active ingredient *bromine chloride*, which has not been included in any previously registered pesticide products. The application received from Dow Chemical Co. proposes that the product be classified for general use for control of fouling organisms in industrial water cooling systems. Additionally, pursuant to 40 CFR 162.8(a)(3), the company has requested waivers of data requirements regarding the acute oral lethal dose 50

(LD50), acute dermal LD50, and the avian feeding studies, PM34.

Notice of receipt of this application does not indicate a decision by the Agency on the application. Interested persons are invited to submit written comments on this application to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. The comments must be received on or before May 24, 1978, and should bear a notation indicating the EPA File Symbol "464-LLN." Comments received within the specified time period will be considered before final decision is made with respect to the pending application. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application and the data submitted should be directed to Product Manager (PM) 34, Registration Division (WH-567), Office of Pesticide Programs, at the above address or by telephone at 202-425-9490. The label furnished by Dow Chemical Co., as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section, 8:30 a.m. to 4 p.m., Monday through Friday.

Notice of approval or denial of this application to register Bromine Chloride Antimicrobial will be announced in the FEDERAL REGISTER. Except for such material protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the FEDERAL REGISTER if an application is approved.

Dated: April 11, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-10921 Filed 4-21-78; 8:45 am]

[6560-01]

[OPP-33000/527A]

PESTICIDE PROGRAMS

**Receipt of Application for Pesticide
Registration; Correction**

In FR Doc. 77-34933 appearing at page 61889 in the issue of December 7, 1977, the product Bromine Chloride Antimicrobial was inadvertently published in a Notice of Receipt of Application for Pesticide Registration under

Section 3(c)(1)(D) of the amended Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). That entry is now deleted.

A notice of application to register a pesticide containing a new active ingredient for that product is also published in this issue of the FEDERAL REGISTER.

Dated April 11, 1978.

DOUGLAS C. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-10922 Filed 4-21-78; 8:45 am]

[6560-01]

[OPP-30145]

PESTICIDE PROGRAMS

**Receipt of Applications To Register Pesticide
Products Containing New Active Ingredients**

Applications have been submitted to the Environmental Protection Agency (EPA) to register pesticide products containing active ingredients which have not been included in any previously registered pesticide products. Applications were made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.), and the regulations thereunder (40 CFR 162). Notice of receipt of these applications does not indicate a decision by the Agency on the applications.

Interested persons are invited to submit written comments on any applications referred to in this notice to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. The comments must be received on or before May 24, 1978, and should bear a notation indicating the EPA File Symbol number of the application to which the comments pertain. Comments received within the specified time period will be considered before a final decision is made with respect to the pending application. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning these applications and the data submitted should be directed to the Product Managers (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address or appropriate telephone number cited. The labels furnished by each applicant as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m., Monday through Friday.

Notice of approval or denial of the applications to register pesticide prod-

ucts listed will be announced in the FEDERAL REGISTER. Except for such material protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the FEDERAL REGISTER if an application is approved.

Dated: April 17, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED

EPA File Symbol 7078-RN. Arbrook, Inc., Arlington, TX 76014. ODEX Q DISINFECTANT DETERGENT. Active Ingredients: *Oxydiacetaldehyde* 15% (not previously registered) and *didecyl dimethyl ammonium chloride* (previously registered) 4.5%. Application proposes that this product be classified for general use as a germicide-cleaner for hospitals. PM31 (202/426-2635)

EPA File Symbol 3125-GER. Mobay Chemical Corp., Chemagro Agricultural Division, P.O. Box 4913, Kansas City, MO 64120. BOLSTAR 6. Active Ingredient: *O-Ethyl O-[4-(methylthio)phenyl] S-propyl phosphorodithioate* and its cholinesterase inhibiting metabolites 64.0%. Application proposes that this product be classified for general use in the control of cotton bollworm and tobacco budworm in cotton. PM12 (202/426-9425)

[FR Doc. 78-10923 Filed 4-21-78; 8:45 am]

[6560-01]

[OPP-50367]

PESTICIDES

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 8340-EUP-5. American Hoechst Corp., Somerville, N.J. 08876. This experimental use permit allows the use of 448.4 pounds of the herbicide 2-[4-(2,4-dichlorophenoxy)phenoxy] propanoate on wheat and barley to evaluate control of various annual grasses and weeds. A total of 601 acres is involved; the program is authorized only in the States of California, Colorado, Idaho, Minnesota, Montana, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming. The experimental use permit is effective from March 10, 1978 to March 10, 1979. Temporary tolerances for residues of the active ingredient in or on wheat and barley have been established.

No. 707-EUP-88. Rohm & Haas Co., Philadelphia, PA, 19105. This experimental use

permit allows the use of 435 pounds of the herbicide 3,4-dichloropropionanilide on wheat to evaluate control of foxtail grass species and broadleaf weeds. A total of 250 acres is involved; the program is authorized only in the States of Minnesota, North Dakota, and South Dakota.

The experimental use permit is effective from June 3, 1978 to June 3, 1979. This experimental use permit is being issued with the limitation that all treated crops will be destroyed or used for research purposes only.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

STATUTORY AUTHORITY: Section 5 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 April 17, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-10924 Filed 4-21-78; 8:45 am]

[6560-01]

[FRL 887-4]

SCIENCE ADVISORY BOARD, ENVIRONMENTAL
HEALTH ADVISORY COMMITTEE, STUDY
GROUP ON PESTICIDE TOLERANCES

Open Meeting

Under Pub. L. 92-463, notice is hereby given that a two-day meeting of the Study Group on Pesticide Tolerances of the Science Advisory Board's Environmental Health Advisory Committee will be held on May 11 and 12, 1978 in Room 3906-08, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. The meeting will start at 9 a.m. on May 11, 1978.

The principal purpose of the meeting will be to identify and discuss scientific issues relating to estimates of exposure in the context of establishing tolerances for pesticide residues in agricultural crops. This will include but not necessarily be restricted to questions of residue levels (e.g. minimum requirements for analytical methodology and sampling; relationship of estimates from limited field samples to actual market samples; detection of metabolites or degradation products) and questions of estimates of food consumption (e.g. reliability of underlying assumptions relating to average total food intake; importance

of integrated total exposure estimates; individual and/or population variance).

Pertinent background information is, as follows. In response to an Agency request to the Science Advisory Board, the Board's Environmental Health Advisory Committee established a Study Group on Pesticide Tolerances and charged it with assisting the Committee in an evaluation of the scientific basis of the Agency's system for establishing tolerances for pesticide residues in agricultural crops. This is the second meeting of the Study Group. At an earlier meeting, on April 5, 1978, the Study Group was briefed on and discussed various aspects of the legislative authority and mandate directly or indirectly relating to the Agency's tolerance setting system. At a later meeting, tentatively scheduled for June 27, 28, and 29, 1978, the Study Group will discuss scientific issues relating to toxicology data and hazard evaluation. Further particulars on that meeting will be announced in the **FEDERAL REGISTER**.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460 by c.o.b. May 4, 1978. Please ask for Mrs. Ilene Stein or Ms. Barbara Robinson. The telephone number is 703-557-7720.

Dated: April 18, 1978.

RICHARD M. DOWD,
Staff Director,
Science Advisory Board (A-101).

[FR Doc. 78-11079 Filed 4-21-78; 8:45 am]

[6560-01]

[FRL 888-2; OPP-000711]

OFFICE OF PESTICIDE PROGRAMS REPRINT

Availability

On September 1, 1977 (42 FR 44170) and February 9, 1978 (43 FR 5782), two regulations were established under 40 CFR 162.30 pertaining to restricted use pesticides. The first established optional procedures for classifying restricted pesticide uses by regulation. The second established the procedures to be followed by registrants once a pesticide had been so classified. Since these two regulations dealing with the same subject were published separately, the EPA has combined them in a single reprint, which is available upon request.

Therefore, anyone wishing a copy of the entire 40 CFR 162.30 *Optional procedures for classification of pesticide uses by regulation*, contact: Mr. Walt Waldrop, Environmental Protection Agency, Operations Division (WH-570), 401 M Street SW., Washington, D.C. 20460.

Dated: April 17, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-11080 Filed 4-21-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS
COMMISSION

[CT Docket No. 78-109]

EDWARD DUNN

Order To Show Cause

Adopted: March 22, 1978.

Released: March 29, 1978.

In re cease and desist order to be directed against Edward Dunn, Smethport Cable Co., McKean County, Pa.

By the Chief, Cable Television Bureau.

1. In August 1977, the Director of Consumer Protection, Office of the Attorney General for the State of Pennsylvania, referred a complaint which had been received from an elderly couple who reside in Mount Jewett, Pa. The complainants alleged that they subscribed to Smethport Cable Co. and that the quality of service they received was poor. They further stated that when they complained about the service, they were disconnected by the cable television company.

2. A search of the Commission's files discloses no record of Smethport's operation in any community within McKean County, Pa. Both complainants' letter and the Television Factbook, services volume, 1977, (46th ed.), however, indicate that Smethport Cable Co. was indeed operating a cable television system in McKean County. Moreover, according to the Television Factbook, the cable system had begun operation in 1951 and had, as of August 1976, 450 subscribers. Thus, in an attempt to assist in the resolution of the complaint and to ascertain the nature and extent of Smethport's cable television operation, the Commission directed an inquiry to Edward Dunn, its owner and manager, via certified mail on September 9, 1977. When no response was forthcoming within the specified period, the Commission directed a followup letter to Mr. Dunn, also by certified mail, dated December 6, 1977. Although the Commission received receipts signed by Mr. Dunn evidencing delivery of both letters, no response has been received to date. Moreover, while the Commission requested in its September 9 letter that Mr. Dunn contact the complainants, the complainants indicated in a letter to the Commission dated November 9, 1977, that no attempt had been made by Mr. Dunn to contact them or to resolve their complaint.

2. The Commission has provided a sufficient amount of time within which the cable operator could have responded to the allegations raised by the former subscribers and to the questions contained in the Commission's inquiry. Given Smethport's silence, however, we must rely on the information presently available to us and must accord that information, since un rebutted, some credence. In this regard, the information contained in the Television Factbook, although dated, leads us to believe that Smethport's operation falls within the parameters of a small cable television system (less than 500 subscribers) to which limited regulations apply. Such a system is required, pursuant to § 76.10 of the Commission's rules, to register with this Commission and to provide certain specific information concerning its operation. On the other hand, if Smethport has crossed the 500 subscriber threshold, it would be required, pursuant to § 76.11 of the rules, to obtain a certificate of compliance and would be subject to the full scope of the Commission's cable television regulations. Smethport, however, as the total absence of Commission records indicates, has complied with neither § 76.10 nor § 76.11. While the Commission has shown flexibility relative to inadvertent violations of the rules and welcomes good faith efforts to being unauthorized operations into compliance that does not appear to be the case here. Given Smethport's failure to reply to official correspondence from the Commission and its apparent violation of the Commission's rules, therefore, we believe that the issuance of this order to show cause is warranted.

Accordingly, *it is ordered*, That pursuant to sections 312 (b) and (c) of the Communications Act of 1934, as amended (47 U.S.C. 312 (b) and (c)), and § 0.288(v) of the Commission's rules, Smethport Cable Co. is directed to show cause why it should not be ordered to cease and desist from further violations of Part 76 of the Commission's rules and regulations on its cable television system in McKean County, Pa.

It is further ordered, That Smethport Cable Co. is directed to appear and give evidence with respect to the matters described above at a hearing to be held at a time and place and before an Administrative Law Judge to be specified by subsequent order, unless the hearing is waived, in which event a written statement may be submitted.¹

¹Section 1.91(c) of the Commission's rules provides that a respondent, in order to avail himself of the opportunity to be heard in a hearing presided over by an Administrative Law Judge, shall file with the Commission, within 30 days after service of the order to

It is further ordered, That the Chief, Cable Television Bureau, shall send copies of this order via certified mail, return receipt, to Smethport Cable Co., Marvin Street, Smethport, Pa. 16749.

FEDERAL COMMUNICATIONS
COMMISSION,
PHILIP L. VERVEER,
Acting Chief,
Cable Television Bureau.

IFR Doc. 78-10930 Filed 4-21-78; 8:45 am

[6712-01]

[BC docket Nos. 78-29, 78-30, 78-31; File Nos. BPH-10,005, BPH-10,259, BPH-10,420]

GRACE MISSIONARY BAPTIST CHURCH, INC.,
ET AL.

Memorandum Opinion and Order Designating
Applications for Consolidated Hearing on
Stated Issues

Adopted: April 3, 1978.

Released: April 11, 1978.

In re applications of Grace Missionary Baptist Church, Inc., Morehead City, N.C., Req: 103.3 MHz, Channel No. 277; 100 kW (H&V); 460 feet (H&V), BC Docket No. 78-29; File No. BPH-10,005; Emerald Communications, Inc., Beaufort, N.C., Req: 103.3 MHz, Channel No. 277; 100 kW (H&V); 450 (H&V), BC Docket No. 78-30; File No. BPH-10,259; The Jones Co., Newport, N.C., Req: 103.3 MHz, Channel 277; 100 kW (H&V); 450 feet (H&V), BC Docket No. 78-31; File No. BPH-10,420, for construction permits.

show cause, a written statement that he will appear at the hearing and present evidence on the matter specified in the order. If respondent is unable to appear at a hearing held in Washington, D.C., he may request that the hearing be held at a location near his residence. Any such request should contain whatever facts respondent feels necessary in support of his request, and should be addressed to the Chief Administrative Law Judge. The right to a hearing is waived if the respondent: (1) Fails to file a timely written appearance; (2) files a timely written appearance but fails to appear at the time and place specified for the hearing; or (3) files with the Commission, within the time specified for a written appearance, a written statement expressly waiving the right to a hearing. When hearing is waived under (1) or (3) above, the respondent within the time specified for a written appearance, may submit to the Commission a written statement denying or seeking to mitigate or justify the circumstances or conduct complained of in the order to show cause. When a hearing is waived, the case will be certified to the Commission. Thereupon, the matter normally will be handled by the Chief, Cable Television Bureau, under applicable delegations of authority, who will make a determination, on the basis of all information available, including statements filed by the respondent, responder's past record, etc., whether a cease and desist order should be issued or whether the matter should be dismissed.

1. The Commission, by the Chief, Broadcast Bureau, has before it for consideration the above-captioned mutually exclusive applications of Grace Missionary Baptist Church, Inc. ("Grace"), Emerald Communications, Inc. ("Emerald"), and the Jones Co. ("Jones").

2. Section 73.210 requires applicants to locate their main studios in the community to be served unless good cause can be shown for locating it outside the community. Jones proposes to locate its studio outside the city limits of Newport and alleges that combining its main studio with the transmitter at the same site will significantly lessen operating expenses. Additionally, the applicant submits, the proposed transmitter and main studio site is located only two and a half miles from the center of Newport and is easily accessible to residents of the town. In light of the above, we find the applicant has demonstrated good cause, as required by § 73.210(a)(3) of the Rules, to locate its main studio outside the city of Newport.

3. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

4. Since Grace proposes predominantly religious programming, while Emerald and Jones propose general market programming, the relative need for these different types of programming will be considered under the contingent comparative issue. *Ward L. Jones, FCC 67-82 (1967); Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393, Footnote 9 at 397 (1965).*

5. Except as indicated above, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, *it is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which would receive FM service of 1 mV/m or greater intensity from the respective proposals together with the availability of other primary aural services in such areas.
2. To determine, in light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

3. To determine, in the event it is concluded that a choice among the applications should not be based solely on considerations relating to section 307(b), which of the applications, on a comparative basis would best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications for a construction permit should be granted.

7. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the applicants herein pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within twenty days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

8. *It is further ordered*, That, the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the Rules, jointly, within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the Rules.

FEDERAL COMMUNICATIONS
COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-10931 Filed 4-21-78; 8:45 am]

[6712-01]

[Gen. Docket No. 78-88]

JERRY M. GRAVES

Order Designating Application for Hearing on
Stated Issues

Adopted: March 6, 1978.

Released: March 10, 1978.

In re application of Jerry M. Graves, 4204 Collier Road, Fairfax, Va. 22030, for renewal of Radiotelephone Third Class Operator Permit No. P3-24-13116, Gen. Docket No. 78-88.

1. The Chief, Field Operations Bureau has under consideration the above captioned renewal application, filed by Jerry M. Graves (Graves) on February 22, 1977. The license expired on March 24, 1977.

2. On the basis of information made available to the Commission as a result of an investigation conducted in September 1970, it appears that Graves stole a Radiotelephone First Class Operator License belonging to one Ernest Richard Westlake, altered the document by inserting his name in place of Westlake's, and used this altered license to obtain employment with commercial stations WHPL and WEFB where he served as the opera-

tor on September 9, 13, 14, 17, 20 and 21, 1970.

3. It further appears that on August 24, 1971, Graves submitted an application in his own name to the Washington, D.C. district office of the Field Operations Bureau for a Provisional Radiotelephone Third Class Operator Permit with Broadcast Endorsement, listing his date of birth as April 29, 1949. In view of the altered license incident described in paragraph 2 above, a written request for comments was sent to Graves. Graves failed to submit the requested comments and the application was dismissed by Order released on December 13, 1971.

4. It further appears that on March 21, 1972, Graves applied for a Radiotelephone Third Class Operator Permit with Broadcast Endorsement at the Washington, D.C. district office of the Field Operations Bureau but now listed his date of birth as April 29, 1947. This discrepancy in the years of birth prevented the Commission from determining the true identity of the applicant. Hence license number P3-24-13116 was "routinely" granted when Graves passed the required examination elements.

5. It further appears that in the now pending application for renewal of his Radiotelephone Third Class Operator Permit with Broadcast Endorsement, Graves again listed his date of birth as April 29, 1949, thus establishing his relationship with the incident described in paragraph 2. On September 23, 1977, Graves was advised that a determination could not be made that the renewal of his license would be in the public interest. On October 3, 1977, Graves requested a hearing.

6. On November 17, 1977, before the matter could be designated for hearing, Graves submitted another application for the renewal of his Radiotelephone Permit, listing his date of birth as April 27, 1947, which again differed from the date of birth of April 27, 1949 given in his application of February 22, 1977.

7. Accordingly, *it is ordered*, Pursuant to sections 303(1)(1) of the Communications Act of 1934 as amended, and §§ 0.311 and 1.84 of the Commission's rules, that the above captioned application is designated for a hearing at a time and place to be specified by subsequent order upon the following issues:

(a) To determine the facts and circumstances surrounding the theft and alteration in September of 1970 of a commercial radiotelephone operator license issued to Ernest Richard Westlake.

(b) To determine whether Jerry M. Graves operated commercial broadcast stations WHPL and WEFB in Winchester, Virginia using this altered license.

(c) To determine whether Jerry M. Graves provided a false date of birth on applications submitted on August 24, 1971; March 21, 1972; February 22, 1977; and November 17, 1977.

(d) To determine whether Jerry M. Graves furnished any other false information to the Commission in connection with the application submitted February 22, 1977, for renewal of his Radiotelephone Third Class Operator Permit.

(e) To determine in light of the facts adduced under the preceding issues, whether Jerry M. Graves possesses the requisite qualifications to be a licensee of the Commission and whether renewal of his Radiotelephone Third Class Operator Permit would be in the public interest.

It is further ordered, That the Secretary shall send a copy of this Order by Certified Mail, Return Receipt Requested, to Jerry M. Graves at the address above given.

C. PHYLL HORNE,
Chief, Field Operations Bureau.

[FR Doc. 78-10932 Filed 4-21-78; 8:45 am]

[1505-01]

FEDERAL MARITIME COMMISSION

VIRGINIA PORT AUTHORITY AND
PORTSMOUTH TERMINALS

Notice of Agreements Filed

Correction

In FR Doc. 78-10311 appearing on page 16224 in the issue of Monday, April 17, 1978, in the 3rd column, the 2nd paragraph, the 2nd sentence should be corrected to read, "Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before May 8, 1978."

[6730-01]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before May 4, 1978. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of dis-

crimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Agreements Nos.: T-1839-2, T-1839-3, T-1839-4 and T-1839-5.

Filing Party: Frederick M. Lowther, Counsel, Dickstein, Shapiro & Morin, 2101 L Street NW., Washington, D.C. 20037.

Summary: Agreements Nos. T-1839-2, T-1839-3, T-1839-4 and T-1839-5, between the South Louisiana Port Commission (Port) and Bayside Warehouse Co. (Bayside), amend the basic lease of a grain terminal facility located in the Parish of St. John the Baptist, Reserve, La. Agreement No. T-1839-2, entered into April 30, 1966, amends the bonding and construction provisions as set forth in the amendment. Agreement No. T-1839-3, entered into October 30, 1966, changes the dates that the obligations of the parties terminate if Port should fail to issue and sell bonds for financing the facility before February 1, 1967. Agreement No. T-1839-4, entered into April 26, 1967, further extends the date to issue and sell bonds for financing the facility and provides for certain rental credits as outlined in the amendment. Agreement No. T-1839-5, entered into July 10, 1969, recites that the parties entered into a lease dated May 2, 1969, attached to Agreement No. T-1839-5 as Exhibit 1, which is in lieu of the form of lease provided for under the provisions of the basic Agreement (1839). This lease shall be identified as Agreement No. T-1839-A. Agreement No. T-1839-5 further amends the bonding provisions of the basic agreement and provides that Port shall transfer and convey to Bayside its right and interest in: (1) a certain construction contract between Port and Marbury-Pattillo Construction Co., Inc.; and (2) a certain Performance Bond issued by the Aetna Casualty and Surety Co.

Agreements Nos.: T-1839-A and T-1839-A-1.

Filing Party: Frederick M. Lowther, Counsel, Dickstein, Shapiro & Morin, 2101 L Street NW., Washington, D.C. 20037.

Summary: Agreement No. T-1839-A, between the South Louisiana Port Commission (Port) and Bayside Warehouse Co. (Bayside), is an Exhibit 1 to Agreement No. T-1839-5 between the same parties, and is a lease agreement covering a grain elevator at Reserve, La. The term of the lease is for twenty-two years, eleven months and twenty-nine days from May 2, 1969, on terms set forth in the lease. Bayside has an option to renew the lease for three (3) additional successive terms of five (5) years each. Port retains the right to fix and levy dockage and port fees provided that rates will not exceed rates at other competitive facilities in New Orleans or Baton Rouge. Agreement No. T-1839-A-1 amends the basic lease and provides for the purchase by Port of certain improvements Bayside has made to the facility on terms as set forth in the agreement.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

Dated: April 18, 1978.

[FR Doc. 78-10941 Filed 4-21-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

[Reg. C; Docket No. R-0143]

CONNECTICUT

Exemption Application Under Home Mortgage Disclosure Act of 1975

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of exemption application.

SUMMARY: The State of Connecticut has applied for an exemption from the disclosure requirements of the Federal Home Mortgage Disclosure Act. The exemption request is based upon the claim that Connecticut law provides for substantially similar disclosures.

DATE: Comments regarding the application must be received on or before May 26, 1978.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All comments should refer to Docket No. R-0143.

FOR FURTHER INFORMATION CONTACT: Anne Geary, Chief Staff Attorney, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2761.

SUPPLEMENTARY INFORMATION: The State of Connecticut, through the Bank Commissioner, has applied to the Board for an exemption from the disclosure requirements of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801-2809), as implemented by Regulation C (12 CFR 203). The application was filed pursuant to section 306(b) of the Act (12 U.S.C. 2805(b)) and §203.3(a)(3) of and the Supplement to Regulation C (12 CFR 203.3(a)(3) and 203 Supplement) and is based upon the requirements of the Connecticut Home Mortgage Disclosure Act (Pub. Act No. 77-153 (May 20, 1977)) and the implementing regulations of the Connecticut Banking Department. In his application, the Commissioner claims that the provisions of the Connecticut Act and Regulations contain requirements that are substantially similar to those imposed under the Federal Act and Regulation C and that there are adequate provisions for the enforcement of the State law.

If the Board grants an exemption in this case, the exemption would apply, as provided in Regulation C (12 CFR

203.3(a)(3) and Supplement §(d)), to all Connecticut-chartered depository institutions that are subject to the Connecticut Act. While the exemption application is pending before the Board, however, all Connecticut-chartered depository institutions that are subject to the Federal Act must comply with Regulation C.

Copies of the exemption applications are available for public inspection and copying during regular business hours at the Freedom of Information Office of the Board, Room B-1228, 20th Street and Constitution Avenue NW., Washington, D.C., at the Federal Reserve Bank of Boston, 30 Pearl Street, Boston, Mass., and at the Federal Reserve Bank of New York, 33 Liberty Street, New York, N.Y.

To aid in the Board's consideration of this matter, interested persons are invited to submit written comments to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than May 26, 1978. All submitted materials should include a reference to Docket Number R-0143. The comments that are received will be made available for public inspection and copying upon request, except as provided in §261.6(a) of the Board's rules regarding availability of information (12 CFR 261.6(a)).

By order of the Board of Governors, April 18, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-10998 Filed 4-21-78; 8:45 am]

[6210-01]

[Docket No. R-0138]

NET SETTLEMENT OF MEMBER BANK RESERVE ACCOUNTS AND AUTOMATED CLEARING HOUSES

Announcement of Actions

APRIL 17, 1978.

SUMMARY STATEMENT: On December 27, 1977, the Board of Governors published for comment notice of its intention to take two actions to improve its funds transfer and clearing services (43 FR 1005). The Board has considered the comments received and the overwhelming majority of them support both proposals. The Board has decided to go forward with both actions. The first action concerns the request from a group of member banks participating in a private clearing and settlement organization that Federal Reserve Banks make available to them a net settlement service for their funds transfer messages. The Board has approved this request contingent upon satisfactory operating agreements being entered into between Bankwire and the Federal Reserve Banks. In the second action, the Board

has reaffirmed its plan to authorize Federal Reserve Banks, by year end 1978, to provide interregional clearing and settlement services for funds transfers originated at automated clearing house associations. The Board believes that these actions will improve the efficiency of the nation's payments mechanism and encourage private-sector development of electronic payments services for the public.

FOR FURTHER INFORMATION CONTACT:

James R. Kudlinski, Director, Division of Federal Reserve Bank Operations (202-452-3985); or Allen L. Raiken, Associate General Counsel (202-452-3625), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

I. INTER-DISTRICT NET SETTLEMENT BY FEDERAL RESERVE BANKS FOR MEMBER BANKS

The Board of Governors has considered a request from an organization of member banks that Federal Reserve assistance be provided to member banks participating in an independent privately owned organization providing interbank funds transfer services. The member banks participating in this organization have requested assistance from the Federal Reserve System in an arrangement to use their reserve account balances at Federal Reserve Banks to settle for payment transactions that have been exchanged through a private clearing organization known as the Bankwire to which these member banks belong. Bankwire is operated by the Payment and Administrative Communications Corporation, a privately owned corporation. This settlement arrangement will allow the Federal Reserve member banks in this organization, throughout the country, to transfer among themselves payment instructions via Bankwire and then to settle for those funds transfers on that same day by means of appropriate adjustments to their reserve account balances.

Comments received from member banks participating in the Bankwire organization and others have indicated that significant efficiencies in current clearing and settlement services can be achieved through the use of the requested net settlement service. The service is described in more detail in the Board's earlier announcement concerning this action. The vast majority of comments received by the Board supported the Board's view that adoption of this proposal will enhance the settlement services offered to member banks. The Board expects that the availability of these settlement services will facilitate member bank participation in private-sector payments

clearing arrangements and will result in same-day funds availability for member banks participating in this private-sector clearing organization.

The Board views these services as consistent with the Federal Reserve System's commitment to provide assistance to private sector initiatives directed towards improving the efficiency of the nation's payments mechanism. Providing this net settlement service should permit the Bankwire organization and its member banks to offer improved funds transfer services to the public. Since negotiations have not been completed concerning the details of the agreement setting forth the terms and conditions upon which the net settlement service will be provided, the Board's approval of this request is contingent upon a mutually satisfactory agreement being reached between Bankwire and the Federal Reserve System.

II. INTERREGIONAL CLEARING AND SETTLEMENT SERVICES THROUGH AUTOMATED CLEARING HOUSES

The Board has approved the establishment of an Interregional Automated Clearing House system, which the Federal Reserve System intends to have operational by the end of 1978. In its prior notice, the Board indicated its belief that establishment of an interregional clearing facility will promote the development of a more efficient nationwide payments system available to depository institutions, and will provide research and development data and experience that should be of assistance to other potential developers of automated clearing services. The Board based its view, in part, upon the results of the recently completed pilot study. With few exceptions, the comments received strongly support the establishment of an interregional ACH system by the Federal Reserve.

Since 1968 the Federal Reserve System has assisted groups of depository institutions in the development and operation of automated clearing houses (ACHs) that provide facilities for the exchange of payment information on magnetic tape (1976 Fed. Res. Bull. 481). These facilities were developed as a means of reducing the growing volume and increased cost of processing paper checks. At the present time, the Federal Reserve provides processing, settlement and delivery services on a regional basis for 30 automated clearing house associations and makes available settlement and delivery services for two privately operated ACHs. These facilities are also used in connection with the Federal Reserve's participation as fiscal agent in the Federal government's recurring payments program. At the present time the major portion of Federal Reserve System ACH transactions consist of

direct deposit and other funds transfers for the United States Treasury.

The feasibility and potential benefits of a nationwide ACH facility have been demonstrated in the Treasury's direct deposit program and in the pilot test of interregional commercial payments conducted during 1977. In addition, the large number of comments received favoring establishment of this interconnected ACH system attest to the benefits perceived by financial institutions and others as resulting from such a system. The Board believes, therefore, that the probable longer run efficiencies resulting from interconnection of all operating ACH facilities justify the Board's action at this time to provide these services to the Treasury, member banks, and other members of ACH associations. Such interconnection is likely to encourage the private sector to provide more efficient and innovative payment services to the public. Moreover, the Board continues to regard its action to interconnect the current regional ACH facilities as a research and development program that will provide technical data and experience in the operation of nationwide ACH facilities. The Federal Reserve System intends to make this information available to those in the private sector interested in the development of alternative systems.

At the present time, the Board views as an appropriate activity its participation in a nationwide ACH facility that provides services to member banks, other depository institutions, and the U.S. Treasury.

As indicated in its prior notice of this action, the Board will continue to reevaluate Federal Reserve participation in the ACH program in order to assure that its actions remain consistent with its payment mechanism responsibilities.

In this connection, the Board has considered carefully the comments of the Department of Justice and others that have urged the Federal Reserve to reduce and ultimately to terminate its current involvement in the operation of electronic payment systems. It has been argued that continued Federal Reserve presence may result in a Federal government payments system monopoly precluding the development of private sector alternatives. Similar concerns have been expressed by those urging that a schedule of charges for Federal Reserve ACH and other services be put in place prior to any action to make a nationwide ACH system operational.

The Board has no intention to establish and does not believe that its ACH activities will lead to a governmental monopoly in the field of electronic payments. The record upon which the Board has relied establishes that, at the present time, alternative private sector sources do not exist having the

capability of providing an adequate level of services on a nationwide basis. Although the Board expects the private sector to develop the capability to provide interregional ACH sources in the future, the Board considers it to be extremely unwise and inconsistent with its long-standing payment mechanism responsibilities to withdraw totally from the electronic payments area in the expectation that such action would eventually lead to the development of a nationwide private sector ACH or other payments system network. Rather, the Board intends to proceed cautiously with the ACH interconnection program with an awareness of the effect that its actions may have on private sector developments. The Board recognizes that implementation of a schedule of charges for ACH and other Federal Reserve services would reduce the impact of a Federal Reserve operated interregional ACH system on private development. However, imposition of such charges at this time would also make more severe the burden borne by banks that are members of the Federal Reserve System. Therefore, in the absence of relief from that burden, any pricing structure must take the burden of membership into account. The Board intends to publish a proposed schedule of charges for ACH services as soon as such a schedule can reasonably be developed. It is contemplated that such charges for ACH services will be considered in the context of possible charges for other Reserve Bank services. To achieve equity under such a program, allowance might be made for balances held by users at the Reserve banks.

Board of Governors of the Federal Reserve System, April 14, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-10959 Filed 4-21-78; 8:45 am]

[6820-22]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 8, on May 10, 1978, from 10 a.m. to 4 p.m., in the Executive Conference Room, second floor of Building 41 at the Denver Federal Center in Denver, Colo. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to

furnish professional services for two proposed 1-year term fixed-price contracts: one for the State of Colorado and one for the State of Utah. The meeting will be open to the public.

P. J. MENARDI,
Acting Regional Administrator.

[FR Doc. 78-11085 Filed 4-21-78; 8:45 am]

[4110-24]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Institute of Museum Services

MUSEUM SERVICES PROGRAM

Revised Notice of Closing Date for Receipt of Applications for Fiscal Year 1978

A notice of closing date for receipt of grant applications for fiscal year 1978 under the Museum Services Program was published in the FEDERAL REGISTER on April 7, 1978 (43 FR 14744-45).

The purpose of this notice is to revise the date for use of registered or certified mail for applications under the Museum Services Program. The regular closing date for receipt of applications continues to be June 2, 1978, but an application will be considered to be received on time if it is sent by registered or certified mail not later than May 30, 1978 (rather than May 29). This change is being made because May 29 is a holiday.

For the convenience of applicants, the closing date is set forth in full below with the noted change.

Notice is given that, under the authority contained in section 206 of the Museum Services Act, Pub. L. 94-462, title II (20 U.S.C. 965), applications from museums are being accepted under the Museum Services Program. The Museum Services program provides Federal financial assistance to ease the financial burdens borne by museum as a result of their increased use by the public and to help them carry out their educational and conservation roles as well as other functions. Under this program grants are made to museums to maintain, increase, or improve museum services.

Closing Date: June 2, 1978

(a) *Application forms and information.* The Institute is mailing application forms and program information packages to all museums which are members of the American Association of Museums and to all other institutions which request this material.

Applications must be prepared and submitted in accordance with the proposed regulation, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education,

Application Control Center, Attention: 13.923, Washington, D.C. 20202. (While the Institute is not part of the U.S. Office of Education, that Office is making available its facilities to receive applications invited under this notice.) Applications must be received by the Application Control Center on or before the closing date. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than May 30, 1978 (rather than May 29), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Director of the Institute of Museum Services will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

Strict compliance with the closing date and these procedures is required. Late applications will be returned to the applicants.

(d) *Program information.* A Notice of Proposed Rulemaking for the Museum Services Program was published in the FEDERAL REGISTER on March 28, 1978 on pages 13012-13017. That notice sets forth a proposed regulation containing rules for the award of grants to museums from funds appropriated under the Museum Services Act, including rules governing the eligibility of applicant institutions, the types of assistance which may be provided, the information which must be included in applications, and the criteria to be used in judging applications. As finally adopted, the regulation will constitute a new Part 64 of Title 45 CFR.

Applications will be accepted from institutions which qualify as museums under the definition set forth in the proposed regulation. Museums providing services for more than two years will receive priority. The program appropriation for fiscal year 1978 is

\$3,700,000. Not less than 75 percent of this amount is reserved for grants for general operational support, the balance is for project support to assist such activities as staff training programs, technical assistance, demonstration of conservation methods, programs for specific segments of the public, exemplary educational programs, and inter-museum cooperation. A museum may apply for both operational and project support. A museum which applies under both categories should submit separate applications.

In view of limited funds for fiscal year 1978, a museum can expect to receive not more than \$25,000 under the program. Most museums which are funded can expect a smaller amount.

(e) *For further information and forms contact*, Peggy A. Loar, Institute of Museum Services, Room 326H, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201, telephone 202-245-6753.

(f) *Applicable regulations*. Applicants should base applications on the proposed regulation in the Notice of Proposed Rulemaking published on March 28, 1978. As finally adopted, that regulation will govern awards and performance of grants under the Museum Services Program. The proposed regulation identifies other regulations of the Department of Health, Education, and Welfare applicable to the program.

If material changes are subsequently made in the final regulation which relate to the preparation of applications for the current fiscal year, applicants will be permitted to amend their applications.

Dated: April 18, 1978.

(Catalog of Federal Domestic Assistance No. 13.923; Institute of Museum Services.)

LEE KIMCHE,
Director, Institute of
Museum Services.

[FR Doc. 78-11005 Filed 4-21-78; 8:45 am]

[4110-02]

Office of Education

COMMITTEE ON PROGRAM EFFECTIVENESS
AND EVALUATION

Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Committee on Program Effectiveness and Evaluation of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory

Committee Act (Pub. L. 92-463, sec. 10(a)(2)).

DATE: May 19, 1978, 8 p.m. to 10 p.m., and May 20, 1978, 9 a.m. to 1 p.m.

ADDRESS: Hyatt House Hotel-Airport, Seattle-Takoma Airport, Seattle, Wash.

FOR FURTHER INFORMATION CONTACT:

Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th Street NW., Washington, D.C. 20004, 202-376-8892.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under section 311 of the Adult Education Act (80 Stat. 1216, 20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Committee shall be open to the public.

The proposed agenda includes: Review of the Committee's program and administrative and effectiveness report; development of concerns and recommendations for the Committee's evaluation report; annual report; Seattle Council meeting.

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, Room 323, Pennsylvania Building, 425 13th Street NW., Washington, D.C. 20004.

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

GARY A. EYRE,
Executive Director, National Advisory Council on Adult Education.

[FR Doc. 78-10994 Filed 4-21-78; 8:45 am]

[4110-02]

Office of Education

NATIONAL ADVISORY COUNCIL ON THE
EDUCATION OF DISADVANTAGED CHILDREN

Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the next meeting of the National Advisory Council on the Education of Disadvantaged Children will be held on Friday, May 12 (Site visits), and the Council will host its regular meeting on Saturday, May 13, 1978. The site visits will be conducted in the Washington, D.C. area schools, from 8:30 a.m. to 4:30 p.m., and the regular Council meeting will be held from 9:00 a.m. to 1 p.m., at 425 13th Street NW., Suite 1012, Washington, D.C.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The agenda for the two-day activities will include the following:

1. Site visits in the Washington, D.C. area,
2. Seminar on Migrant Education, and
3. Status Report on ESEA Title I.

All of the above activities will be open to the public. Because of limited space, all persons wishing to attend should call for reservations by May 9, 1978, area code 202-724-0114 and speak with Mrs. Lisa Haywood.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children, located at 425 13th Street NW., Suite 1012, Washington, D.C. 20004.

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

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc. 78-10943 Filed 4-21-78; 8:45 am]

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

SEMINOLE INDIAN RESERVATION, FLA.

Ordinance Legalizing the Introduction, Sale or Possession of Intoxicating Beverages—Amendment

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 230 DM 2 and in accordance with the Act of August 15, 1953, (Pub. L. 277, 83rd Congress, 1st Session; 67 Stat. 586). I

certify that the following Resolution Amending Ordinance No. C-2-65 relating to the application of the Federal Indian Liquor Laws on the Seminole Reservation was adopted September 16, 1977, by the Seminole Tribal Council which has jurisdiction over the area of Indian Country included in the Resolution and Ordinance reading as follows:

RE: TRIBAL LIQUOR LICENSE

SEMINOLE TRIBE OF FLORIDA
HOLLYWOOD, FLA.

AMENDED ORDINANCE NO. C-2-65

An Ordinance Relating to the Application of the Federal Liquor Laws on the Florida Seminole Reservations.

WHEREAS, the Seminole Tribe of Florida is an organized Tribe as defined in Section 16 of the Act of June 18, 1934 (48 Stat. 984) as amended by the Act of June 15, 1935 (49 Stat. 378); and

WHEREAS, Pub. L. 277, 83rd Congress, approved August 15, 1953, provides that Sections 1154, 1156, 3113, 3488 and 3618 of Title 18, United States Code, commonly referred to as the Federal Indian Liquor Laws, shall not apply to any act or transaction within any area of Indian country provided such act or transaction is in conformity with both the laws of the State in which such act or transaction occurs, and with an ordinance duly adopted by the Tribe having jurisdiction over such area of Indian country certified by the Secretary of the Interior and published in the FEDERAL REGISTER.

NOW THEREFORE BE IT RESOLVED: By the Tribal Council of the Seminole Tribe of Florida that the provisions of this Ordinance shall apply on the Hollywood, Brighton, and Big Cypress Reservations under the jurisdiction of the Seminole Tribe of Florida.

Section I: That the introduction, sale or possession of intoxicating beverages shall be lawful within the Indian country under the jurisdiction of the Seminole Tribe of Florida, provided that such introduction, sale or possession is in conformity with the laws of the State of Florida and with the provisions of this Ordinance.

Section II: No person shall engage in the sale of intoxicating beverages within Indian country under the jurisdiction of the Seminole Tribe of Florida unless duly licensed by the Tribal Council of the Seminole Tribe of Florida.

Section III: No tribal liquor license issued under this Ordinance shall be granted to any person not possessing the qualifications and satisfying the conditions hereunder set forth. Any person or persons desiring a tribal liquor license required by Section II of this Ordinance shall file a sworn application for license with the Tribal Council of the Seminole Tribe of Florida. The application shall contain a full and complete showing of the following:

a. (1) Payment of a fee of \$25 for sale of intoxicants for off-premise consumption.

(2) Payment of a fee of \$50 for sale of intoxicants for on-premise consumption.

b. Proof satisfactory to the Tribal Council that the applicant is not an officer or member of the Tribal Council or the board of Directors of the Seminole Tribe of Florida, Inc. or an employee of the Tribe.

Section IV: Any Tribal License issued under this Ordinance shall be subject to the following conditions:

a. The Tribal License shall be for a term of one year, beginning October 1.

b. When a Tribal Liquor License on the reservation is transferred, the licensee shall not operate the establishment until Tribal approval has been obtained as required by this Ordinance.

c. Liquor establishments operating under a Tribal Liquor License shall be closed during voting hours on days of official Tribal elections.

Section V: Issuance of Tribal Licenses

a. Tribal Licenses issued hereunder shall be issued by the Tribal Secretary-Treasurer after approval thereof by the Tribal Council.

b. Fees for Licenses issued hereunder shall be paid to the Tribal Secretary-Treasurer for deposit to the general fund of the Tribe in the Tribe's usual depository.

DONE THIS 16th DAY OF SEPTEMBER, 1977, at the regular meeting of the Tribal Council, duly convened at Hollywood, Fla., by a vote of 5 for, none against, and with no abstentions. (see Resolution No. C-43-78)

Note: This amended reenacted Ordinance replaces original Ordinance No. C-2-65 dated September 11, 1964, by the Tribal Council, and as published at 29 FR 15096, November 7, 1964, and certified on November 3, 1964, by Secretary of the Interior, Stewart L. Udall.

HOWARD E. TOMMIE,
Chairman,
Tribal Council.

Dated: April 13, 1978.

Attest:

DOROTHY S. OSCEOLA,
Secretary-Treasurer,
Tribal Council.

Approved:

FORREST J. GERARD.

[FR Doc. 78-10779 Filed 4-21-78; 8:45 am]

[4310-84]

Bureau of Land Management

[W-54972 Amended]

WYOMING

Application

APRIL 13, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Mountain Fuel Supply Co. of Salt Lake City, Utah, filed an amendment application to its existing right-of-way to construct three 10 inch lateral pipelines, a 4 inch water pipeline, a gas sweetening plant site, an evaporation pond and access roads for the purpose of transporting and processing natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 14 N., R. 112 W.,

¹Filed as part of the original documents.

Sec. 6.
T. 15 N., R. 112 W.,
Secs. 29, 30, 31, and 32.
T. 16 N., R. 112 W.,
Secs. 18, 20, and 30.
T. 14 N., R. 113 W.,
Secs. 1, 2, 3, 5, 8, 9, and 10.
T. 15 N., R. 113 W.,
Secs. 12, 13, 24, 25, 31, 32, 35, and 36.
T. 16 N., R. 113 W.,
Sec. 12.
T. 15 N., R. 114 W.,
Sec. 36.

The proposed lateral to serve the Butcher Knife Spring Unit Well No. 4 begins in Lot 8, of Section 6, T. 14 N., R. 112 W., and ends in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36, T. 15 N., R. 113 W., and connects into Mountain Fuel Supply Co.'s proposed Butcher Knife Spring Gas Sweetening plant site.

The proposed Diamond Shamrock lateral begins at the Butcher Knife Federal 1-25 well located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 25, T. 15 N., R. 113 W., and connects into Mountain Fuel Supply Co.'s proposed Butcher Knife Spring Gas Sweetening plant site located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36, T. 15 N., R. 113 W.

The proposed lateral to serve the Butcher Knife Spring Unit Well No. 2 begins in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 1, T. 14 N., R. 113 W., and connects into Mountain Fuel Supply Co.'s main pipeline located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36, T. 15 N., R. 113 W., Uinta County, Wyo.

The proposed 4 inch water pipeline begins in the NW $\frac{1}{4}$ of Section 36, T. 15 N., R. 113 W., and ends in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36, T. 15 N., R. 114 W., Uinta County, Wyo.

The proposed Cedar Mountain access road begins in the NW $\frac{1}{4}$ of Section 36, T. 15 N., R. 113 W., and ends in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 36, T. 15 N., R. 114 W., Uinta County, Wyo.

The proposed Church Buttes to Butcher Knife access road begins in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 1, T. 16 N., R. 113 W., and ends in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 1, T. 14 N., R. 113 W., Uinta County, Wyo.

The proposed evaporation pond consists of 5.7 acres located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 25 and in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36, T. 15 N., R. 113 W., Uinta County, Wyo.

The proposed Butcher Knife Spring Gas Sweetening plant site consists of 23.0 acres and is located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35, and in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36, T. 15 N., R. 113 W., Uinta County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address

and send them directly to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and
Minerals Operations.

[FR Doc. 78-10926 Filed 4-21-78; 8:45 am]

[4310-70]

National Park Service
[INT DES 78-10]

**PROPOSED MASTER PLAN, BIG BEND
NATIONAL PARK, TEX.**

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for a proposed master plan for Big Bend National Park, Tex., and invites written comments on or before June 8, 1978. Written comments should be addressed to the Superintendent, Big Bend National Park, at the address given below.

The draft environmental statement considers development and management proposals for the park in general, Chisos Basin, Panther Junction, Rio Grande Village, Castolon, Persimmon Gap, and Maverick.

Copies are available from and for inspection at the following locations:

Southwest Regional Office, National Park Service, 1100 Old Santa Fe Trall, P.O. Box 728, Santa Fe, N. Mex. 87501.

Chamizal National Memorial, Room 620, Southwest National Bank Building, 300 East Main Drive, El Paso, Tex. 79901.

Big Bend National Park, Big Bend National Park, Tex. 79834.

Field Assistant to the Regional Director, Room 10-G-3, Fritz G. Lanham Federal Center, 819 Taylor Street, Fort Worth, Tex. 76102.

Dated: April 13, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary
of the Interior.

[FR Doc. 78-10992 Filed 4-21-78; 8:45 am]

[4310-70]

[Order No. 6]

**ADMINISTRATIVE OFFICER, ET AL.; YOUNG
ADULT CONSERVATION CORPS**

**Delegation of Authority Regarding Purchasing
Authority**

SECTION 1 (a) *Administrative officer.* The administrative officer may issue purchase orders not in excess of \$50,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

(b) *Camp director.* The camp director may issue purchase orders not in excess of \$50,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

(c) *Purchasing agent.* The purchasing agent may issue purchase orders not in excess of \$500 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

(National Park Service Order No. 77, 38 FR 7478, as amended, Southwest Region Order No. 5, 37 FR 7722 as amended.)

Dated: March 9, 1978.

WILLIAM E. DYER,
Superintendent,
Lake Meredith Recreation Area.

[FR Doc. 78-11011 Filed 4-21-78; 8:45 am]

[4310-70]

[Order No. 31]

ADMINISTRATIVE OFFICER ET AL.

**Delegation of Authority Regarding Execution
of Contracts for Supplies, Equipment or
Services**

SECTION 1. The administrative officer may execute and approve contracts not in excess of \$25,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. The authorities stated herein are applicable to the Southern Arizona Group in its entire jurisdiction.

SEC. 2. The procurement officer may execute and approve contracts not in excess of \$10,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. The authorities stated herein are applicable to the Southern Arizona Group in its entire jurisdiction.

SEC. 3. Officers designated to serve in acting capacities during absences of the general superintendent, may exercise all the procurement and contracting authority of the general superintendent, in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. The authorities stated herein are applicable to the Southern Arizona Group in its entire jurisdiction.

SEC. 4. *Redelegation.* The authority delegated in sections 1, 2, and 3 may not be redelegated.

SEC. 5. *Revocation.* This order supersedes order No. 2, dated February 26, 1974, and published April 18, 1974 (39 FR 13903).

(National Park Service Order No. 77 (38 FR 7478), as amended; Western Region Order

No. 7 (37 FR 6326), as amended, dated March 28, 1972.)

Dated: March 14, 1978.

JOHN H. CLAY,
General Superintendent,
Southern Arizona Group.

Dated: March 21, 1978.

JOHN H. DAVIS,
Acting Regional Director,
Western Region.

[FR Doc. 78-11012 Filed 4-21-78; 8:45 am]

[4310-70]

**CUYAHOGA VALLEY NATIONAL RECREATION
AREA ADVISORY COMMISSION**

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Cuyahoga Valley National Recreation Area Advisory Commission will be held at 7:30 p.m. (e.d.t.), May 18, 1978, at Happy Days Information Center on State Route 303 across from the Park headquarters building in Peninsula, Ohio.

The Commission was established by Pub. L. 93-555 to meet and consult with the Secretary of the Interior on matters relating to the development of the Cuyahoga Valley National Recreation Area and with respect to carrying out the provisions of the Pub. L.

The members of the Commission are as follows:

Mrs. Robert G. Warren (Chairman)
Mr. Courtney Burton
Mr. Norman A. Godwin
Mr. Donald W. Haskett
Mr. Robert L. Hunker
Mr. James S. Jackson
Mr. Melvin J. Rebholz
Mrs. Roger L. Rossi
Mrs. George N. Seltzer
Ms. Robbie Stillman
Mr. Barry K. Sugden
Mr. Robert W. Teater
Mr. William O. Walker

Matters to be discussed at this meeting include:

1. Report on park operations.
2. Land use adjacent to the park.
3. Concerns of residents of Valley Trailer Park.
4. Status of land acquisitions.
5. Review of the general management plan.

The meeting will be open to the public. Interested persons may submit written statements to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from William C. Birdsall, Superintendent, Cuyahoga Valley National Recreation Area, P.O. Box 158, Peninsula, Ohio 44264, telephone 216-653-3313. Minutes of the meeting will be available for public inspection three weeks after the meeting at the office of Cuyahoga Valley National Recreation Area, lo-

cated at 501 West Streetsboro Road, State Route 303, 2 miles east of Peninsula, Ohio.

Dated: April 11, 1978.

RANDALL R. POPE,
Acting Regional Director,
Midwest Region.

[FR Doc. 78-11014 Filed 4-21-78; 8:45 am]

[4310-70]

HATCH RIVER EXPEDITIONS, INC.

Intention To Extend Concession Permit

Pursuant to the provisions of section 5 of the act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on or before May 24, 1978, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession permit with Hatch River Expeditions, Inc., authorizing it to continue to provide concession facilities and services for the public at Dinosaur National Monument for a period of three (3) years from January 1, 1976, through December 31, 1978.

An assessment of the environmental impact of this proposal action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Office of the Superintendent, Dinosaur National Monument, P.O. Box 210, Dinosaur, Colo. 81610.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expired by limitation of time on December 31, 1975, and therefore, pursuant to the act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. This provision, in effect, grants Hatch River Expeditions, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new permit and a preference in the award of the permit if, thereafter, the offer of Hatch River Expeditions, Inc., is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before May 24, 1978.

Interested parties should contact the Superintendent, Dinosaur National Monument, P.O. Box 210, Dinosaur, Colo. 81610, for information as to the requirements of the proposed permit.

Dated: April 13, 1978.

WILLIAM J. WHALEN,
Director,
National Park Service.

[FR Doc. 78-11013 Filed 4-21-78; 8:45 am]

[4310-70]

PACIFIC NORTHWEST TRAIL STUDY

Public Meetings

Notice is hereby given that a series of seven public meetings will be conducted for the purpose of obtaining information and to provide for public discussion concerning the feasibility and desirability of establishing a Pacific Northwest National Scenic Trail. This joint National Park Service and Forest Service study is in response to Pub. L. 94-527 which authorized a study of a proposed trail route which would extend approximately 1,000 miles between Glacier National Park in Montana and Olympic National Park in Washington. The meeting times and places are as follows:

May 1, 1978, 7:30 p.m., 4th Floor Auditorium, Federal Building, 915 Second Avenue, Seattle, Wash.

May 2, 1978, 7:30 p.m., Visitor Center, Olympic National Park, 600 East Park Avenue, Port Angeles, Wash.

May 3, 1978, 7:30 p.m., Hearing Room B, Skagit County Courthouse, Second and Kincaid, Mount Vernon, Wash.

May 9, 1978, 7:30 p.m., Okanogan Public Utility District Office, Okanogan, Wash.

May 10, 1978, 7:30 p.m., U.S. Courthouse, Room 752, West 920 Riverside Avenue, Spokane, Wash.

May 11, 1978, 7:30 p.m., Memorial Auditorium, Oak Street, Bonners Ferry, Idaho.

May 13, 1978, 2 p.m., Remington Room, Outlaw Inn, Kalispell, Mont.

Written statements concerning the trail proposal may be submitted to the Regional Director, Pacific Northwest Region, National Park Service, 601 Fourth and Pike Building, Seattle, Wash. 98101, for 30 days following the last scheduled meeting.

Additional information concerning the study or meetings may be obtained from the Regional Director, Pacific Northwest Region, National Park Service, or the Regional Forester, Region 6, P.O. Box 3623, Portland, Oreg. 97208.

Dated: March 29, 1978.

RUSSELL E. DICKENSON,
Regional Director, Pacific
Northwest Region, National
Park Service.

[FR Doc. 78-11010 Filed 4-21-78; 8:45 am]

[4310-70]

POINT REYES NATIONAL SEASHORE

Boundary Revisions

Pursuant to the Act of December 26, 1974, Pub. L. 93-550 (88 Stat. 1744), Section 201, The Secretary of the Interior is authorized to revise the boundary of Point Reyes National Seashore to include two additional areas within the Seashore, Marin County, Calif.

Notice is hereby given that the boundaries of the Point Reyes National Seashore have been revised, pursuant to the above act to include the land described as follows:

AREA I

Beginning at a point on the existing boundary said point being also North 22°46' West 26.3 feet from the Southwest corner of the tract of land conveyed by J. G. Rapp, et ux to Frederick W. Van Sicklen by Deed dated May 5, 1921 and recorded in Volume 227 of Deeds at page 259, Marin County Records; thence North 71°57' East 1450.00 feet to the Westerly line of the tract of land conveyed by John G. Rapp and wife to Lionel Battersby by Deed dated August 1, 1923 and recorded in Volume 23 of Official Records at page 427, Marin County Records; thence along the line of said Battersby Tract, South 33°38' East 41.9 feet to the Southwest corner of said tract; thence South 33°38' East 284.4 feet to the Northwest corner of the tract of land conveyed by John G. Rapp and wife to Robert W. Chitty and Annie M. Chitty by Deed dated January 30, 1924 and recorded in Volume 40 of Official Records at page 111, Marin County Records; thence South 33°38' East 182.1 feet to the Southwest corner of said Chitty Tract; thence North 71°57' East 325.7 feet to the most westerly corner of the parcel of land conveyed to the State of California by Deed recorded February 14, 1963 in Liber 1658 of Official Records at page 23; thence along the Southwesterly line of said State parcel South 18°03'00" East (called South 16°03'33" East in said State Deed) 250.00 feet; thence along the Southeasterly line of said State parcel, North 71°57' East (called North 73°56'33" East in said State Deed) 453.01 feet to the Southwesterly line of the Olema Point Reyes Road; thence Southerly along said road to the Southeast corner of the tract of land conveyed by John G. Rapp and wife to Clarmida Bloom by Deed dated March 17, 1920 and recorded Book 214, Page 41 Marin County Records; thence along the line of said Bloom tract South 56°55' West 795 feet to the Southeast corner of said tract. Thence South 34°08' East 791.04 feet to the Southwest corner of the tract of land conveyed by John G. Rapp and wife to Joseph Gamboni Sr., by Deed dated February 20, 1920 and recorded in Volume 211 of Deeds at page 460 Marin County Records; thence South 29°15' East 586.74 feet to a 6' x 6' redwood post marked 479 set to mark Station 479 of the Final and Official Survey to the exterior boundary line of the Rancho Punta de los Reyes Sobrante; thence following said boundary line of said Rancho, South 59°30' East 356.4 feet, South 67°00' East 481.8 feet to the Southerly line of county road (known as "Bear Valley Road") conveyed by John G. Rapp, et ux to the county of Marin by Deed recorded April 6, 1921 in Liber 224 of Deed at page 431;

thence southwesterly and northwesterly along said Bear Valley Rd. to the point of beginning, containing 281.05 acres, more or less.

AREA II

Beginning at a point on the existing Point Reyes National Seashore boundary which point is the most Southerly corner of the parcel of land described in the deed from Marin County Abstract & Title Co. to Charles R. Scott, et ux, recorded September 7, 1965 Liber 1977 O. R. page 310, Marin County; Running thence along the southerly line of the parcel so conveyed to Scott, North 76° 18' East 86.3 feet, more or less, to a point on the Westerly line of parcel of land described in the deed from Marin County Abstract & Title Co. to David Shupp recorded August 11, 1953 in Liber 1209 O. R. page 74, Marin County Records; thence along the aforesaid Westerly line of parcel so conveyed to Shupp and the Westerly line of parcel of land described in deed from Walter G. Moore, et ux, to Dorcas B. Roth recorded September 18, 1962 in Liber 1611 O. R. page 565, South 13° 01' East 190 feet, more or less, to the most Westerly corner of the parcel of land described in the deed from Marin County Abstract & Title Co. to Charles S. West, et ux, recorded March 26, 1958 in Liber 1179 O. R. page 541, Marin County Records; thence along the Westerly line of said parcel South 17° 01' 20" East 135.84 feet; thence South 76° 18' West 100.00 feet; thence South 3° 34' 50" East 120.80 feet; thence South 38° 06' 16" West 370.33 feet, more or less, to the most southerly corner of parcel of land described by Assessor's Parcel No. 114-120-50 as depicted on assessor's map Book 114 page 12, County of Marin, Calif., last revision dated February 29, 1972; thence South 13° 24' West 495 feet more or less to a point on the Northwesterly corner of parcel Two of the conveyance to Paul R. Miller, et ux, by deed recorded October 26, 1971 in Book 2513 page 317 of Official Record in County of Marin; thence North 73° 00' East 323.28 feet; thence South 17° 27' East 507 feet to a point which bears North 73° 00' East 200 feet more or less from monument No. 19 as described by Assessor's Parcel No. 114-300-24 as depicted on assessor's map Book 114 page 30, County of Marin, Calif., last revision dated December 1, 1972; thence North 73° 00' East 400 feet, more or less, to a point which bears North 67° 00' West 2450 feet, more or less to an angle point in the Northerly boundary line of the parcel of land described as Parcel One, Exhibit A, in the deed from American Cement Corp. to David S. Adams & Sons, Inc., a corporation, recorded September 17, 1971 in Book 2503 O. R. page 39, Marin County Records, said angle point being formed by the courses South 62° 44' 04" West 1401.74 feet and South 75° 25' 45" East 1499.4 feet as the same are set forth in the above described deed; thence South 75° 25' 45" East 1499.94 feet to the Northwesterly corner of the tract of land conveyed by James W. Lockhart to James W. Lockhart, et ux, by deed recorded December 30, 1955 in Liber 996 O. R. page 564; thence along the Westerly line of the Lockhart tract of land South 17° 10' East 111.8 feet; thence South 22° 23' East 275.8 feet; thence South 31° 17' East 323.7 feet, more or less, to the Northeasterly corner of the parcel conveyed to Kenneth Weis, et ux, by deed recorded March 1, 1966 in Liber 2028 O. R. page 485; thence along the Northwesterly line of said Weis parcel and the extension thereof South 61° 57'

West 575.84 feet, more or less, to the most Westerly corner of the parcel conveyed to H. Harvey Scholten, et ux, by deed recorded July 9, 1965 in Liber 1958 O. R. page 581; thence South 28° 03' East 50.0 feet, more or less to the most Northerly corner of the parcel conveyed to Richard R. Clark, et ux, by deed recorded July 15, 1949 in Liber 620 O. R. page 213; thence along the Northwesterly line of said Clark parcel and the extension thereof South 61° 57' West 733.84 feet, more or less to the Northeasterly line of the parcel conveyed to Denis B. Grace, et ux, by deed recorded February 20, 1967 in Liber 2109 O. R. page 462; thence North 28° 03' West 643.75 feet to the most Northerly corner of said Grace parcel; thence South 61° 57' West 338.32 feet to the most Westerly corner of the parcel conveyed to Ragnhild Langlet by deed recorded October 21, 1964 in Liber 1873 O. R. page 262; thence South 28° 03' East 180.0 feet, more or less to the most Northerly corner of the parcel conveyed to Alan W. Swabacker, et ux, by deed recorded March 16, 1960 in Liber 1353 O. R. page 138; thence along the Northwesterly line of said Swabacker parcel and the extension thereof South 61° 57' West 983.92 feet, more or less, to the most Westerly corner of the parcel conveyed to Barnarr Bates, et ux, by deed recorded January 20, 1958 in Liber 1166 O. R. page 421, said corner being on the Northeasterly line of the tract of land conveyed to Leland S. Murphy by deed recorded December 2, 1929 in Liber 186 O. R. page 332, said corner also being on the existing Point Reyes National Seashore boundary; thence proceeding northerly along the existing Point Reyes National Seashore boundary line to the point of beginning, containing 167.83 acres, more or less.

The above legal descriptions are depicted on segment plat 12 numbered 612/80,500 prepared by the Western Regional Office of the National Park Service. This map is on file and available for inspection in the Western Regional Office, the office of the Superintendent of the Point Reyes National Seashore, and in the offices of the National Park Service, Department of the Interior, Washington, D.C. 20240.

Dated: March 9, 1978.

HOWARD H. CHAPMAN,
Regional Director,
Western Region.

[FR Doc. 78-11009 Filed 4-21-78; 8:45 am]

[4710-01]

INTERNATIONAL JOINT COMMISSION—UNITED STATES AND CANADA

GREAT LAKES POWER CORPORATION, LTD.

Request for Permission To Proceed With Redevelopment of the Hydroelectric Generating Facilities at Sault Ste. Marie, Ontario

Notice is hereby given that the International Joint Commission has received a request from Great Lakes Power Corp., Ltd., for permission to proceed with redevelopment of its hydroelectric generating facilities in the

St. Marys River at Sault Ste. Marie, Ontario. The request has been made in connection with the regulation of Lake Superior under the Commission's 1914 Order of Approval.

Since the proposed activity will affect the levels and flows of boundary waters, the Commission's approval is required. The Commission has continuing jurisdiction over the water levels and outflows of Lake Superior under its 1914 Order. Accordingly, a formal application is not required.

Great Lakes Power Corp., Ltd.'s current hydroelectric generating facility is capable of using only a portion of the water the Corporation is entitled to divert for power purposes under the 1914 Order of Approval. The redevelopment facility will be capable of using Great Lakes Power Corp.'s full share of St. Marys River water under the Order. The redevelopment program will involve the closure of the present diversion channel at Sault Ste. Marie, Ontario, thus restricting the total discharge capacity of the control works in the St. Marys River. The Commission has requested its International Lake Superior Board of Control to undertake an in-depth study of the redevelopment proposal to assist the Commission in determining whether the project should proceed and, if so, under what conditions.

Before the Commission reaches a decision on the request by the Great Lakes Power Corp., a hearing will be held in the area. The hearing will likely be held during the latter part of this year. The time and place will be announced at a later date.

The Commission invites governments and interested persons, including municipalities, corporations, partnerships, associations, and individuals to submit comments on the redevelopment proposal. These comments will be made part of the public record and available for review in the Commission's offices.

Copies of Great Lakes Power Corp.'s request, along with supporting documents are available on request from the Secretaries of the Commission and from Great Lakes Power Corporation in Sault Ste. Marie, Ontario.

William A. Bullard, Secretary, U.S. Section, International Joint Commission, Suite 200, 1717 H Street NW., Washington, D.C. 20440, STOP 86, 202-296-2142.

David G. Chance, Secretary, Canadian Section, International Joint Commission, Suite 850, 151 Slater Street, Ottawa, Ontario, Canada, K1P 5H3, 613-992-2945.

WILLIAM A. BULLARD,
Secretary, United States Section.

APRIL 18, 1978.

[FR Doc. 78-10993 Filed 4-21-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE
COMMISSION

[AA1921-179]

CARBON STEEL PLATE FROM JAPAN

Determination

APRIL 18, 1978.

On January 18, 1978, the United States International Trade Commission received advice from the Department of the Treasury that carbon steel plate from Japan is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on January 23, 1978, the Commission instituted investigation No. AA1921-179 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notices of the institution of the investigation and of the time and place of the public hearings were published in the FEDERAL REGISTER of January 31, 1978, (43 FR 4125) and February 14, 1978, (43 FR 6342), respectively. The public hearings in connection with this investigation were held in Seattle, Wash. on March 7, 1978, and in Washington, D.C. on March 16 and 17, 1978, at which all interested persons were provided an opportunity to appear by counsel or in person.

On the basis of the information obtained in its investigation No. AA 1921-179, the Commission determines unanimously¹ that an industry in the United States is being injured by reason of the importation of carbon steel plate from Japan that is being, or is likely to be, sold at less than fair value within the meaning of the antidumping act, 1921, as amended.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested persons and information adduced at the hearing as well as information provided by the department of the Treasury and data obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

STATEMENT OF REASONS FOR AFFIRMATIVE DETERMINATION OF CHAIRMAN MINCHEW AND COMMISSIONER ALBERGER

In order for a Commissioner to make an affirmative determination in an investigation under the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), it is necessary to find that an

industry in the United States is being or is likely to be injured, or is prevented from being established,² and the injury or likelihood thereof must be by reason of imports at less than fair value (LTFV).

DETERMINATION

On the basis of information obtained in this investigation, we determine that an industry in the United States is being injured by reason of the importation of carbon steel plate from Japan, which the Department of the Treasury (Treasury) has determined is being, or is likely to be, sold at LTFV.

THE IMPORTED ARTICLE AND THE DOMESTIC INDUSTRY

Carbon steel plate, the subject of this investigation, is a finished steel mill product which is used in the manufacture of boilers, storage tanks, railway cars, ships, nonelectric machinery and nonresidential construction. A like class of merchandise is produced in the United States, principally by 11 U.S. firms. We consider the relevant industry to consist of those facilities in the United States devoted to the production of carbon steel plate.

LTFV SALES

The Treasury investigation covered sales made between October 1, 1976, and March 31, 1977. The investigation was limited to five manufacturers who together accounted for more than 70 percent of all sales of carbon steel plate from Japan to the United States. Treasury found LTFV margins on the following percentage of sales by these manufacturers: 88 percent of sales by Nippon Steel Corp., 81 percent of sales by Nippon Kokan K.K., 88 percent of sales by Sumitomo Metal Industries, Ltd., 49 percent of sales by Kawasaki Steel Corp., and 90 percent of sales by Kobe Steel, Ltd. Treasury found the weighted average margin of the five Japanese producers to be 7.9 percent.

THE ISSUE OF A NATIONAL OR REGIONAL INDUSTRY

It was urged by petitioners that the Commission look at injury to a regional market, namely the Pacific Northwest. Other domestic industry representatives suggested several other regional markets which they alleged were suffering injury.

The statute requires the Commission to make its determination based upon "an industry in the United States". The industry may be considered "regional" in character, particularly where: (1) domestic producers of an article are located in and serve a particular regional market predominantly or

exclusively and (2) the LTFV imports are concentrated primarily in the regional market.³ In this case, the first criterion is met, since transportation costs virtually prohibit overland shipment of carbon steel plate for sale at competitive prices more than 500 miles from a domestic mill. However, the second criterion is not met. The LTFV sales are spread throughout the United States. In fact, only 13 percent of all Japanese imports in this product came through Pacific Northwest ports during the period in question. This fact distinguishes the present case from the earlier cases in which petitioner was involved and decisions were made by this Commission using the regional market approach.⁴

NON-LTFV SALES

Counsel for Armco Steel Corp. and Bethlehem Steel Corp. asserts that the LTFV pricing practices of the Japanese caused European suppliers to respond with even larger price reductions, and that we should consider the injury caused by imports from the EEC in our determination. Counsel contends that by virtue of the Trigger Price Mechanism (TPM) we are able to determine that such imports are being made at LTFV, and cites the prior practice of some commissioners of cumulating LTFV sales to reach an injury finding.⁵ Thus, counsel urges us to cumulate imports from the EEC and other countries with imports from Japan that were the sole basis of Treasury's LTFV determination.

Since we have found injury by reason of LTFV imports of carbon steel plate from Japan, we need not reach counsel's assertion. However, we are not persuaded that the publication of higher prices for carbon steel plate amounts to a formal determination by Treasury of what constitutes LTFV sales. This Commission is not authorized to determine whether imports have been sold at LTFV within the meaning of section 201 of the Antidumping Act. Hence, we reject counsel's contention that the TPM was or is a determination on which this Commission can base its findings. Such an approach would require us to make findings of fact with respect to pricing practices that clearly fall outside our statutory mandate.

THE QUESTION OF INJURY OR LIKELIHOOD THEREOF BY REASON OF LTFV SALES

Imports and market share.—Imports from Japan increased steadily from

¹U.S. Senate, Report of the Committee on Finance to Accompany H.R. 10710, Trade Act of 1974, S. Rept. No. 93-1298 (93d Cong., 2d Sess.) 1974 at pp. 180-81.

²See: Steel Bars, Reinforcing Bars, and Shapes from Australia, AA1921-62, T.C. Pub. 314 (1970); Carbon Steel Bars and Shapes from Canada, AA1921-39, T.C. Pub. 135 (1964); Steel Reinforcing Bars from Canada AA1921-33, T.C. Pub. 122 (1964).

³Transcript of March 16, 1978.

⁴Prevention of the establishment of an industry is not an issue in this investigation and will not be discussed further.

⁵Vice Chairman Joseph O. Parker and Commissioner Italo H. Ablondi not participating.

1973 through 1976, and then declined sharply in 1977. The increases occurred at a time when the U.S. market was shrinking, resulting in a rapid rise in market share enjoyed by the Japanese. Their market share was 5 percent in 1974, increasing to 10 percent in 1976, and then decreasing back to 5 percent in 1977. During the period of LTFV sales, the Japanese market share averaged nearly 11 percent.

Capacity utilization.—Due to labor strikes, alternate uses of the equipment used to produce carbon steel plate, and some problems with supplies of raw steel, it is likely that our data on capacity utilization overstates the idling of productive facilities. The Commission staff tabulated data shows capacity utilization dropping from 75 percent in 1974 to 45 percent in 1976, climbing slightly to 50 percent in 1977. While the absolute percentages reflect the impact of other factors in addition to imports, the trend parallels the relative changes in imports from Japan.

U.S. producers' shipments.—Shipments reached a high of 9 million short tons in 1974, then declined sharply in 1975 and 1976 to a low of 5.6 million short tons, then recovered slightly to 5.86 million short tons in 1977.

Consumption.—Figures for apparent consumption show the same emerging pattern of declines from a 1974 high of nearly 10 million short tons to a low of 6.8 million short tons in 1976, before recovering in 1977 to about 7.4 million short tons. When apparent consumption is adjusted to reflect known changes in inventories of end users and distributors, the trend changes, with the low year being 1975 and increases in estimated consumption occurring in both 1976 and 1977.

Employment.—Employment statistics indicate a steady decline in the average number of production and related workers. The total dropped from 21,500 in 1974 to 14,600 in 1977. The number of manhours worked also declined from 42.8 million in 1974 to 29.6 million in 1976, although 1977 figures show a recovery to 31.5 million.

Profit and loss experience.—While net operating profits and the ratio of those profits to net sales were at high levels in 1973 and 1974, the aggregate data from the ten companies responding to the Commission questionnaire shows losses in each of the last three years. None of the 10 firms reported losses in either 1973 or 1974, but four, eight, and six reported net losses in 1975, 1976, and 1977 respectively.

Prices.—Prices of Japanese made carbon steel plate increased dramatically from January 1973 through December 1974, a period characterized by shortages and price bidding. With the general downturn in 1975, Japanese import prices dropped 45 percent.

Since 1975, however, prices have risen 20 percent. Despite this, Japanese prices remained almost 20 percent below domestic prices through March 1976, and ranged from 12 percent to 15 percent lower during the period of Treasury's LTFV determination.

In testimony before us, U.S. producers claimed that competition with low priced imports from Japan had forced them to suppress their prices. In fact, the domestic price of carbon steel plate increased more slowly than the wholesale price index of all industrial commodities during 1976 and 1977. This data could, in part, be explained by the alleged domestic practice of offering "discounts" or "specials" to compete with low priced imports.

Lost sales.—Thirty-two purchasers of carbon steel plate contacted by the Commission indicated that Japanese-made plate was offered at lower prices than U.S.-made plate. Twenty-seven reported that price was the primary factor in their purchasing decisions. Most purchasers indicated they had to purchase lower priced Japanese-made plate if they themselves were to remain competitive.

Likelihood of injury.—Having found present injury in this case, we believe it is unnecessary to address the issue of likelihood of injury.

CONCLUSION

From the above considerations, we find that the U.S. industry producing carbon steel plate is being injured by reason of the importation of this product from Japan. While it might be possible to argue that the data for the last 10 months show a lessening of import related injury, particularly since imports from Japan are declining, the most relevant period for analysis is the 6 months in which LTFV sales were found by Treasury. Clearly, all factors—imports and market share, capacity utilization, producers' shipments, employment, profitability, prices, and lost sales—point to injury to the industry in 1976 and the period found by the Department of Treasury to have included LTFV sales. The strongest evidence is in profitability, prices and lost sales, but all factors argue for injury.

STATEMENT OF REASONS FOR THE AFFIRMATIVE DETERMINATION OF COMMISSIONERS GEORGE M. MOORE AND CATHERINE BEDELL

On January 18, 1978, the U.S. International Trade Commission received advice from the Department of the Treasury that carbon steel plate from Japan is being or is likely to be sold in the United States at less than fair value (LTFV). Accordingly, the Commission on January 23, 1978, instituted investigation No. AA1921-179 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to

determine whether an industry in the United States is being, or is likely to be injured, or is prevented from being established,⁶ by reason of the importation of such merchandise into the United States.

DETERMINATION

On the basis of information obtained in this investigation, we have determined that an industry in the United States is being injured by reason of the importation of carbon steel plate from Japan, which the Department of the Treasury (Treasury) has determined is being, or is likely to be, sold at LTFV.

THE IMPORTED ARTICLE AND THE DOMESTIC INDUSTRY

Carbon steel plate, the subject of this investigation, is a finished steel mill product which is used principally in the manufacture of boilers, storage tanks, railway cars, ships, and nonelectric machinery. It also is used extensively in various construction projects including pipelines, bridges and nonresidential buildings. In this determination, we considered the relevant domestic industry to consist of the facilities in the United States devoted to the production of carbon steel plate. Eleven firms account for about 92 percent of all U.S. producers' shipments of carbon steel plate during the last five years.

LTFV SALES

The Treasury investigation covered sales by five Japanese manufacturers made between October 1, 1976, and March 31, 1977. These manufacturers together accounted for more than 70 percent of all sales of carbon steel plate from Japan. Treasury found LTFV margins on the following percentage of sales by these manufacturers: 88 percent of sales by Nippon Steel Corp., 81 percent of sales by Nippon Kokan K.K., 88 percent of sales by Sumitomo Metal Industries, Ltd., 49 percent of sales by Kawasaki Steel Corp. and 90 percent of sales by Kobe Steel, Ltd. Treasury found the weighted average LTFV margin of these five Japanese producers to be 7.9 percent.

INJURY BY REASON OF LTFV SALES

Imports and market share.—Imports from Japan increased steadily from 1973 through 1976, and then declined in 1977. The increases occurred at a time when the U.S. market was shrinking, resulting in a rapid rise in market share enjoyed by the Japanese producers. Their market share was 5 percent in 1974, increasing to 10 per-

⁶Prevention of the establishment of an industry is not an issue in this investigation and will not be discussed further.

cent in 1976, and then decreasing to 5 percent in 1977. During the period of Treasury's investigation of LTFV sales, the Japanese market share averaged nearly 11 percent.

Capacity utilization.—The data tabulated by the Commission's staff show that capacity utilization dropped from 75 percent in 1974 to 45 percent in 1976, but climbed slightly to 50 percent in 1977. These data reflect the impact of factors such as, labor strikes, alternate uses of equipment to produce carbon steel plate, and some problems with securing supplies of raw steel, in addition to imports. Nevertheless, the trend parallels the relative changes in carbon steel plate imports from Japan.

U.S. producers' shipments.—Shipments of U.S. producers reached a high of 9 million short tons in 1974, declined sharply in 1975 and 1976 to a low of 5.6 million short tons, and then recovered slightly to 5.9 million short tons in 1977.

Employment.—Employment data indicate a steady decline in the average number of production and related workers engaged in the domestic production of carbon steel plate. The total dropped from 21,500 in 1974 to 14,600 in 1977. The number of man-hours worked also declined from 42.8 million in 1974 to 29.6 million in 1976, although 1977 data show a slight increase.

Profit and loss experience.—While net operating profits and the ratio of those profits to net sales were at high levels in 1973 and 1974, the aggregate data from the ten companies which responded to the Commission questionnaire show losses in each of the last three years. None of these 10 firms reported losses in either 1973 or 1974, but four, eight, and six reported net losses in 1975, 1976, and 1977 respectively.

Prices.—Prices of Japanese-made carbon steel plate increased dramatically (230 percent) from January 1973 through December 1974, a period characterized by shortages and rising unfilled orders. With the general economic downturn in 1975, Japanese import prices dropped 45 percent within a matter of months. Prices of Japanese steel plate remained almost 20 percent below domestic prices from October 1975 through March 1976, and ranged from 12 to 15 percent lower than domestic prices during the period of Treasury's investigation of LTFV sales. This persistent underselling enabled the Japanese to double their market share from 5 percent of domestic consumption in 1974 to 10 percent in 1976.

In testimony before the Commission, U.S. producers claimed that competition with low-priced imports from Japan suppressed their prices. In fact, the domestic price of carbon steel

plate increased more slowly than the wholesale price index of all industrial commodities during 1976 and 1977. Information obtained in the investigation shows that some U.S. producers offered "discounts" and "specials" in an attempt to compete with LTFV sales. Such practices contributed to suppression of domestic prices and affected the consequent profitability of those firms attempting to remain price competitive.

Lost sales.—Each of the thirty-two domestic purchasers of carbon steel plate contacted by the Commission indicated that Japanese steel plate was offered at lower prices than U.S.-made plate in 1976 and 1977. Twenty-seven of the respondents reported that price was the primary factor in their purchasing decisions. Most purchasers indicated that they were forced to purchase lower-priced Japanese LTFV plate if they were to remain competitive.

CONCLUSION

Based upon the foregoing considerations, we have determined that an industry in the United States is being injured by reason of the importation of carbon steel plate from Japan which the Secretary of the Treasury has determined is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

Issued: April 19, 1978.

By order of the Commission:

KENNETH R. MASON,
Secretary.

[FR Doc. 78-11081 Filed 4-21-78; 8:45 am]

[4410-18]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

NEW JERSEY SENTENCING GUIDELINES

Solicitation

The National Institute of Law Enforcement and Criminal Justice announces a competitive research grant program to evaluate the New Jersey sentencing guidelines. The purpose of this evaluation is to take advantage of the New Jersey experience in implementing a state-wide sentencing guideline system and assess the results for the maximum benefits to interested jurisdictions. The main objectives of this grant are to evaluate sentencing guidelines from the viewpoints of administration and function, and the impact of reduced sentencing disparity on the CJS and those sentenced.

The solicitation asks for the submission of draft proposals. A formal application will be requested following a peer review process in accordance with

the criteria set forth in the solicitation. In order to be considered, all papers must be postmarked no later than May 31, 1978. This grant is planned for award in September 1978 with funding support not to exceed \$200,000 or 24 months in duration for individual grants. Because this is a research grant program, profit making organizations are prohibited by LEAA policy from receiving funding support.

Further information and copies of the solicitation can be obtained by contacting Rosemary Murphy or Warner J. Merrill, Office of Program Evaluation, NILECJ, 633 Indiana Avenue NW., Washington, D.C. 20531, telephone 202-376-3824.

BLAIR G. EWING,
Acting Director, National Institute of Law Enforcement and Criminal Justice.

[FR Doc. 78-10925 Filed 4-21-78; 8:45 am]

[4410-18]

Law Enforcement Assistance Administration

POLICE—COMMUNITY RELATIONS

Solicitation for Submission of Concept Papers

The National Institute of Law Enforcement and Criminal Justice announces a competitive research grant aimed at acquiring a better understanding of police-community relations with particular reference to facilitating specific tasks associated with police work. The research effort is intended to result in the design of a workable approach that is concerned with providing continuous feedback between citizens and police, on specific issues affecting the police and the community.

The solicitation asks for the submission of concept papers rather than full proposals. Full proposals will be requested following a peer review process in accordance with the criteria set forth in the solicitation. In order to be considered, all papers must be received by the National Institute no later than May 31, 1978. The grant is planned for award in September 1978, with funding support of approximately \$250,000 and a grant period of 24 months duration. Because this is a research grant, profit-making organizations are prohibited by LEAA policy from receiving funding support.

Further information and copies of the solicitation can be obtained by contacting Kay Monte or David Farmer, Office of Research Programs, NILECJ, 633 Indiana Avenue NW., Washington, D.C. 20531, 202-376-3967.

BLAIR G. EWING,
Acting Director, National Institute of Law Enforcement and Criminal Justice.

[FR Doc. 78-10995 Filed 4-21-78; 8:45 am]

[7536-01]

**NATIONAL FOUNDATION ON THE
ARTS AND THE HUMANITIES**

**FEDERAL COUNCIL ON THE ARTS AND THE
HUMANITIES, ARTS AND ARTIFACTS INDEMNITY
PANAL ADVISORY COMMITTEE**

Establishment

Under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) and Office of Management and Budget Circular A-63 of March 1974, and after consultation with the Committee Management Secretariat, it has been determined that an Arts and Artifacts Indemnity Panel Advisory Committee should be established. This committee is necessary and in the public interest in assisting the Federal Council on the Arts and the Humanities in carrying out the duties imposed on it by the Arts and Artifacts Indemnity Act (Pub. L. 94-158).

The Arts and Artifacts Indemnity Panel Advisory Committee's activities include: (1) advising the Federal Council of policy options related to the administration of the Arts and Artifacts Indemnity Act; (2) reviewing and making recommendations on applications for Federal Indemnity; (3) providing expert judgement with respect to the dollar valuation, the adequacy of packing, shipping, and security arrangements, and the cultural, historical, educational, and scientific significance of the objects to be indemnified; and (4) reviewing claims submitted for payment under the Indemnity Act.

The Committee will function as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the act, 15 days from the date of publication of this notice.

Interested persons are invited to submit comments regarding the establishment of the Arts and Artifacts Indemnity Panel Advisory Committee. Such comments, as well as any inquiries, may be addressed to Mr. Stephen J. McCleary, Advisory Committee Management Officer, Federal Council on the Arts and the Humanities, 806 15th Street NW., Washington, D.C. 20506, or call 202-724-0367.

JOSEPH D. DUFFEY,
*Chairman, Federal Council on
the Arts and the Humanities.*

[FR Doc. 78-10938 Filed 4-21-78; 8:45 am]

[7555-01]

**NATIONAL SCIENCE FOUNDATION
ADVISORY COMMITTEE FOR CHEMISTRY**

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Founda-

tion announces the following meeting.

Name: Advisory Committee for Chemistry.
Date and time: May 11-12, 1978, 9 a.m. to 5 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed, May 11-9 a.m. to 1 p.m. Open May 11-1 p.m. to 5 p.m. Open May 12-9 a.m. to 5 p.m.

Contact person: Dr. Richard S. Nicholson, Division of Chemistry, National Science Foundation, Washington, D.C., Telephone 202-632-4262.

Purpose of Committee: To provide program oversight concerning NSF support for research in chemistry.

Agenda: The closed session will involve review of pending proposals. The open session will involve briefing of the Committee by NSF staff on items of topical interest to the Committee.

Reason for closing: The meeting will deal with a review of proposals containing the names of applicant institutions and principal investigators and privileged information from the files pertaining to the proposals. The meeting will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer, pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
*Committee Management
Coordinator.*

APRIL 19, 1978.

[FR Doc. 78-10962 Filed 4-21-78; 8:45 am]

[7555-01]

ADVISORY COMMITTEE FOR EARTH SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting.

Name: Advisory Committee for Earth Sciences.

Date and time: May 11, 12, and 13, 1978; 9 a.m. to 5 p.m. each day.

Place: The National Science Foundation, 1800 G Street NW., Rooms 628, 642, and 643, Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Robin Brett, Division Director, Earth Sciences, Room 602, National Science Foundation, Washington, D.C. 20550; Telephone 202-632-4274.

Purpose of Committee: To provide advice and recommendations concerning support for research in Earth Sciences.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a propri-

etary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
*Committee Management
Coordinator.*

APRIL 19, 1978.

[FR Doc. 78-10964 Filed 4-21-78; 8:45 am]

[7555-01]

ADVISORY COMMITTEE FOR PHYSICS

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting.

Name: Advisory Committee for Physics.

Date and time: May 11-13, 1978, 9 a.m. to 5 p.m. each day.

Place: Room 540, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: May 11, 1978—Open: 9 a.m. to 5 p.m.; May 12, 1978—Closed: 9 a.m. to 11 a.m.; Open: 11 a.m. to 5 p.m.; May 13, 1978—Open: 9 a.m. to 5 p.m.

Contact person: Dr. Laura P. Bautz, Senior Staff Associate, Division of Physics, National Science Foundation, Washington, D.C. Telephone: 202-632-4175.

Summary of minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of committee: To provide advice and recommendations concerning support for research in physics.

AGENDA

May 11, 1978: In-depth review of the NSF Atomic, Molecular, and Plasma Physics Program as viewed in a national perspective; report of the Subcommittee on Job-Related Issues.

May 12, 1978: Closed Session. Discussion of projects under consideration for funding. Open Session. Status of the Fiscal Year 1979 Budget to Congress; planning for the Fiscal Year 1980-82 budget period and beyond; and other topics as appropriate.

May 13, 1978: Continuation of discussions from previous two days.

Reason for closing: The projects being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer, pursuant to provisions of

section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
*Committee Management
Coordinator.*

APRIL 19, 1978.

[FR Doc. 78-10965 Filed 4-21-78; 8:45 am]

[7555-01]

**EXECUTIVE SUBCOMMITTEE, MATERIALS
RESEARCH**

Meeting

In accordance with Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting.

Name: Executive Subcommittee of the Advisory Committee for Materials Research.
Date: May 11 and 12, 1978.
Time: 9 a.m. to 5:30 p.m. each day.
Place: Room 1224, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Open.

Contact person: Dr. Howard W. Etzel, Acting Division Director, Division of Materials Research, Room 408, National Science Foundation, Washington, D.C. 20550, telephone: 202-632-7412.

Summary minutes: May be obtained from the Committee Management Coordinator, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of subcommittee: To provide advice, recommendations, and oversight concerning support for materials research.
Agenda: The Executive Subcommittee will integrate the advice, recommendations, and oversight provided by the Subcommittees on Condensed Matter Sciences, Metallurgy and Materials, Materials Research Laboratories and the national Magnet Laboratory. In addition, division-wide issues, such as instrumentation, multiple support, and trends and opportunities in materials research will be discussed.

M. REBECCA WINKLER,
*Committee Management
Coordinator.*

APRIL 19, 1978.

[FR Doc. 78-10963 Filed 4-21-78; 8:45 am]

[7555-01]

SUBCOMMITTEE ON SOCIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting.

Name: Subcommittee on Sociology of the Advisory Committee for Social Sciences.
Date and time: May 11th and 12th, 1978, 9 a.m. to 5 p.m. each day.
Place: Room 321, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Roland J. Liebert, Program Director, Sociology Program, Room 312, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4204.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Sociology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Officer.

APRIL 19, 1978.

[FR Doc. 78-10961 Filed 4-21-78; 8:45 am]

[7590-01]

**NUCLEAR REGULATORY
COMMISSION**

[Byproduct Material License No. 45-02808-04]

ATLANTIC RESEARCH CORP.

**Assignment of Atomic Safety and Licensing
Appeal Board**

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this civil penalty proceeding:

Alan S. Rosenthal, Chairman
Dr. John H. Buck
Michael C. Farrar

Dated: April 17, 1978.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 78-10982 Filed 4-21-78; 8:45 am]

[7590-01]

[Docket No. 50-261]

CAROLINA POWER & LIGHT CO.

**Issuance of Amendment to Facility Operating
License**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 32 to Facility Operat-

ing License No. DPR-23 issued to Carolina Power & Light Co., which revised Technical Specifications for operation of the H. B. Robinson Steam Electric Plant, Unit No. 2 located in Darlington County, Hartsville, S.C. This amendment is effective as of the date of issuance.

This amendment reduces the allowable pressurizer heatup rate from 200° F per hour to 100° F per hour. This change corrects the heatup rate to the value specified in the design specifications for these vessels which is used as the basis for the fatigue and stress analyses required by section III of the ASME Code.

The application for the amendment complies with the standards and requirements of the Atomic Energy of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 9, 1977, (2) Amendment No. 32 to License No. DPR-23, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, S.C. 29550. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 22nd day of March 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
*Chief, Operating Reactors
Branch No. 1, Division of Op-
erating Reactors.*

[FR Doc. 78-10983 Filed 4-21-78; 8:45 am]

[7590-01]

[Docket No. 50-237]

COMMONWEALTH EDISON CO.

Granting an Exemption From the Requirements of General Design Criterion 50, "Containment Design Basis," of Appendix A to 10 CFR Part 50

The U.S. Nuclear Regulatory Commission (the Commission) has granted an exemption from the requirements of General Design Criterion 50, "Containment Design Basis," of Appendix A to 10 CFR Part 50 to Commonwealth Edison Co. (the Licensee). This exemption relates to the demonstrated safety margin of the Mark I containment system for Dresden Unit No. 2 for recently identified hydrodynamic suppression pool loads associated with a postulated design basis loss of coolant accident and provides for operation under the conditions specified in the NRC staff's "Mark I Containment Short Term Program Safety Evaluation Report" and under any resulting Technical Specification requirements. To this extent, this exemption encompasses any related requirements of 10 CFR Part 50, § 50.55a(g), and General Design Criterion 1. This exemption is effective as of the date of its issuance.

The Commission has evaluated the demonstrated safety margin of the containment system for Dresden Unit No. 2 under present conditions and has concluded that sufficient margin exists to preclude undue risk to the health and safety of the public. This evaluation is documented in the staff's "Mark I Containment Short Term Program Safety Evaluation Report," NUREG-0408, December 1977.

This exemption is granted for an interim period of approximately two years while a more detailed review is conducted. At the conclusion of this review, the design safety margin of the containment system for Dresden Unit No. 2 will be restored to that which was originally intended at the time Dresden Unit No. 2 was licensed for operation. The basis of this exemption is set forth in the letter to the licensee granting the exemption, dated February 28, 1978.

The Commission has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR section 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the Commission's letter to the licensee dated February 28, 1978, and (2) the Commission's "Mark I Containment Short Term Program Safety Evaluation Report," NUREG-0408, December 1977.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Morris Public Library, 604 Liberty Street, Morris, Ill. 60451. A copy of item (1) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors. A copy of item (2) may be obtained upon request addressed to the National Technical Information Service, Springfield, Va. 22161.

Dated at Bethesda, Md., this 17th day of April 1978.

For the Nuclear Regulatory Commission.

RICHARD D. SILVER,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-10981 Filed 4-21-78; 8:45 am]

[7590-01]

[Docket Nos. 50-329A; 50-330A]

CONSUMERS POWER CO. (MIDLAND PLANT, UNITS 1 AND 2) Notice and Order, Revised Dates for Prehearing Conference and Evidentiary Hearing

APRIL 17, 1978.

By Notice and Order dated March 3, 1978, dates were set for a prehearing conference and an evidentiary hearing and a date for providing to the Board specific information prior to the prehearing conference.

On March 23, 1978, a motion for suspension of the said dates was filed on behalf of all parties in view of settlement negotiations. By order of March 28, 1978, the dates set in the March 3, 1978 order were suspended and a conference with counsel was called for April 13, 1978.

At the said conference with counsel, it became clear that the parties envisioned a complex negotiated settlement of a number of issues involving Applicant and Intervenor, which settlement would include an agreement as to license conditions designed to cure the situations found by the Appeal Board in ALAB-452. No separate agreement on license conditions appears feasible. The time required to complete the proposed settlement negotiations may well be six months or more from the date of this notice and order. Moreover, while the parties are quite hopeful of settlement, there can be no assurance that a settlement will be reached finally. Counsel for each of the parties urge suspension of proceedings until negotiations are either successfully consummated or until chances of success become doubtful.

This Board believes that the parties are negotiating in good faith and that

they are sincere in their belief that the proposed indefinite suspension is in the interest, not only of the parties, but also of the public. After consideration, taking into account the age of the case and the fact that the projected settlement involves items entirely outside of this proceeding, the Board concludes that the current proceedings before it should be conducted expeditiously.

Accordingly, in order to dispose of the remanded issues and in accordance with the provisions of 10 CFR 2.104, 2.750, 2.752, and 2.757, please take notice that a prehearing conference will be held at 9:30 a.m., local time, on May 12, 1978, in the Nuclear Regulatory Commission's Hearing Room, Fifth Floor, East West Towers, located at 4350 East West Highway, Bethesda, Md. 20014.

Please take further notice that an evidentiary hearing will commence at 9:30 a.m., local time, on June 6, 1978, in the Nuclear Regulatory Commission's Hearing Room, Fifth Floor, East West Towers, located at 4350 East West Highway, Bethesda, Md. 20014.

The data and documents listed in the Notice and Order of March 3, 1978, should be in the hands of the Board no later than May 8, 1978.

It is so ordered.

Dated at Bethesda, Md., this 17th day of April 1978.

For the Atomic Safety and Licensing Board.

HUGH K. CLARK,
Chairman.

[FR Doc. 78-10980 Filed 4-21-78; 8:45 am]

[7590-01]

[Docket Nos. 50-452; 50-453]

DETROIT EDISON CO. (GREENWOOD ENERGY CENTER, UNITS 2 AND 3)

Order Postponing Prehearing Conference

On April 14, 1978, the applicant requested a postponement of the prehearing conference scheduled for April 26, 1978, since it had appealed the Board's order of April 3, 1978, to the extent that the order admits CEE as a party to this proceeding. Applicant stated that a consideration of the CEE contentions should await the review of the Appeal Board. The motion further stated that the NRC staff has no objection to the postponement of the conference.

On April 13, 1978, CEE moved: (1) That Greenwood be "renoticed"; (2) that the prehearing be rescheduled to commence at 12 noon on a Saturday, proceed for 16 hours followed by an 8-hour recess and then concluded in a 4-hour session on Sunday afternoon; and (3) that CEE be furnished a copy of the Administrative Procedure Act.

All individuals on the service list except Mr. Robert Magnuson (no listing) were contacted by phone, directly or indirectly, on April 17, 1978, and informed the prehearing conference scheduled for April 26, 1978, is postponed. The Board's order of April 3, 1978, did not admit CEE as a party to this proceeding but did state its position on "interest" and out-of-time filing which may or may not be appealable issues. The local press was notified of the postponement.

The Board hereby confirms that the prehearing conference scheduled on April 26, 1978, is postponed. The Board expects the applicant and staff to respond to the various motions filed by CEE.

It is so ordered.

Dated at Bethesda, Md., this 18th day of April 1978.

For the Atomic Safety and Licensing Board.

ELIZABETH S. BOWERS,
Chairman.

[FR Doc. 78-10979 Filed 4-21-78; 8:45 am]

[7590-01]

[Docket No. 50-3351]

FLORIDA POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 24 to facility operating license No. DPR-67 issued to Florida Power & Light Co. (the licensee), which revised technical specifications for operation of St. Lucie plant, unit No. 1 (the facility), located in St. Lucie County, Fla. The amendment is effective as of its date of issuance.

This amendment revises the technical specifications to allow use of certain areas of the spent fuel pool for repair work on fuel assembly guide tubes.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in con-

nection with the issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated April 4, 1978, (2) amendment No. 24 to license No. DPR-67, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Fla. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 14th day of April 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors
Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-10984 Filed 4-21-78; 8:45 am]

[7590-01]

[Docket No. 50-3361]

NORTHEAST NUCLEAR ENERGY CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 37 to facility operating license No. DPR-65 issued to Northeast Nuclear Energy Co., the Connecticut Light & Power Co., the Hartford Electric Light Co., and Western Massachusetts Electric Co., which revised technical specifications for operation of the Millstone nuclear power station, unit No. 2, located in the town of Waterford, Conn. The amendment is effective as of its date of issuance.

This amendment permits operation with up to 500 tubes per steam generator plugged, incorporates a supplementary steam generator inservice inspection program associated with dented tubes, and reduces allowable primary-to-secondary leakage limits to 0.5 gpm through one steam generator.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of proposed issuance of amendment to facility operating license in connection with this action was published in the FEDERAL REGISTER on February 10, 1978 (43 FR 5908). No re-

quest for a hearing or petition for leave to intervene was filed following notice of the proposed action. Operation with sleeved guide tubes for the control element assemblies was also the subject of the above notice. This action is being handled separately.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated March 21, 1978, as supported by letters dated September 28, 1977, January 11, February 1 and 15, March 3, 9, and 15, and April 4 and 6, 1978, (3) amendment No. 37 to license No. DPR-65, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Conn. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 14th day of April 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors
Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-10985 Filed 4-21-78; 8:45 am]

[7590-01]

[Docket No. 50-2631]

NORTHERN STATES POWER CO.

Issuance of Amendment to Provisional Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 34 to provisional operating license No. DPR-22 issued to Northern States Power Co. (NSP) (the licensee) which revised the license for operation of the Monticello nuclear generating plant (the facility) located in Wright County, Minn. The amendment is effective as of its date of issuance.

The amendment authorizes the increase of the spent fuel pool storage capacity from 740 to 2,237 fuel assemblies.

The application for the amendment complies with the standards and re-

quirements of the Atomic Energy Act of 1954, as amended (the act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of consideration of proposed modification to facility spent fuel storage pool in connection with this action was published in the FEDERAL REGISTER on September 19, 1977 (42 FR 46964). The Minnesota Pollution Control Agency petitioned for leave to intervene and was admitted as party to the proceeding. No other party sought intervention.

On January 6, 1978, the NRC staff, NSP, and MPCA filed a motion in which MPCA requested leave of the Board to withdraw its petition to intervene and the parties jointly moved the Board to approve MPCA's withdrawal of its petition to intervene. Following a special prehearing conference, held on January 31, 1978, in St. Paul, Minn., the Atomic Safety and Licensing Board, by order dated February 27, 1978, dismissed the proceeding.

The Commission has prepared an environmental impact appraisal and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's final environmental statement for the facility dated November 1972.

For further details with respect to this action, see: (1) The NSP filing dated August 17, 1977, as supplemented by letters dated September 12, December 8, December 14, 1977, January 3, January 30, March 10, March 16, and March 28, 1978, (2) amendment No. 34 to license No. DPR-22, (3) the Commission's related safety evaluation, and (4) the Commission's environmental impact appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minn. 55401. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 14th day of April 1978.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors
Branch No. 3 Division of Operating Reactors.

[FR Doc. 78-10986 Filed 4-21-78; 8:45 am]

[7590-01]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its regulatory guide series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory guide 1.117, revision 1, "Tornado Design Classification," describes a method acceptable to the NRC staff for identifying those structures, systems, and components of light-water-cooled reactors that should be protected from the effects of the design basis tornado and remain functional. This guide was revised as the result of public comment and additional staff review.

Comments and suggestions in connection with: (1) Items for inclusion in guides currently being developed, or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 17th day of April 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director,
Office of Standards Development.

[FR Doc. 78-10990 Filed 4-21-78; 8:45 am]

[7590-01]

[Dockets Nos. 50-280 and 50-281]

VIRGINIA ELECTRIC & POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 40 and 39 to Facility Operating Licenses Nos. DPR-32 and DPR-37, issued to Virginia Electric & Power Co. (the licensee), which revised Technical Specifications for operation of the Surry Power Stations, Units Nos. 1 and 2 (the facilities), located in Surry County, Va. The amendments are effective as of the date of issuance.

These amendments permit incorporation in the Technical Specifications of Commission requested changes regarding the qualifications of the Health Physics Supervisor and in the automatic power distribution monitoring system. In addition, changes are made in the surveillance procedures for various components of the engineered safety features in the containment spray nozzle tests, and in the administrative controls.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the applications for amendments dated September 27, 1976, May 19 and 20, 1977, October 18, 1977, and November 3, 1977, (2) Amendments Nos. 40 and 39 to Licenses Nos. DPR-32 and DPR-37, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Swem Library, College of William and Mary, Williamsburg, Va. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 13th day of April 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors
Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-10987 Filed 4-21-78; 8:45 am]

[7590-01]

[Docket Nos. 50-280 and 50-281]

VIRGINIA ELECTRIC & POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 39 and 38 to Facility Operating License Nos. DPR-32 and DPR-37, issued to Virginia Electric & Power Co. (the licensee), which revised Technical Specifications for operation of the Surry Power Station, Unit Nos. 1 and 2 (the facilities) located in Surry County, Va. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications to reduce the axial flux difference to within ± 5 percent of its target value and provide a revised set of Design Condition I Axial Peaking Factors, Table TS 3.12-1B for Surry Unit 2.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated March 15, 1978, as supplemented April 4, 1978, (2) Amendment Nos. 39 and 38 to License Nos. DPR-32 and DPR-37, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Swem Library, College of William and Mary, Williamsburg, Va. A copy of

items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 4th day of April 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors
Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-10988 Filed 4-21-78; 8:45 am]

[7590-01]

[Docket No. 50-29]

YANKEE ATOMIC ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 47 to Facility Operating License No. DPR-3, issued to Yankee Atomic Electric Co. (the licensee), which revised Technical Specifications for operation of the Yankee Nuclear Power Station (Yankee-Rowe) (the facility) located in Rowe, Franklin County, Mass. The amendment is effective as of its date of issuance.

The amendment revised the Technical Specifications for the facility to eliminate the requirement for the Intermediate Power Range setpoint adjustment to 25 percent during core physics testing and to delete the provisions of the Respiratory Protection Program.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 17, 1978, (2) Amendment No. 47 to License No. DPR-3, and (3) the Commission's re-

lated Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Greenfield Community College, 1 College Drive, Greenfield, Mass. 01301. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 3rd day of April 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors
Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-10989 Filed 4-21-78; 8:45 am]

[7590-01]

[Docket No. 27-39]

NUCLEAR ENGINEERING COMPANY, INC.
(SHEFFIELD, ILLINOIS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL SITE)

Order Postponing Prehearing Conference

On April 3, 1978, this Board entered an order setting a prehearing conference in this matter for April 24 and 25, 1978. This order was duly served upon the parties.

On April 19, 1978, the Applicant, Nuclear Engineering Company, Inc., filed a motion to defer the prehearing conference.

The basis for this motion was that Applicant has determined to withdraw a portion of its application and further that appropriate changes in the main application for license renewal may require revision of the contentions raised by the various intervenors.

All of the parties to the proceeding including the NRC staff, the State of Illinois, the County of Bureau, Illinois, and the individual intervenors have been contacted by counsel for the Applicant and have raised no objection to the motion to defer the prehearing conference.

Since it appears that the principal purposes for the prehearing conference cannot be accomplished at this time, the Board has concluded that the motion to defer should be granted.

Accordingly, it is ordered, That the prehearing conference scheduled for April 24 and 25, 1978, be cancelled subject to being reset by the Board with notice to the parties.

Dated at Bethesda, Md., this 20th day of April 1978.

For the Atomic Safety and Licensing Board.

ANDREW C. GOODHOPE,
Chairman.

[FR Doc. 78-11207 Filed 4-21-78; 8:45 am]

[4910-58]

NATIONAL TRANSPORTATION SAFETY BOARD

[Docket No. SA-461]

AIRCRAFT ACCIDENT—LOS ANGELES, CALIF.

Accident Investigation Hearing

Notice is hereby given that the National Transportation Safety Board will convene an accident investigation hearing at 9 a.m. (local time), on May 30, 1978, in the International Ballroom of the Hyatt House Hotel, 6225 West Century Boulevard, Los Angeles, Calif.

The public hearing will be held in connection with the Safety Board's investigation of an accident involving a Continental Air Lines, Inc., McDonnell Douglas DC-10-10, N68045, which occurred March 1, 1978, on the Los Angeles International Airport, Los Angeles, Calif.

JAMES W. KUEHL,
Senior Hearing Officer.

APRIL 18, 1978.

[FR Doc. 78-10960 Filed 4-21-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

Lists of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on April 18, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

U.S. CIVIL SERVICE COMMISSION

PMIP Panel Member Questionnaire, IP-37, single time, 500 individuals who served on

PMIP selection panels, Marsha Traynham, 395-3773.

U.S. INTERNATIONAL TRADE COMMISSION

Survey of Innovative Factors in Defining High Technology Industries, single time, 100 technology intensive U.S. corporations, C. Louis Kincannon, 395-3211.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration, commercial passenger fishing vessel questionnaire, single time, 176 licensed California commercial passenger fishing vessels, clearance office, 395-3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development, client/consumer questionnaire, part I, and part II, service provider questionnaire, single time, 6,000 persons/service providers stratified by HEW regions, Office of Federal Statistical Policy and Standard, 673-7959

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, agreement (Special Food Service Program for Children), FNS-80, on occasion, service institutions, Human Resources Division, Ellett, C.A., 395-3532.

Economics, statistics, and cooperatives service-cooperatives, annual survey of farmer cooperatives, FCS-14, (versions A, B, C, D, and E), annually, farmer cooperatives, 4,013 responses, 3,210 hours, Office of Federal Statistical Policy and Standard, 673-7959.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration, Highway Data Manual, annually, 50 States, D.C., Guam, Virgin Islands, Puerto Rico, American Samoa, 55 responses, 660 hours, Strasser, A., Office of Federal Statistical Policy and Standard, 395-6132.

EXTENSIONS

WATER RESOURCES COUNCIL

Request for assistance under title III of the Water Resources Planning Act, Pub. L. 89-80, annually, State agency designated to administer and coordinate water and land resources, 54 responses, 2,160 hours, Budget Review Division, 395-4775.

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service, application for commitment grading services (meat and meat food products, S-315, on occasion, 60 responses, 15 hours, Clearance Office, 395-3772.

DEPARTMENT OF COMMERCE

Bureau of Census, 977 census of Governments survey of local government finances (municipalities and townships), F-50, F-60, single time, 31,000 responses, 33,750 hours, Office of Federal Statistical Policy and Standard, 673-7959.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, library general information survey (LIBGIS I), public school libraries/media centers, fall 1974, school form and State DE 2349-2, annually, public school libraries, 3,500 responses,

5,250 hours, Office of Federal Statistical Policy and Standard, 673-7959.
Office of Human Development, Report on Vending Stand Program, SRS-RSA-15, annually, 54 responses, 864 hours, Reese B. P., 395-3211.

DEPARTMENT OF THE INTERIOR

Bureau of Mines:

Consolidated Consumers Report (selected metals and ferroalloys), 6-1109-MA, monthly, 10,375 responses, 10,375 hours, Office of Federal Statistical Policy and Standard, 673-7959.

Molybdenum concentrates and molybdenum products, 6-1101-M, monthly, 276 responses, 552 hours, Office of Federal Statistical Policy and Standard, 673-7959

Ferro-alloys (supply and disposition), 6-1056-A, annually, 42 responses, 30 hours, Office of Federal Statistical Policy and Standard, 673-7959.

Silicon alloys (supply and disposition), 6-1057-M, quarterly, 240 responses, 96 hours, Clearance Office, 395-3772.

Iron ore (usable ore), 6-1066-M, monthly, 600 responses, 300 hours, Office of Federal Statistical Policy and Standard, 673-7959.

DAVID R. LEUTHOLD,
Budget and Management Officer.
[FR Doc. 78-11168 Filed 4-21-78; 8:45 am]

[3110-01]

GRANTS AND CONTRACTS WITH EDUCATIONAL INSTITUTIONS

Principles for Determining Cost

On March 10, 1978, the Office of Management and Budget published a notice in the FEDERAL REGISTER, offering interested parties an opportunity to comment on proposed revisions to OMB Circular No. A-21, "Cost principles for educational institutions." The notice asked for comments by May 1, 1978.

A number of universities have contacted OMB to request an extension of the comment period. The purpose of this notice is to extend the comment period to June 15, 1978. As before, comments should be submitted in duplicate to the Financial Management Branch, Budget Review Division, Office of Management and Budget, Washington, D.C. 20503.

VELMA N. BALDWIN,
Assistant to the Director
for Administration.

[FR Doc. 78-11170 Filed 4-21-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 14661; File No. 4-208]

AMERICAN STOCK EXCHANGE, INC. ET AL.

Temporary Order

APRIL 14, 1978.

Notice is hereby given that the Securities and Exchange Commission has

issued a provisional order, pursuant to section 11A(a)(3)(B) of the Securities Exchange Act of 1934 (the "Act"), authorizing certain self-regulatory organizations to act jointly, in accordance with a plan (the "Plan") filed with the Commission, with respect to matters as to which they share authority under the Act in planning, developing, operating and regulating a national market facility consisting of an intermarket communications linkage. The order authorizes those self-regulatory organizations to implement that facility on a temporary basis as a means of facilitating a national market system in accordance with the requirements of section 11A of the Act.¹

We believe it is important for the Commission to be able to proceed flexibly to encourage the development, and, where appropriate, immediate implementation, of facilities designed to meet the national market system objectives and to respond to the needs detailed in our January 1978 statement on the national market system.² The Commission believes that, as a general matter, detailed plans contemplating joint development and operation of such facilities submitted to the Commission by self-regulatory organizations seeking Commission approval under Section 11A(a)(3)(B) of the Act would provide the Commission with a desirable degree of flexibility in that regard, particularly if such plans incorporate any joint procedures or methods of operation agreed to by plan sponsors which are to govern their conduct (both within their discrete markets and otherwise).³

¹The temporary authorization granted herein includes not only the specific self-regulatory organizations named above, but also any other self-regulatory organization which agrees to become a participant in the intermarket communications linkage.

²Securities Exchange Act Release No. 14416 (January 26, 1978) at 28-33, 43 FR 4358-59 (the "January Release").

³The Commission notes that, in the case of the Plan, the participants have filed, or have agreed to file, certain rule changes to implement the Plan. In addition, the Commission understands that certain clearing agencies have filed, or intend to file, rule changes to permit the participants to meet their clearance and settlement obligations under the Plan. The Commission expects each of the participants and clearing agencies which have not already done so to file those rule changes promptly so that consideration of those changes can proceed concurrently with the Commission's further evaluation of the Plan itself. Notwithstanding the incomplete posture of self-regulatory organization (including clearing agency) rule filings in connection with the Plan, the Commission intends this temporary order to constitute interim approval of the Plan in all aspects (including the proposed conduct of the participants and their respective members in conformity with the Plan's provisions concerning the routing

I. BACKGROUND

On March 9, 1978, the New York Stock Exchange, Inc. ("NYSE"), American Stock Exchange, Inc. ("Amex"), Boston Stock Exchange, Inc. ("BSE"), Pacific Stock Exchange, Inc. ("PSE") and Philadelphia Stock Exchange, Inc. ("Phlx") (collectively, the "participants") filed jointly with the Commission a "Plan for the Purpose of Creating and Operating an Intermarket Communications Linkage". The Plan contemplates the implementation of an Intermarket Trading System ("ITS"), linking the participants (and such other markets as may in the future agree to participate in the ITS) and providing facilities and procedures for (i) display of composite quotation information on the floors of each of the participating exchanges (at the designated trading post) so that members of each participating exchange will be able to determine readily the best bid and offer for a particular multiple-traded security available from any participant, (ii) rapid and efficient routing of orders and administrative messages between and among the participants, and (iii) participation, under certain conditions, by members of all participating markets in opening transactions in those markets. A complete copy of the Plan is available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street NW., Washington, D.C.⁴

The participants have proposed a phased implementation of the ITS. Initially, the participants plan to make the ITS operational only on the floors of the NYSE and the Phlx and only in eleven issues.⁵ Additional issues and participating exchanges are proposed to be added during May and June; the participants anticipate that more than 200 multiple-traded issues will be included in the ITS by late summer.

In connection with implementation of the Plan, the participants have requested that the Commission approve the Plan and "issue an order pursuant to Section 11A(a)(3)(B) of the * * * Act evidencing such approval."⁶ Section 11A(a)(3)(B) authorizes

and honoring of commitments to trade through the system, pre-opening conduct, clearance and settlement of transactions, and similar matters).

⁴See File No. 4-208.

⁵The list of stocks to be traded in the initial phase of the ITS is as follows: Atlantic Richfield Co., Chrysler Corp., Cluett, Peabody & Co., Inc., General Instrument Corp., Johnson & Johnson, Kraft, Inc., Marathon Oil Corp., J. Ray McDermott & Co., Inc., Merck & Co., Inc., NCR Corp. and Standard Oil Co. of Indiana.

⁶Letter from Robert C. Hall, Executive Vice President, NYSE, to Andrew M. Klein, Director, Division of Market Regulation, March 8, 1978. The Plan provides that it

the Commission, in furtherance of the statutory directive to facilitate the development of a national market system,

by rule or order, to authorize or require self-regulatory organizations to act jointly with respect to matters as to which they share authority under [the Act] in planning, developing, operating, or regulating a national market system (or a subsystem thereof) or one or more facilities thereof;

As more fully discussed below, the Commission has determined to grant the requested relief to permit immediate implementation of the Plan, on a temporary basis, because it believes that the Plan constitutes a step toward the development of a national market system and is responsive to the Commission's request, in its January Release, that the self-regulatory organizations take prompt action to achieve market linkage facilities as one of several initiatives designed to facilitate the establishment of a national market system.

II. DISCUSSION

Section 11A(a)(2) of the Act, added by the 1975 Amendments, directs the Commission, having due regard for the public interest, the protection of investors, and the maintenance of fair and orderly markets, to use its authority under the Act to facilitate the establishment of a national market system for securities in accordance with certain Congressional findings and objectives. These findings and objectives are set forth in Section 11A(a)(1) of the Act.

On January 26, 1978, the Commission issued a statement on the national market system setting forth the Commission's views as to "those steps which it believes must be taken over the next year to facilitate development of the kind of national market

shall become effective as to participants only at such time as it has been approved by the Commission.

The participants have also requested that the Commission either amend Rule 17a-15 under the Act, or issue an exemption order pursuant to paragraph (h) of that Rule, to permit the deletion of market identifiers from moving ticker displays for all transactions effected in any market center which is scheduled to participate, or is participating, in the ITS (including transactions not effected through, and securities not yet traded in, that system). In a separate action, the Commission today has granted temporary exemptions to the Consolidated Tape Association, governing body for the consolidated transaction reporting system (the "consolidated system"), and the Securities Industry Automation Corporation, processor for that system, to permit deletion of market identifiers from moving ticker displays in the manner contemplated by the Plan conditioned on prompt deletion of such identifiers for all market centers reporting transactions in the consolidated system. Securities Exchange Act Release No. 14662 (April 14, 1978).

envisioned by the Congress and mandated by the 1975 Amendments."⁷ Among the steps called for by the Commission in the January Release was

the prompt development of comprehensive market linkage and order routing systems to permit the efficient transmission of orders (i) among the various markets for qualified securities, whether on an exchange or over-the-counter * * *, (ii) and from brokers and dealers to all [such] markets.⁸

In discussing the need for market linkage and order routing systems, the Commission stated that it believes that

communications and data processing facilities which link all qualified markets and permit orders in qualified securities to be transmitted promptly and efficiently from brokers or dealers to any qualified market, and from one such market to another, are necessary to increase the opportunities for brokers to secure best execution of their customers' orders, to ensure effective competition among qualified markets and to achieve the purposes of a national market system established by the Congress in Section 11A of the Act.⁹

The Commission further stated that, in its view, two types of facilities were needed, at a minimum, as mechanisms to link qualified markets. The first, the Commission stated, was "an intermarket order routing system * * * [which] would permit orders for the purchase and sale of multiple-traded securities to be sent directly from any qualified market to another such market promptly and efficiently."¹⁰ The second type of facility which the Commission stated was needed was "a universally available message switch, permitting any broker or dealer to route orders for the purchase or sale of qualified securities from its offices to any qualified market trading in that security."¹¹

With respect to implementation of the needed linkage and routing systems, the Commission stated that it believed that

the self-regulatory organizations should combine their efforts and take joint action forthwith in order (i) to make available to their members a single system for the prompt and efficient routing of orders for qualified securities directly from brokers' and dealers' offices to any qualified market, and (ii) achieve a comprehensive linkage of all qualified markets in an efficient intermarket order routing system.¹²

The Commission further stated that, on the basis of its then present knowledge, it was "not aware of any reason why both of these facilities should not

be implemented by September 30, 1978."¹³

The Plan, as filed, appears to be responsive to the Commission's request in the January Release that, as one of several initiatives to facilitate the development of a national market system, the self-regulatory organizations take prompt steps to "achieve a comprehensive linkage of all qualified markets in an efficient intermarket order routing system." In this regard, the Commission, in the January Release, specifically commented on the relation of the ITS (which was still in the planning stage at that time) to the desired market linkage facility, stating that

[t]he need to develop and implement a new intermarket order routing system to link all qualified markets could be obviated if participation in the ITS market linkage currently under development were made available on a reasonable basis to all qualified markets and if all qualified markets joined that linkage.¹⁴

The Plan, in the Commission's view, represents a positive response to the January Release by contemplating immediate implementation of the intermarket routing system portion of the comprehensive market linkage described by the Commission in its January Release, at least for those markets which have elected to participate in the Plan.¹⁵ Successful, comprehensive implementation of the ITS, together with development and implementation of a generally available message switch—with respect to which the Commission hopes a proposal will be forthcoming promptly—would comprise the complete linkage and routing package which the Commission, in the January Release, deemed necessary as evolutionary steps toward the development of a national market system.

Because the Commission believes that the ITS may provide the basis for an appropriate market linkage facility in a national market system, the commission is presently of the view that commencement of ITS operations on the temporary basis contemplated by this order pending solicitation of additional public comment and final Com-

¹²Id. at 30, 43 FR 4358.

¹³Id. Comments were solicited on this and other aspects of the January Release.

¹⁴The Commission regards the ITS initiative as a laudable contribution to prompt progress toward achievement of a national market system and hopes that those markets which have not yet chosen to join in this effort through direct participation in the ITS will consider doing so. While the Commission remains open to suggestions as to alternative methods of implementing the minimum components of the market linkage necessary to the advent of a national market system, the Plan appears to provide a framework within which, without additional duplicative costs and delay, that linkage can be developed and augmented. See January Release at 28 et seq., 43 FR 4358-59.

mission action with respect to the Plan is in the public interest. The Commission, however, specifically solicits such further comment in connection with its determination of whether to grant final approval to the ITS Plan.

The Commission wishes to reconfirm its conclusion, articulated in the January Release, that prompt implementation of an intermarket linkage system is essential to the Commission's program to facilitate the development of a national market system. As the Commission indicated in its January Release, although there has been movement in recent years toward a national market system, "the rate at which concrete steps are being taken to link the markets, integrate order flow and enhance competition in the manner envisioned by the Congress when it enacted the 1975 Amendments" has not been satisfactory.¹⁶ In addition, the Commission noted that the development of a national market system

has been impeded by the inability of the several discrete segments of the securities industry to surmount the problems presented by the diversity of their interests and to settle upon a common course of action to implement the Congressional policy.¹⁷

In developing the ITS Plan, however, the participants have demonstrated an ability to work cooperatively and resolve individual differences in order to make genuine progress toward a national market system. As a result, substantial momentum for progress toward a national market system has been generated—a momentum which, if impeded significantly, would be difficult to regenerate. We therefore, find that immediate implementation of the ITS, on a temporary basis, constitutes a step toward the prompt development of a national market system and that, therefore, good cause exists for temporary Commission authorization of joint self-regulatory action to implement the ITS Plan.¹⁸

III. TEMPORARY APPROVAL OF PLAN AND REQUEST FOR PUBLIC COMMENT

The Commission has determined to permit implementation of the ITS Plan, in the manner proposed by the participants (except as regards the treatment of market identifiers in connection with reporting of transactions on moving ticker displays¹⁹) for a

¹⁶January Release, supra note 2, at 24.

¹⁷Id.

¹⁸In approving the Plan on a temporary basis, the Commission, of course, expresses no view as to whether, after receipt of public comment and further study, the Plan, in its present form, will be found to conform to the requirements of the Act. In that connection, we note that modification of the Plan may become necessary, on the basis of experience, to conform the Plan more closely to the objectives of a national market system.

¹⁹See note 6 supra.

⁷January Release, supra note 2, at 26, 43 FR 4358.

⁸Id. at 28, 43 FR 4358.

⁹Id. at 28-29, 43 FR 4358.

¹⁰Id. at 29, 43 FR 4358.

¹¹Id.

¹²Id. at 29-30, 43 FR 4358.

I. BACKGROUND

period of 120 days. During that time, the Commission expects to monitor the implementation of the ITS by the participants, including the use made of the system by members of the participating exchanges. At the conclusion of the 120 day period, the Commission intends to determine, on the basis of the experience of the participants during the period and on the basis of public comment on the Plan and related issues, whether to issue an order authorizing the participants to act jointly in implementing the Plan on a permanent basis.

Notice is hereby given that any interested person may submit written views, data and arguments with respect to the Plan (or any provision thereof) not later than June 9, 1978. Persons wishing to make such submissions should file six copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to File No. 4-208 and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street NW., Washington, D.C.

It is hereby ordered, Pursuant to Section 11A(s)(3)(B) of the Act, that the self-regulatory organizations named above (and any other self-regulatory organizations which agree to be a participant in the Plan) are authorized, for 120 days from the date of this order, to act jointly in planning, developing, operating or regulating the ITS in accordance with the terms of the Plan.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-10966 Filed 4-21-78; 8:45 am]

[8010-01]

[Release No. 14662]

**CONSOLIDATED TAPE ASSOCIATION ("CTA")
AND SECURITIES INDUSTRY AUTOMATION
CORP. ("SIAC")**

Order Granting Temporary Exemptions

APRIL 14, 1978.

Notice is hereby given that the Securities and Exchange Commission has granted to the CTA and SIAC, subject to certain conditions, temporary exemptions from rule 17a-15 under the Securities Exchange Act of 1934 (the "Act") (and any plan declared effective by the Commission pursuant to rule 17a-15) insofar as that rule (or plan) requires that last sale reports disseminated by means of moving ticker displays be accompanied by a market identifier indicating the market of execution.

Rule 17a-15 under the Act requires that last sale reports of transactions reported pursuant to that rule be accompanied by an identifier indicating the market of execution. Paragraph (b) of rule 17a-15 provides that:

[e]ach composite tape or interrogation system, in displaying last sale reports, shall identify the marketplace where each transaction was executed.¹

In addition, the joint industry plan governing the consolidated transaction reporting system (the "consolidated system") filed with and declared effective by the Commission pursuant to rule 17a-15 (the "joint industry plan") contains a similar requirement.²

On March 9, 1978, the New York Stock Exchange, Inc. ("NYSE"), American Stock Exchange, Inc. ("Amex"), Boston Stock Exchange, Inc. ("BSE"), Pacific Stock Exchange, Inc. ("PSE"), and Philadelphia Stock Exchange, Inc. ("Phlx") (collectively, the "participants") filed jointly with the Commission a "Plan for the Purpose of Creating and Operating an Intermarket Communications Linkage" (the "ITS Plan").³ The ITS plan contemplates the implementation of an intermarket trading system ("ITS") linking the participating exchanges and providing facilities and procedures for: (i) Display of composite quotation information on the floors of each of the participating exchanges (at the designated trading post) so that members of each participating exchange will be able to determine readily the best bid and offer for a particular multiply-traded security available from any participant, (ii) rapid and efficient routing of orders and administrative messages between and among the participants, and (iii) participation, under certain conditions, by members of all participating markets in opening transactions in those markets.⁴

The participants have proposed a phased implementation of the ITS. Initially, the participants plan to make the ITS operational only on the floors of the NYSE and the Phlx and only in 11 issues.⁵ Additional issues

¹The rule defines the term "composite tape" to mean a "moving, real-time last sale reporting system."

²See joint industry plan, section V(e).

³All of the exchanges which have agreed to participate in the proposed intermarket communications linkage, with the exception of the BSE, are members of the CTA, an exclusive processor which acts as the governing body for the consolidated system. The BSE is deemed under the joint industry plan to be an "other reporting party."

⁴A complete copy of the ITS plan is available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street NW., Washington, D.C. See file No. 4-208.

⁵The list of stocks to be traded in the initial phase of the ITS is as follows: Atlantic

and participating exchanges are proposed to be added during May and June; the participants anticipate that more than 200 multiply-traded issues will be included in the ITS by late summer.

In connection with implementation of the ITS plan, the participants have requested certain regulatory actions by the Commission. First, the participants have requested that the Commission approve the plan and "issue an order pursuant to section 11(a)(3)(B) of the * * * act evidencing such approval."⁶ Second, the participants have requested that the Commission either amend rule 17a-15 under the act or issue an exemptive order pursuant to paragraph (h) of that rule, to permit the deletion of market identifiers from moving ticker displays for all transactions effected in any market center which is scheduled to participate, or is participating, in the ITS (including transactions not effected through, and securities not yet traded in, that system.)⁷

II. DISCUSSION OF EXEMPTION REQUESTS

Paragraph (h) of Rule 17a-15 provides that:

[t]he Commission may exempt from the provisions of [rule 17a-15], either conditionally or on specified terms and conditions, any exchange, associations, broker, dealer, vendor, or specified type of security if the Commission determines it is not necessary in the public interest or for the protection of investors that such exchange, association, broker, dealer, vendor, or type of security be subject to the provisions of [the rule].

The Commission finds, consistent with the provisions of paragraph (h) of the rule and upon the terms and conditions stated herein, that exemptions should be granted to the CTA and SIAC, processor for the consolidated system, to permit those entities to make available last sale reports with respect to securities eligible for

Richfield Co., Chrysler Corp., Cluett, Peabody & Co., Inc., General Instrument Corp., Johnson & Johnson, Kraft, Inc., Marathon Oil Corp., J. Ray McDermott & Co., Inc., Merck & Co., Inc., NCR Corp., and Standard Oil Co. of Indiana.

⁶Letter from Robert C. Hall, executive vice president, NYSE, to Andrew M. Klein, Director, Division of Market Regulation, March 8, 1978. In connection with that portion of the ITS participants' request, the Commission announced today, in a separate action, that it has issued a temporary order, pursuant to section 11(a)(3)(B) of the act, to permit the participants to implement the ITS in accordance with the ITS plan for 120 days. See Securities Exchange Act release No. 14661 (April 14, 1978).

⁷On April 5, 1978, the CTA filed with the Commission an amendment to the joint industry plan which, in part, would provide for the deletion of market identifiers for ticker display purposes for all ITS participants with respect to transactions occurring in their market centers.

inclusion in the joint industry plan without market identifiers for dissemination in moving ticker displays.

The Commission believes that, in the present market environment, last sale information as to individual market centers is valuable to brokers and investors. The most important sources of this information for such persons, however, are not moving ticker displays but rather vendor interrogation devices, newspapers and various trade periodicals (e.g., the Fitch sheets). Since the proposed deletion of market identifiers would not involve deleting this information from the high speed data transmission line used to provide last sale data for these other sources, the Commission believes that no significant deprivation of market information would occur if moving tickers were permitted to display last sale reports without any market identification.

On the other hand, deletion of market identifiers could have some beneficial results. First, deletion of market identifiers from moving ticker displays would eliminate the present reporting disparity between the "primary" exchange markets and other market centers.⁸ Such a result, in our view, is consistent with the underlying purpose of rule 17a-15 that the consolidated system not discriminate with respect to, or exclude, any last sale report based on the market of execution.

Second, since tape delays are, in fact, a function of the number of characters which must be displayed in connection with each transaction, deletion of market identifiers would result in two fewer characters being needed to report nonprimary market transactions. This reduction in characters, while not particularly substantial (since the nonprimary market centers account for only 15 percent of all reported transactions), should have some beneficial impact on tape delays, particularly during periods of heavy trading (e.g., 10-11 a.m. e.s.t.).

The Commission therefore has determined that it is not necessary in the public interest or for the protection of investors that, during the limited period the ITS has been authorized

⁸For markets other than the NYSE and Amex, the identification consists of an ampersand followed by a single alphabetic character identifying the market of execution. Transactions occurring on the NYSE or the Amex are identified by the absence of any market identifier. It is argued that the disparity in identification treatment between the primary and regional markets has been justified on the grounds that, because of the fact that the vast majority of reported transactions occur in the primary market, inclusion of an identifier for primary market transactions would result in significant additional tape delays during periods of heavy trading. See joint industry plan, section VIII(f).

to operate, last sale reports in securities eligible for reporting in the consolidated system be accompanied by market identifiers when disseminated in moving ticker displays, and that the relief requested should be granted.

In our view, however, removal of market identifiers for less than all market centers reporting transactions in the consolidated system, as requested by the ITS participants, would be discriminatory and anticompetitive as to those market centers whose transactions would continue to be reported with an identifier. Accordingly, although the Commission believes that prompt implementation of the ITS seems appropriate as a step toward the development of a national market system and is therefore granting the requested relief, permitting the CTA and SIAC immediately to report transactions effected in market centers which have agreed to participate in the ITS, without market identifiers, for dissemination in moving ticker displays, that relief is conditioned on the prompt removal, as soon as technically feasible, of such identifiers on moving ticker displays for all transactions as to which last sale information is reported in the consolidated system, regardless of the market of execution.⁹

Notice is hereby given that any interested person may submit written views, data, and arguments with respect to the exemptive relief granted herein, or the relation of that relief to the implementation of the ITS, not later than June 9, 1978. Persons wishing to make such submissions should file six copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to file No. 4-208 and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street NW., Washington, D.C.

It is ordered, Pursuant to paragraph (h) of rule 17a-15, that exemptions

⁹The Commission notes, however, that market identifiers continue to be required by rule 17a-15 in connection with the dissemination of last sale reports by the CTA and SIAC by means of the high-speed data transmission line used to provide last sale data to vendors, press associations, and others. The Commission believes that, until such time as the CTA and SIAC are capable of reporting transactions effected through the ITS on the high-speed line in a manner which indicates both market centers whose members have participated in those transactions, ITS transactions should be reported with the identifier (if any) of the market center where the transactions were executed, i.e., the market centers which were the recipients of orders sent through the ITS and where those orders were accepted.

from the market identification requirements of the rule and the joint industry plan insofar as such requirements apply to moving ticker displays, as requested by CTA and SIAC, be, and they hereby are, granted on the terms and conditions set forth above. Such exemptions shall continue in effect until such time as the Commission takes final action with respect to the ITS participants' request that the Commission issue an order pursuant to section 11A(a)(3)(B) of the act with respect to the planning, development, operation, or regulation of the ITS in accordance with the ITS plan, or 120 days from the date of this order, whichever shall occur first.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-10970 Filed 4-21-78; 8:45 am]

[8010-01]

[File No. 1-7252]

DYNAMICS CORP. OF AMERICA

Application To Withdraw From Listing and Registration

APRIL 14, 1978.

The above-named issuer has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 and rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. (Amex).

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of Dynamics Corp. of America (the "company") has been listed for trading on the Amex since September 15, 1975. On January 30, 1978, the stock was also listed for trading on the New York Stock Exchange, Inc. (NYSE), and concurrently therewith, such stock was suspended from trading on the Amex. In making the decision to withdraw its common stock from listing on the Amex, the company considered the direct and indirect costs and expenses attendant on maintaining the dual listing on both exchanges. The company does not see any particular advantage in the dual trading of its common stock and believes that dual listing would fragment the market for such stock.

The application relates solely to the withdrawal from listing and registration on the Amex and shall have no effect upon the continued listing of such common stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before May 5, 1978, submit by letter to

the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-10967 Filed 4-21-78; 8:45 am]

[8010-01]

[Administrative Proceeding File No. 3-5429;
File No. 81-341]

HOFFMAN ELECTRONICS, INC.

Application and Opportunity for Hearing

APRIL 17, 1978.

Notice is hereby given that Hoffman Electronics, Inc. ("applicant"), has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 act") for an order granting applicant an exception from the provisions of section 15(d) of the 1934 act.

The applicant states, in part:

1. On January 27, 1978, applicant merged with and became a wholly-owned subsidiary of Gould, Inc. ("Gould"). As a result of the merger, applicant no longer has any publicly owned common stock.

2. The applicant has filed with the Commission its proxy statement dated January 9, 1978, containing audited financial statements for the year ended December 31, 1976, plus a consolidated summary of operations of applicant for the 5 years ended December 31, 1976, and the 6 month periods ended June 30, 1976, and 1977, and comparative results of operations of applicant for the 9 months ended September 30, 1976 and 1977.

Applicant argues that the granting of the exception would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C. 20549.

Notice is further given that any interested person not later than May 12, 1978, may submit to the Commission in writing his views or any substantial

facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for the request, and the issues of fact and law raised by the application which such person desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SERVICE LIST

M. F. Maxson, Esq., Winston & Strawn, 1
First National Plaza, Chicago, Ill. 60603.

[FR Doc. 78-10968 Filed 4-21-78; 8:45 am]

[8010-01]

[Rel. No. 10208; 812-4249]

**INTERNATIONAL INVESTORS INC. AND I.I.I.
SECURITIES CORP.**

**Second Notice of an Application for an Order
of the Act for an Order Exempting a Pro-
posed Exchange of Shares**

APRIL 14, 1978.

Notice is hereby given that on January 5, 1978, a notice (Investment Company Act Release No. 10083) was issued on an application filed on December 15, 1977, by International Investors Inc. ("International"), 122 East 42nd Street, New York, N.Y., registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, and I.I.I. Securities Corp., its principal underwriter, for an order of the Commission pursuant to section 6(c) of the Act exempting from the provisions of section 22(d) of the Act proposed transactions ("Sales") pursuant to which shares of International were to be issued at net asset value without a sales charge in exchange for shares of certain gold mining companies ("Securities") held by Mondial Commercial Ltd., a Liechtenstein limited company ("Mondial"), through two of their accounts at the Swiss Credit Bank, the Metric Accounting Unit Survival Contract ("MAUSC") subaccount and the sovereign Contracts ("Sovereign") subaccount (collectively, the "Subaccounts"), in which approximately 512 persons have beneficial interests ("Account Holders"). On March 22, 1978, International filed an amendment to its application setting forth certain modifications of the

distribution plan pursuant to which it is proposed that the Sales be effected. That amendment provides in general that each Account Holder will be offered the option of obtaining either International shares or a pro rata "in kind" portion of the Securities in liquidation of their interests in the Subaccounts. All interested persons are referred to the application and amendment on file with the Commission for a statement of the representations and modifications made therein, which are summarized below and in the above release.

International has been informed that Progress Foundation, a Swiss charitable institution, owns all of the stock of Mondial. In November, 1975, the Commission initiated enforcement proceedings in the United States District Court for the District of Columbia (the "District Court") against various individuals and entities, including Progress Foundation and Mondial. The District Court appointed a special counsel (the "Special Counsel") on behalf of the Account Holders. Additionally, the Swiss Banking Commission issued a decree (the "Swiss Decree") in June 1976, providing that all assets of the various Mondial subaccounts, including the Subaccounts, be distributed to the investors in a manner to be approved by the Swiss Banking Commission and satisfactory to the Commission.

International has been advised by the Special Counsel that in furtherance of the Swiss Decree, and in connection with settlement of the enforcement proceedings initiated by the Commission, plans calling for the complete distribution of the assets in the Subaccounts were presented to the Swiss Banking Commission and the District Court for approval. The District Court approved in principal such plans calling for the transfer of the Securities to International solely in exchange for International shares by an order dated December 6, 1977. The details of such plans are set forth in Investment Company Act Release No. 10083.

On February 6, 1978, as a result of subsequent submissions by several Account Holders and a hearing held on February 2, 1978, the District Court entered an order modifying its order of December 6, 1977, approving in principle a modification of the proposed plans of distribution so as to give Account Holders the option of obtaining either International shares or a pro rata "in kind" portion of the Securities in liquidation of their interests in the Subaccounts. The Special Counsel has been informed that on February 23, 1978, the Swiss Banking Commission approved modification of the plans in order to include arrangements for such an "in kind" option.

Under the modified plans it is contemplated that Account Holders will

be given the option of (i) receiving their pro rata "in kind" portion of the Securities either by the delivery directly to them of certificates for the shares representing such portion or by the transfer of such shares to their individual accounts at a bank or other institution, or (ii) instructing that their pro rata portion of the Securities be exchanged for International shares. Account Holders who fail to make a timely election will be deemed to have elected the "in kind" option. Since fractional shares of Securities cannot be distributed, the fractional interests of Account Holders who elect an "in kind" distribution will be paid in cash. The fractional interests of Account Holders electing a distribution of International shares will be exchanged for such shares or paid to such Account Holders in cash, in either case with all such persons being treated the same. The payment in cash of fractional interests of any Account Holders may require the sale of some Securities.

As of December 31, 1977, the market values of the Securities held by MAUSC and Sovereign were approximately \$4,737,500 and \$2,884,500, respectively. The Special Council has advised International that (i) before the Sales, reserves will be established for estimated actual and contingent liabilities of the Subaccounts (consisting of Swiss taxes, inter-account payables and professional fees and expenses, including expenses of the Sales and the "in kind" distribution) and a determination will be made as to the amount, if any, of Securities which must be sold to fund such reserves or pay such liabilities, and (ii) the amount of Securities required to be sold for such purpose is estimated by the Special Council not to exceed \$600,000. The Special Council has also advised International that (i) it is expected that before the Sales, provision will be made for the regular quarterly distributions from the Subaccounts for the fourth fiscal quarter of 1977 and the first fiscal quarter of 1978, (ii) the distributions from MAUSC and Sovereign for the fourth quarter of 1977 are estimated to be approximately \$147,000 and \$113,000, respectively, and similar distributions are expected for the first quarter of 1978, and (iii) the Subaccounts may sell Securities before the Sales to provide part of the funds needed to make these periodic distributions. As set forth in the Application, in the event that some Securities are required to be sold for any such purpose, the Special Council has agreed that no Securities will be sold during the period of ten days prior to consummation of the Sales and that International will be provided with a list of the Securities to be exchanged for its shares. Any such sales of Securities, described above, are not re-

quired to be made pro rata from the various issues held by the Subaccounts. The absence of any such requirement is acceptable to International, based upon its review of the Securities which the Special Council has advised are held by the Subaccounts.

The Special Council has advised International that the documents necessary to carry out the plans of distribution will be submitted to both the Court and the Swiss Banking Commission for approval. It is contemplated that such documents will include (i) a notice to all Account Holders, prepared by the Special Council and describing the past operations of the Subaccounts and the plans of distribution, (ii) a form for the Account Holder's use in electing to take his pro rata distribution "in kind" or in International shares and (iii) International's most recent report to its shareholders.

International has been informed by the Special Council that a request will be made on behalf of each Subaccount that the International shares purchased for it be issued directly to those of its Account Holders who elect to take their distributions in International shares (or to persons acting on their behalf), in amounts based on the pro rata Swiss Franc value of their respective net contributions to the Subaccounts, as determined pursuant to the plans of distribution. If Securities are sold to provide for the payment in cash of the fractional share interests of any Account Holders, the proceeds of such sales which are allocated to the Account Holders electing International shares will be delivered to International in exchange for such shares or paid to such Account holders in cash. All securities held by a Subaccount on the date of Sale, except those allocated to the "in kind" distribution or reserved for the cash payment of fractional interests, must be offered to International.

Upon the issuance of International shares to the Account Holders, an appropriate confirmation will be delivered to each Account Holder who has become a record holder of International's shares. Sales of International shares will be made only to persons authorized to act for the Subaccounts, which persons International understands will request that the International shares be issued directly to the appropriate Account Holders. Accordingly, although International anticipates that its shares will be issued directly to the Account Holders, no offer or sale will be made by International to the Account Holders in connection with the Sales. The consent of the Account Holders is not required for the implementation of the plans of distribution, including the Sales, and their only discretion in connection with the distribution will be to elect to take International shares or an "in kind" portion of the Securities.

As of March 10, 1978, the Securities had an aggregate market value of approximately \$9,316,559. If none of the Securities were sold or transferred before the Sales and all Account Holders elected to take their distributions in shares of International, sales of International shares to the Subaccounts on March 10, 1978, in exchange for all of the Securities would have resulted in the issuance to the Account Holders of 905,709.58 International shares having a net asset value of \$10.23 each (assuming International had accepted all the Securities).

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company except at a current offering price described in the prospectus. The current public offering price of the shares of International as described in its prospectus is net asset value per share plus a sales charge. As noted above, such sales charge will not be applicable to the Sales. Applicants state that without an exemption from Section 22(d) of the Act, International would be prohibited from issuing its shares to the Subaccounts without a sales charge.

Section 6(c) provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities, or transactions from any provision or provisions of the Act and the Rules promulgated thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants state that the cumulative effect of the changes described herein may be expected to reduce the amount of Securities to be acquired by International. However, with respect to any Securities which may be acquired by International as a result of the Sales, the Applicants believe that the reasons submitted in support of their application for an exemption from the provisions of section 22(d) of the Act, set forth in detail in Investment Company Act Release No. 10083, remain applicable and that the granting of such exemption is consistent with the general purposes of the Act and is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 8, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the

nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as a matter of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons, who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-10969 Filed 4-21-78; 8:45 am]

[8010-01]

[Rel. No. 10206; 812-4247]

**MASSACHUSETTS MUTUAL LIFE INSURANCE
CO. AND MASSACHUSETTS MUTUAL VARIABLE ANNUITY FUND 1**

Application of the Act for an Order of Exemption and Approval of an Offer of Exchange

APRIL 14, 1978.

Notice is hereby given that Massachusetts Mutual Life Insurance Co. ("Mass Mutual"), 1295 State Street, Springfield, Mass. 01111, a mutual life insurance company organized under the laws of the Commonwealth of Massachusetts, and Massachusetts Mutual Variable Annuity Fund 1 ("Fund"), a separate account of Mass Mutual registered under the Investment Company Act of 1940 ("Act") as a unit investment trust (hereinafter collectively referred to as "Applicants"), filed an application on December 13, 1977, and an amendment thereto on March 27, 1978, pursuant to section 6(c) of the Act for an order exempting Applicants from the provisions of sections 22(e), 27(c)(1), and 27(d) of the Act to the extent necessary to permit compliance by Applicants with certain provisions of the Education Code of the State of Texas and pursuant to Section 11 approving an offer of exchange. All interested persons are referred to the application

on file with the Commission for a statement of the representations therein which are summarized below.

The Fund was established on April 24, 1968, by Mass Mutual's Board of Directors pursuant to Chapter 175 of the Massachusetts General Laws for the purpose of investing net contributions received under certain variable annuity contracts issued in conjunction with plans qualified under section 401(a) of the Internal Revenue Code (the "Code") including so called "H.R. 10 plans" or "Keogh plans" or annuity purchase plans adopted pursuant to section 403(b) or 408 of the Code. Mass Mutual acts as principal underwriter for the Fund.

In 1967, the State of Texas directed the governing boards of all Texas institutions of higher education to make available to certain employees an Optional Retirement Program ("Program"), codified as Subchapter G of Chapter 51 of the Texas Education Code. The statute provides as the funding media for the Program fixed or variable annuity contracts purchased from any insurance or annuity company qualified to do business in Texas. In 1973, the Texas legislature made two amendments in the Program legislation, which amendments became effective on June 14, 1973. The statutory definition of the Program was amended to provide that the benefits of such annuities are to be available only upon termination of employment in the Texas public institutions of higher education, retirement, death or total disability of the participant. The other amendment added a new § 51.358 to Subchapter G which also provides that the benefits of such annuities will be available only if the participant dies, terminates his employment due to total disability, accepts retirement, or terminates employment in the Texas public institutions of higher education.

Because of uncertainty regarding the effect of these amendments, the University of Texas System ("System") requested the opinion of the Attorney General of Texas with respect to several questions concerning such amendments. The Attorney General rendered an opinion dated February 18, 1975, in response to the System's letter. The Attorney General interpreted § 51.358 to prohibit provisions in a variable annuity contract issued in connection with the Program on or after June 14, 1973, which provide for making available the redemption value of such contract prior to the occurrence of one of the conditions specified in the statute, i.e., termination of employment, retirement, death or total disability. Moreover, the opinion further stated that the prohibitions of § 51.358 were impliedly in effect upon the establishment of the Program (in 1967) and that notwith-

standing any language which may be contained in existing contracts, a participant in the Program has never had the right to redeem his annuity contract otherwise than in accordance with the limitations described above. The opinion did not affect the right of a participant to transfer the redemption value of his annuity contract from one carrier to another; accordingly, the granting of the relief requested in the application would not affect such right.

SECTIONS 27(c)(1), 22(e), AND 27(d)

Section 27(c)(1) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless such certificate is a redeemable security. Section 2(a)(32) of the Act defines "redeemable security" to mean any security under the terms of which the holder upon its presentation to the issuer or to a person designated by the issuer is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

Section 22(e) of the Act provides that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security to the company or its agent designated for that purpose for redemption except in certain prescribed circumstances.

Section 27(d) of the act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first eighteen months after the issuance of the certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from such underwriter or depositor, equal to that part of the excess paid for sales loading which is over 15 per centum of the gross payments made by the certificate holder.

Applicants request exemptions from the provisions of sections 22(e), 27(c)(1), and 27(d) of the Act to the extent necessary to permit compliance with § 51.358 as it pertains to redemption values under Contracts issued to participants in the Program subsequent to the date of such exemptive order.

Applicants assert that if such exemptions are not granted, persons participating in the Program effectively will be denied an opportunity to select

as a funding medium for their retirement benefits one of two funding media (the other being fixed annuity contracts) specifically provided in the Texas statute for such purpose. Additionally, participants will be unable to obtain the State's matching contributions for the purchase of an equity-based retirement vehicle. In this respect, the Attorney General's opinion indicated that these matching contributions will encourage participation in the retirement plan but that unrestricted withdrawals prior to retirement might be detrimental to an effective retirement vehicle. In view of the foregoing, Applicants assert that the Commission should grant the requested exemptions because: (1) The limited restriction on redemption would be voluntarily assumed by participants, i.e., eligible employees are not required to participate in the Program; (2) the restrictions were not formulated nor suggested by Applicants; and (3) participants' relinquishment of the full right of redemption is a reasonable requirement in exchange for the benefits bestowed by the matching contributions of the State of Texas.

Applicants will ensure that appropriate disclosure is made to persons who consider participation in the Program, informing them of the restriction on the availability of redemption values under Contracts to be issued to them. This disclosure will take the form of an appropriate reference in each Prospectus to the restrictions on redemption of these Contracts, as well as requiring each participant, as a part of the determination that the sale of these Contracts is suitable for that participant, to sign a statement indicating that he/she is aware that these restrictions will be placed on his/her Contract when it is issued. In addition, Mass Mutual will review all sales literature that is to be used in conjunction with the sales of these contracts for the existence of material representations that are inconsistent with the restrictions to be placed on these contracts and will instruct the salespeople involved in soliciting in this market specifically to bring this restriction to the attention of the potential participants.

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

SECTIONS 11(a) AND 11(c)

Section 11(a) of the Act provides that it shall be unlawful for any regis-

tered open-end company, or any principal underwriter for such a company, to make, or cause to be made, an offer to the holder of a security of such company, or of any other open-end investment company, to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have been first submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of Section 11(a) shall be applicable to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

Applicants have requested an Order pursuant to section 11 of the Act to permit an offer to be made to owners of contracts issued by the Fund prior to the date of the requested order so that they may exchange their contracts for new contracts which comply with the Education Code of the State of Texas.

Applicants state that the requested order permitting an offer of exchange to be made is necessary in order that present contract owners may continue to receive matching contributions from the State of Texas. Applicants further state that no charge of any kind will be made to the contract holders in connection with the proposed exchange.

Accordingly, Applicants have requested that the Commission issue an Order approving the offer of exchange, as described, pursuant to the provisions of section 11 of the Act.

Notice is further given that any interested person may, not later than May 9, 1978, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following May 9, 1978, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to wheth-

er a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-10971 Filed 4-21-78; 8:45 am]

[8010-01]

[Release No. 34-14671; File No. SR-NASD-78-2]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Self-Regulatory Organization; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on March 29, 1978, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

NASD'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change would amend the Association's code of Arbitration Procedure by amending section 4 concerning Simplified Arbitration. The proposed amendments would provide for a procedure whereby investor small claims up to \$2,500 will be adjudicated by a single arbitrator knowledgeable in securities matters. Further, they would permit a claimant to withdraw his claim if a counterclaim in excess of the claim is interposed. Finally, the proposals would provide for a single filing fee of \$15 by the claimant with the final disposition of this sum to be determined by the arbitrator. An additional amendment to the section of the Code pertaining to member controversies makes clear that an associated person may also make use of or be subject to the simplified procedures for arbitration as prescribed therein. Technical amendments to the remaining provisions of Section 4 are also being effected to accommodate the introduction of the new procedures. The text of the proposed rule change is below.

NASD'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing rule changes are as follows:

PURPOSE OF THE PROPOSED RULE CHANGE

The purpose of the proposed rule changes is to provide investors with a

simple and inexpensive procedure for the resolution of small claims against member firms. The procedures set forth in the proposed rule were developed by the Securities Industry Conference on Arbitration, which is composed of representatives of the National Association of Securities Dealers, Inc., eight other self-regulatory organizations, the Securities Industry Association and three representatives from the public. The proposed rule would provide for determination by a single arbitrator knowledgeable in securities matters of disputes between brokerage firms and customers involving amounts not exceeding \$2,500. The participating self-regulatory organizations will offer hearing facilities in all areas of the country, so that a dispute can be heard in a location convenient to the claimant. A claimant will have the right to withdraw his claim without prejudice if a counterclaim in excess of his claim is interposed. The only expense will be a filing fee of \$15.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

A uniform rule applicable to small claims by public customers will provide a more effective, efficient and economical dispute resolution system for public investors with small claims and thus will protect investors and the public interest consistent with section 15A(b)(6) of the Act.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS

At an open meeting held on December 8, 1977, members of the Securities and Exchange Commission informally commented on a report by the Securities Industry Conference on Arbitration containing an earlier version of the procedures. The proposals were revised to incorporate comments received from several of the Commissioners at this session. Membership comments on the proposals were neither solicited nor received.

NASD'S STATEMENT OF BURDEN ON COMPETITION

The proposed rule changes impose no burden on competition which is not necessary in furtherance of the purposes of the Act.

On or before May 30, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization at 1735 K Street NW., Washington, D.C. All submissions should refer to the file number referenced in the caption above and should be submitted on or before May 9, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 17, 1978.

(Brackets indicate material to be deleted; new material is indicated by *italics*.)

SIMPLIFIED ARBITRATION

[Member Controversies]

[(a) Redesignated new paragraph (b) hereinbelow]

Public-Member Controversies

[(b) With the exception of controversies arising between the National Securities Clearing Corporation and its NCC Division clearing members, pursuant to subsection (a) hereof, any disputes, claim or controversy arising between a public customer or others, including nonmember broker/dealers, and a member or members submitted to arbitration under the Code involving a dollar amount not exceeding \$2,000, exclusive of attendant costs, shall be resolved by an arbitration panel constituted pursuant to the provisions or subsection (c) hereof solely upon the pleadings and documentary evidence filed by the disputants unless one of the parties files with the Office of the Director of Arbitration within ten (10) business days following the filing of the last pleading a request for a hearing of the matter.]

SEC. 4 (a) *Any dispute, claim or controversy, arising between a public customer(s) and an associated person or a member subject to arbitration under this code involving a dollar amount not exceeding \$2500.00, exclusive of attendant costs and interest, shall upon demand of the customer(s) or by written consent of the parties be arbitrated as hereinafter provided.*

(1) *The Claimant shall file with the Director of Arbitration one (1) executed Submission Agreement and one (1) copy of the Statement of claim of the*

controversy in dispute, together with documents in support of the claim. The Statement of Claim shall specify the relevant facts, the remedies sought and whether or not a hearing is demanded.

(2) *The Claimant shall pay the sum of \$15.00 upon filing of the Submission Agreement. The final disposition of this sum shall be determined by the arbitrator.*

(3) *The Director of Arbitration shall endeavor to serve promptly by mail or otherwise on the Respondent(s) one (1) copy of the Submission Agreement and one (1) copy of the Statement of Claim. The Respondent(s) shall within twenty (20) calendar days from receipt of service file with the Director of Arbitration one (1) executed Submission Agreement and one (1) copy of the Respondent's Answer, together with supporting documents. The Answer shall designate all available defenses to the Claim and may set forth any related Counterclaim and/or related Third Party Claim the Respondent(s) may have against the Claimant or any other person. If the Respondent(s) has interposed a Third Party Claim, the Director of Arbitration shall endeavor to serve promptly by mail or otherwise a copy of same together with a copy of the Submission Agreement on such Third Party who shall respond in the manner herein provided for response to the Claim. If the Respondent(s) files a related Counterclaim exceeding \$2500.00, the arbitrator may refer the Claim, Counterclaim and/or Third Party Claim, if any, to a panel of three (3) or five (5) arbitrators or, he may dismiss the Counterclaim and/or Third Party Claim without prejudice to the Counterclaimant(s) and/or Third Party Claimant(s) pursuing the Counterclaim and/or Third Party Claim in a separate proceeding. The costs to the Claimant under either proceeding shall in no event exceed \$15.00.*

(4) *The Director of Arbitration shall endeavor to serve promptly by mail or otherwise on the Claimant a copy of the Answer, Counterclaim, Third Party Claim or other responsive pleading, if any. The Claimant, if a Counterclaim is asserted against him, shall within ten (10) calendar days either (i) file a Reply to any Counterclaim with the Director of Arbitration who will serve a copy of the Reply on the Respondent(s), or, (ii) if the amount of the Counterclaim exceeds the Claim, shall have the right to file a statement withdrawing the Claim. If the Claimant withdraws the Claim, the proceedings will be discontinued without prejudice to the rights of the parties.*

(5) *The dispute, claim or controversy shall be submitted to a single arbitrator knowledgeable in the securities industry selected by the Director of Arbitration. Unless the public customer demands or consents to a hearing, or the*

arbitrator(s) calls a hearing, the arbitrator shall decide the dispute, claim or controversy solely upon the pleadings and evidence filed by the parties. If a hearing is necessary, such hearing shall be held as soon as practicable at a locale selected by the Director of Arbitration.

(6) The Director of Arbitration may grant extensions of time to file any pleading upon a showing of good cause.

(7) The arbitrator shall be authorized to require the submission of further documentary evidence as he, in his sole discretion deems advisable.

(8) Upon the request of the arbitrator, the Director of Arbitration shall appoint two (2) additional arbitrators to the panel which shall decide the matter in controversy.

(9) In any case where there is more than one (1) arbitrator, the majority will be public arbitrators.

(10) In his discretion, the arbitrator may, at the request of any party, permit such party to submit additional documentation relating to the pleadings.

(11) Except as otherwise provided herein, the general arbitration rules of the Association shall be applicable to proceedings instituted under this Code.

Member/Associated Person Controversies

(a) With the exception of controversies arising between the National Securities Clearing Corporation through the NCC Division and its NCC Division clearing members pursuant to subsection (a) hereof,]

(b) [a]Any dispute, claim or controversy arising between or among members or associated persons submitted to arbitration under this Code involving a dollar amount not exceeding \$5,000, exclusive of attendant costs, shall be resolved by an arbitration panel constituted pursuant to the provisions of subsection (c) hereof solely upon the pleadings and documentary evidence filed by the disputants, unless one of the parties to the proceeding files with the Office of the Director of Arbitration within ten (10) business days following the filing of the last pleading a request for a hearing of the matter.

[Composition of Panels]

[(c)]

(1) In any proceeding pursuant to this subsection, [(a) hereof,] an arbitration panel shall consist of no less than one but no more than three arbitrators, all of whom shall be from within the securities industry. [In any proceeding pursuant to subsection (b) hereof an arbitration panel shall consist of three arbitrators, at least two of whom shall be from without the securities industry. The Director of Arbitration shall name the Chairman of all panels.]

[Authority of Arbitrators]

[(d)]

(2) Notwithstanding the provisions of this subsection [Section], any member of an arbitration panel constituted pursuant to this subsection [(c) hereof,] shall be authorized to request the submission of further documentary evidence in a proceeding and any such panel may by majority vote call and conduct a hearing if such is deemed to be necessary.

Chairmen of Panels

(c) The Director of Arbitration shall name the Chairman of all panels.

Awards

[(e)]

(d) All awards rendered in proceedings pursuant to subsections (a) or (b) hereof shall be made within thirty (30) business days from the date the arbitrators review all of the written statements, documents and other evidentiary material filed by the parties and declare the matter closed.

[Other Matters]

[(f) The Code of Arbitration Procedure shall be deemed to apply as to all matters not covered by this Section.]

[FR Doc. 78-10973 Filed 4-21-78; 8:45 am]

[8010-01]

[Release No. 34-14672; File No. SR-NYSE-78-131]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on March 6, 1978, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

A member organization may extend credit to customers on shelf-registered, control or restricted securities within the guidelines of Regulation T and the amount set forth in the rule. The total amount of such credit which a member organization may extend will be limited as prescribed from time to time by the Exchange, but in no event greater than 25 percent of its excess Net Capital. The total amount of credit which may be extended to all customers on such securities of any one issuer is limited to 5 percent of excess Net Capital. The firm must take deductions, in the computation of its net capital, for the amount of credit extended on such securities in order to determine whether it can expand, or if it must reduce its business.

Documentation must be obtained by the member organization to insure the ready saleability and marketability prior to extending credit on shelf-registered securities. The Exchange may require formal reports from member organizations showing the amount of credit extended in accordance with the rule.

PURPOSE OF PROPOSED RULE CHANGE

The proposed amendments would permit a member organization to extend credit to customers on shelf-registered, control or restricted securities within the guidelines of Regulation T and, thereby, allow member organizations to better compete with nonmembers which are permitted to extend credit on such securities. The maintenance margin required for shelf-registered securities is in accordance with the Exchange margin rule, generally 25 percent of the current market value, which must be conservatively determined. The maintenance margin for control and restricted securities is 40 percent of the current market value of such securities long in an account, valued conservatively.

However, due to the built in complexities and restrictions imposed upon the sale of such securities under the Securities Act of 1933, specific credit limitations based on the member organization's capital have been established as part of the rule to protect the public and the financial integrity of member organizations. Accordingly, member organizations will be limited as to the total amount of such credit they may extend to customers on shelf-registered, control and restricted securities in an amount as may be prescribed from time to time by the Exchange, but in no event greater than 25 percent of excess Net Capital. The total amount of credit which may be extended to all customers on such securities of any one issuer is limited to 5 percent of excess Net Capital. In addition, in computing Net Capital, the member organization must deduct any cash margin deficiencies in a customer's account for control and restricted securities based upon a 25 percent margin requirement on those securities which are readily saleable under Rules 144 or 145(d) of the Securities Act of 1933. The aggregate credit extended on such securities, reduced by the amount of credit extended which has already been deducted in computing Net Capital, would be deducted from the firm's capital for purposes of determining the applicability of restrictions for growth requirements (Rule 326(a)) or business reduction capital requirements (Rule 326(b)). Thus, other customers of a member organization and the member organization itself will be protected from sizeable risk positions that could place the firm in jeopardy.

In addition, the member organization must obtain and retain a current Prospectus and Registration Statement for shelf-registered securities and may be required to supply the Exchange with information regarding the amount of credit extended on such securities and the amount charged to Net Capital.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The proposed amendments to Rules 431(c)(8) and 326 (a) and (b) are consistent with Sections 6(b) (1), (5) and (8) of the Act as follows:

(i) The restrictions on the amount of credit which can be extended on securities which may not be readily marketable enables the Exchange to comply and enforce compliance by its members with the requirements of Section 6(c)(3)(A)(i) of the Act.

(ii) Inapplicable.

(iii) Inapplicable.

(iv) Inapplicable.

(v) The proposed rule amendments will foster cooperation and coordination with persons engaged in regulating the extension of credit with respect to securities transactions, thereby, facilitating transactions in securities, and removing impediments to and perfecting the mechanism of a national market system. The credit limitations based on the member organization's capital will provide for protection of investors and of the public interest.

(vi) Inapplicable.

(vii) Inapplicable.

(viii) Inapplicable.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

No comments were solicited or received with respect to the proposed rule change.

BURDEN ON COMPETITION

There will be no burden on competition.

On or before May 30, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Se-

curities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before May 24, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 17, 1978.

(Brackets indicates deletions; *Italics* indicates new material)

(EXHIBIT I-A.—PROPOSED AMENDMENTS TO RULE 431(C)(8)

MARGIN REQUIREMENTS.

Exceptions to rule

(c) The foregoing requirements of this Rule are subject to the following exceptions:

(8) *Shelf-Registered, Control and Restricted Securities.*

(A) *Shelf-Registered Securities*—The margin which must be maintained in margin accounts of customers for securities which are the subject of a current and effective registration for a delayed offering (*shelf-registered securities*) shall be at least the amount required by paragraph (b) of this Rule, provided the member organization:

(i) obtains a current prospectus in effect with the Securities and Exchange Commission, meeting the requirements of Section 10 of the Securities Act of 1933, covering such securities;

(ii) has no reason to believe the Registration Statement is not in effect or that the issuer has been delinquent in filing such periodic reports as may be required of it with the Securities and Exchange Commission and is satisfied that such registration will be kept in effect and that the prospectus will be maintained on a current basis;

(iii) retains a copy of such Registration Statement, including the prospectus, in an easily accessible place in its files; and

(iv) values such securities more conservatively than securities of the same class which are freely traded, in the light of current market prices, the amount which might be realized upon liquidation, unusually rapid or volatile changes in value or volume and other business considerations deemed appropriate under the circumstances in determining fair value.

Shelf-registered securities which do not meet all the conditions prescribed above shall have no value for purposes of this Rule. (Also see paragraph (C) of this subsection (8)).

(B) *Control and restricted Securities*—The margin which must be maintained in margin accounts of customers for control securities and other restricted securities which are saleable under Rules 144 or 145(d) of the Securities Act of 1933, shall be 40 percent of the current market value of such securities "long" in the account, provided the member organization:

(i) in computing Net Capital under Rule 325, deducts any cash margin deficiencies in customers' accounts based upon a margin requirement of 25 percent for such securities and values only that amount of such securities which are then readily saleable under Rules 144 or 145(d) of the Securities Act of 1933 for purposes of determining such deficiencies;

(ii) makes volume computations necessary to determine the amount of securities saleable under Rules 144 or 145(d) of the Securities Act of 1933 on a weekly basis or at such greater frequency as the member organization and/or the Exchange may deem appropriate in the circumstances; and

(iii) values such securities more conservatively than securities of the same class which are freely traded, in the light of current market prices, the amount which might be realized upon liquidation, unusually rapid or volatile changes in value or volume and other business considerations deemed appropriate under the circumstances in determining fair value. (Also see paragraph (C) of this subsection (8).)

(C) *Additional Requirements on Shelf-Registered Securities and Control and Restricted Securities*—Notwithstanding the provisions of paragraphs (A) and (B) of this subsection (8), a member organization extending credit on shelf-registered, control and other restricted securities in margin accounts of customers shall be subject to the following requirements:

(i) The credit extended to all customers on such securities may not in the aggregate exceed a percentage of the member organization's excess Net Capital as prescribed from time to time by the Exchange but in any event no greater than 25% of its excess Net Capital. The amount of the total credit extended, which has been deducted in computing Net Capital, need not be included in calculating this limitation.

(ii) The credit extended to all customers on such securities of any one issuer may not in the aggregate exceed 5% of the member organization's excess Net Capital. The amount of the total credit extended, which has been deducted in computing Net Capital, need not be included in calculating this limitation.

(iii) The aggregate credit extended on such securities reduced by the amount of credit extended which has been deducted in computing Net Capital under Rule 325, shall be deducted from Net Capital for purposes of determining a member organization's status under Rule 326.

(iv) The Exchange may at any time require reports from member organizations showing relevant information as to the amount of credit extended on shelf-registered, control and restricted securities and the amount, if any, charged to Net Capital due to such security positions.

EXHIBIT I-B.—Proposed Amendment to Rule 326(a) and (b)

GROWTH CAPITAL REQUIREMENT

Rule 326(a). A member organization which carries customer accounts shall not expand its business during any period in which any of the following conditions exist for more than 15 consecutive business days:

(1) Its net capital is less than 150 percent of its net capital minimum dollar amount requirement or some greater percentage as may from time to time be designated by the Exchange, or,

(2) If subject to this requirement, its aggregate indebtedness is more than 1,000 per centum of its net capital, or

(3) If in lieu of (2) above, the specified percentage of the aggregate debit items in the Formula for Determination of Reserve Requirements for Brokers and Dealers under SEC Rule 15c3-3 (the alternative net capital requirement) is applicable, its net capital is less than 7 percent of the aggregate debit items thereunder, or

(4) Capital withdrawals including maturities scheduled during the next six months and/or the special deduction from net capital set forth in Rule 431(c)(8)(C)(iii) would result in the condition described in (1), (2) or (3) above, or

(5) The Exchange restricts the member organization.

BUSINESS REDUCTION CAPITAL REQUIREMENT

Rule 326(b). A member organization which carries customer accounts shall forthwith reduce its business to a point enabling its available capital to meet the standards of Rule 326(a) if for more than fifteen (15) consecutive business days:

(1) Its net capital is less than 125 percent of its net capital minimum dollar amount requirement or some greater percentage as may from time to time be designated by the Exchange, or

(2) If subject to this requirement its aggregate indebtedness is more than 1,200 per centum of its net capital, or

(3) If in lieu of (2) above, the specified percentage of the aggregate debit

items in the Formula for Determination of Reserve Requirements for Brokers and Dealers under SEC Rule 15c3-3 (the alternative net capital requirement) is applicable, its net capital is less than 6 percent of the aggregate debit items thereunder, or

(4) Capital withdrawals including maturities scheduled during the next six months and/or the special deduction from net capital set forth in Rule 431(c)(8)(C)(iii) would result in the condition described in (1), (2) or (3) above, or

(5) The exchange restricts the member organization.

[FR Doc. 78-10974 Filed 4-21-78; 8:45 am]

[8010-01]

[Release No. 10205; 812-4222]

NORTHWESTERN MUTUAL LIFE INSURANCE CO. NML VARIABLE ANNUITY ACCOUNT B AND NML VARIABLE ANNUITY ACCOUNT 2

Application of the Act for an Order of Exemption and for Approval of an Offer of Exchange

APRIL 14, 1978.

Notice is hereby given that the Northwestern Mutual Life Insurance Co. ("Northwestern Mutual"), a mutual life insurance company organized in 1857 by a special statute of the legislature of the State of Wisconsin, NML variable annuity account B ("account B"), and NML variable annuity account 2 ("account 2"), 720 East Wisconsin Avenue, Milwaukee, Wis. 53202, separate accounts of Northwestern Mutual registered under the Investment Company Act of 1940 ("act") as unit investment trusts, (hereinafter collectively referred to as "applicants"), filed an application of November 17, 1977, and an amendment thereto on February 24, 1978, pursuant to section 6(c) of the Act for an order exempting applicants from the provisions of sections 22(e), 26(a)(2), 27(a)(3), 27(c)(1), 27(c)(2), and 27(d) of the act to the extent requested and pursuant to section 11 of the act for an order approving an offer of exchange. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Account B and account 2 were established by Northwestern Mutual in connection with the sale of certain variable annuity contracts (the "contracts"). Net purchase payments under the contracts are allocated to the appropriate account and invested in shares of NML Fund, Inc. (the "Stock Fund"), and NML Bond Fund, Inc. (the "Bond Fund"), diversified open-end management companies registered under the act. Purchase payments and accumulated amounts are allocated between the two funds pursuant to

instructions from contract owners and payees.

In 1967, the State of Texas directed the governing boards of all Texas institutions of higher education to make available to certain employees an optional retirement program ("program"), codified as subchapter G of chapter 51 of the Texas Education Code. The statute provides as the funding media for the program fixed or variable annuity contracts purchased from any insurance or annuity company qualified to do business in Texas. In 1973, the Texas legislature made two amendments in the program legislation, which amendments became effective on June 14, 1973. The statutory definition of the program was amended to provide that the benefits of such annuities are to be available only upon termination of employment in the Texas public institutions of higher education, retirement, death, or total disability of the participant. The other amendment added a new § 51.358 to subchapter G which also provides that the benefits of such annuities will be available only if the participant dies, terminates his employment due to total disability, accepts retirement, or terminates employment in the Texas public institutions of higher education.

Because of uncertainty regarding the effect of these amendments, the University of Texas system ("system") requested the opinion of the attorney general of Texas with respect to several questions concerning such amendments. The attorney general rendered an opinion dated February 18, 1975, in response to the system's letter. The attorney general interpreted § 51.358 to prohibit provisions in a variable annuity contract issued in connection with the program on or after June 14, 1973, which provide for making available the redemption value of such contract prior to the occurrence of one of the conditions specified in the statute, i.e., termination of employment, retirement, death, or total disability. Moreover, the opinion further stated that the prohibitions of § 51.358 were impliedly in effect upon the establishment of the program (in 1967) and that notwithstanding any language which may be contained in existing contracts, a participant in the program has never had the right to redeem his annuity contract otherwise than in accordance with the limitations described above. The opinion did not affect the right of a participant to transfer the redemption value of his annuity contract from one carrier to another; accordingly, the granting of the relief requested in the application would not affect such right.

SECTIONS 11(a) AND 11(c)

Section 11(a) of the act provides that it shall be unlawful for any regis-

tered open-end company, or any principal underwriter for such a company, to make, or cause to be made, an offer to the holder of a security of such company, or of any other open-end investment company, to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have been first submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of section 11(a) shall be applicable to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

Applicants have requested an order pursuant to section 11 of the act to permit an offer to be made to owners of contracts issued by the applicants prior to the date of the requested order so that they may exchange their contracts for new contracts which comply with the Education Code of the State of Texas.

Applicants state that the requested order permitting an offer of exchange to be made is necessary in order that present contract owners may continue to receive matching contributions from the State of Texas. Applicants further state that no charge of any kind will be made to the contract holders in connection with the proposed exchange.

Accordingly, applicants have requested that the Commission issue an order approving the offer of exchange, as described pursuant to the provisions of section 11 of the act.

SECTIONS 27(c)(1), 22(e) AND 27(d)

Section 27(c)(1) of the act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless such certificate is a redeemable security. Section 2(a)(32) of the act defines "redeemable security" to mean any security under the terms of which the holder upon its presentation to the issuer or to a person designated by the issuer is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

Section 22(e) of the act provides that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any

redeemable security in accordance with its terms for more than 7 days after the tender of such security to the company or its agent designated for that purpose for redemption except in certain prescribed circumstances.

Section 27(d) of the act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first eighteen months after the issuance of the certificate and receive in payment thereof, in cash, the sum of: (1) The value of his account, and (2) an amount, from such underwriter or depositor, equal to that part of the excess paid for sales loading which is over 15 per centum of the gross payments made by the certificate holder.

Applicants request exemptions from the provisions of sections 22(e), 27(c)(1), and 27(d) of the act to the extent necessary to permit compliance with §51.358 as it pertains to: (i) Redemption values under contracts issued to participants in the program subsequent to the date of such exemptive order, and (ii) redemption values under contracts issued prior thereto but attributable to payments made subsequent to the date of such order.

Applicants assert that if such exemptions are not granted, persons participating in the program effectively will be denied an opportunity to select as a funding medium for their retirement benefits one of two funding media (the other being fixed annuity contracts) specifically provided in the Texas statute for such purpose. Additionally, participants will be unable to obtain the State's matching contributions for the purchase of an equity-based retirement vehicle. In this respect, the attorney general's opinion indicated that these matching contributions will encourage participation in the retirement plan but that unrestricted withdrawals prior to retire-

ment might be detrimental to an effective retirement vehicle. In view of the foregoing, applicants assert that the Commission should grant the requested exemptions because: (1) The limited restriction on redemption would be voluntarily assumed by participants, i.e., eligible employees are not required to participate in the program; (2) the restrictions were not formulated nor suggested by applicants; and (3) participants' relinquishment of the full right of redemption is a reasonable requirement in exchange for the benefits bestowed by the matching contributions of the State of Texas.

Applicants will ensure that appropriate disclosure is made to persons who consider participation in the Program, informing them of the restriction on the availability of redemption values under contracts to be issued to them. This disclosure will take the form of an appropriate reference in each prospectus to the restrictions on redemption of these contracts, as well as requiring each participant, as a part of the determination that the sale of these contracts is suitable for that participant, to sign a statement indicating that he/she is aware that these restrictions will be placed on his/her contract when it is issued. In addition, applicants will review all sales literature that is to be used in conjunction with the sales of these contracts for the existence of material representations that are inconsistent with the restrictions to be placed on these contracts and will instruct the salespeople involved in soliciting in this market specifically to bring this restriction to the attention of the potential participants.

SECTION 27(a)(3)

Applicants propose to offer deferred variable annuity contracts in connection with Account 2. The Account 2 Contracts issued to date are immediate variable annuity contracts. Under the deferred Account 2 Contracts a quantity discount on charges for sales and administrative expenses will be available on a contract year basis as indicated by the chart below:

[Figures in percent]

Portion of purchase payments made during contract year	Total deduction of investment	Portion representing sales expenses	Representing administrative expenses*
\$5,000 or less	8.00	6.60	1.40
Next \$20,000	4.00	3.50	.50
Next \$75,000	2.00	2.00	.00
Excess over \$100,000 .....	.00	1.00	.00

*Plus an administrative charge of \$0.50 for each payment.

Where a purchase payment for a deferred Account 2 Contract is derived from the value of life insurance policies or fixed annuity contracts issued by Northwestern Mutual prior to May 1, 1978, a reduced deduction of 1.4 percent on the first \$5,000 each contract year, .5 percent on the next \$20,000 and no additional deduction on amounts in excess of \$25,000 will be applicable. This deduction will be for administrative expenses only; no charge will be made for sales expenses.

Section 27(a)(3) of the act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate if the amount of the sales load deducted from any one of the first 12 monthly payments exceeds proportionately the amount deducted from any other subsequent payment. With respect to the deferred account 2 contracts, it is possible that the percentage of sales load deducted from any subsequent payments could be higher than the percentage deducted from prior payments. This could occur in two instances. First, because the quantity discount operates on a contract year basis the rate of deductions for sales and administrative expenses may increase if the rate of purchase payments decreased, and may be higher for payments made at the beginning of a contract year than it was for payments made at the end of the prior year even where the level of purchase payments remains constant. For example, if equal monthly payments of \$1,000 are made, the deduction for the last payment each contract year will be at the rate of 4 percent, but the deduction on each of the first five payments the second year will be 8 percent until the \$5,000 breakpoint has been exceeded for the second contract year. This would violate section 27(a)(3). Second, where a purchase payment represents an amount derived from an insurance policy or fixed annuity contract previously issued by Northwestern Mutual the reduced deduction for administrative expenses only will be applicable. If regular purchase payments are subsequently made on the same contract, the subsequent payments will be subject to the regular graded load, including the portion for sales expenses. This would also violate section 27(a)(3).

Applicants assert that section 27(a)(3) of the act was designed to curb abuses associated with front-end load arrangements in mutual fund contractual plans and that the sales deduction schedule proposed to be used here should be exempted from section 27(a)(3) of the act since the schedule does not involve a front-end

load arrangement, does not exceed 9 percent and therefore cannot lead to the abuses intended to be curbed by that section. Moreover, applicants assert that the sales load applied against amounts derived from existing Northwestern Mutual life insurance policies and fixed annuities has been reduced in accordance with the provisions of rule 22d-3, which is designed to permit certain variations in variable annuity contract charges which reflect differences in costs or services, are not unfairly discriminatory against any person and which are fully disclosed. Applicants assert that the purpose behind rule 22d-3 would be defeated if reductions in sales load were to be disallowed because of a conflict with section 27(a)(3). Accordingly, applicants assert that sufficient grounds exist for the issuance of an order of exemption from section 27(a)(3). An exemption is therefore requested from section 27(a)(3) of the act to permit the schedule of sales load deductions proposed by applicants.

SECTIONS 26(a) AND 27(c)(2)

Section 27(c)(2) requires that the net purchase payments under periodic payment plan certificate be deposited with a trustee or custodian having the qualifications prescribed in section 26(a)(1) for trustees of unit investment trusts, under an arrangement which includes the provision required by sections 26(a)(2) and (3) for trust indentures of unit investment trusts. These latter sections limit the expenses which may be charged against the assets of a unit investment trust and are intended to assure orderly transition if the trustee or custodian resigns.

Net purchase payments under the account 2 contracts, after deduction of the applicable sales load, are allocated to account 2 and simultaneously invested in shares of the Stock Fund and the Bond Fund in accordance with the purchaser's instructions. All assets of account 2 are kept so invested at all times. Shares of the funds are held in an open account and ownership of the shares is shown only on the books and records of the funds and of account 2 and other Northwestern Mutual accounts which, in combination, own all the outstanding shares of both funds. Shares of the funds are not represented by stock certificates or other physical documents.

Account 2 and Northwestern Mutual requested and received an exemption from section 26(a) before account 2 began operations in 1972, Investment Company Act release No. 7183 (May 19, 1972). Since single premium immediate contracts were the only ones contemplated at that time, applicants believed no exemption from section

27(c)(2) was required. However, an exemption from section 27(c)(2) is required before the offering of deferred account 2 contracts commences, as applicants now propose.

Applicants assert that the purpose of section 27(c)(2) is to make the provisions of section 26(a) apply to an issuer of periodic payment plan certificates which is not organized as a unit investment trust. Applicants assert that since the Commission has already granted an exemption from section 26(a) in the context of the operations of account 2, it is appropriate to exempt account 2 from section 27(c)(2) as well. Applicants assert that, in any case, the reasons for granting the exemption from section 26(a) remain valid and also justify exemption from section 27(c)(2).

Northwestern Mutual is subject to extensive control and supervision by the Wisconsin Commissioner of Insurance. Under Wisconsin insurance law, Northwestern Mutual is not a trustee of the account 2 assets, but applicants contend that the essential protections of trusteeship are provided by the supervisory control of the Wisconsin Commissioner of Insurance, substantial assets of Northwestern Mutual, a fidelity bond which covers its officers and employees and the terms of Wisconsin law and the contracts themselves which effectively preclude abrogation of Northwestern Mutual's obligation.

Under the foregoing circumstances, applicants contend that the dangers against which section 27(c)(2) is directed are not present and an exemption from section 27(c)(2) and 26(a) is requested.

Applicants have consented that the foregoing requested exemptions may be made subject to the following conditions: (1) That charges to contract holders for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved for such purpose; and (2) that the payments of sums and charges out of the assets of account 2 shall not be deemed to be exempted from regulation by the Commission by reason of that order, provided that the applicant's consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payments of sums and charges out of such assets other than charges for administrative services, and applicants reserve the right, in any proceeding before the Commission or in any suit or action in any court, to assert that the Commission has no authority to regulate the payments of such other sums and charges.

SECTION 6(c)

Section 6(c) authorizes the Commission to exempt any person, security, or

transaction, or any class or classes of persons, securities, or transactions, from the provisions of the act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the act.

Notice is further given that any interested person may, not later than May 9, 1978, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A Copy of such request shall be served personally or by mail upon applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the act, an order disposing of the application will be issued as of course following May 9, 1978, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-10972 Filed 4-21-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 15; Amdt. 4]

ASSISTANT ADMINISTRATOR FOR ADMINISTRATION

Delegation of Authority

Delegation of Authority No. 15 (37 FR 20753), as amended (39 FR 1898, 40 FR 18054, and 42 FR 18320), is hereby further amended to grant authority for executing grants and other agreements.

Accordingly, Delegation of Authority No. 15 is amended by adding Section E to read as follows:

I.***

* * * * *

E. To execute grants or cooperative agreements authorized by Federal statute except section 7(j) of the Small Business Act subject to the limitations contained in Pub. L. 95-224, OMB Circular A-110 and OMB Circular A-102.

Effective date: April 24, 1978.

Dated: April 18, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-10946 Filed 4-21-78; 8:45 am]

[8025-01]

[License No. 06/10-0150]

CAPITAL MARKETING CORPORATION

Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given, pursuant to section 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1977)), of a conflict of interest transaction between Capital Marketing Corporation (CMC), 9001 Ambassador Row, Dallas, Tex. 75247, a Federal licensee under the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 et seq.), and an Associate. CMC was licensed by the Small Business Administration (SBA) on June 24, 1968. There are approximately 415 individual shareholders of CMC with each owning less than 5 percent.

CMC proposes to sell various assets acquired in the liquidation of financial assistance previously provided two grocery stores which were located in Chandler, Tex. and Whitehouse, Tex., to Food Fare, Inc. The inventory and equipment of the Chandler Store will be purchased for approximately \$200,000 in cash. The land and improvements, equipment, and inventory of the Whitehouse Store will be purchased on a credit basis evidenced by a three-year note for \$395,000.

Mr. Nat Gibbs, Jr., the son of the president of CMC, owns 51 percent of Food Fare, Inc. Therefore, Food Fare, Inc., is an Associate of the Licensee as defined by section 107.3(f) of the SBA Rules and Regulations. As such, the proposed credit portion of the sale will fall within the provisions of section 107.1004(b)(1) of the Regulations. Except where a written exemption may be granted by SBA in special instances in furtherance of the purposes of the Act, a Licensee shall not, directly or indirectly, provide financing to any of its Associates. SBA is considering a request for such exemption.

Also, the sale of assets to an Associate of the Licensee will be subject to the provisions of section 107.1005 of the Regulations. The Licensee must demonstrate that the proposed terms of sale are no less favorable to it than are obtainable elsewhere.

Notice is further given that any person may, not later than (15 days

from the date of publication of this notice), submit to SBA, in writing, comments on the proposed transaction. Any such communication should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Dallas, Tex.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: April 14, 1978.

PETER F. McNEISH,
*Deputy Associate
Administrator for Investment.*

[FR Doc. 78-10947 Filed 4-21-78; 8:45 am]

[8025-01]

[License No. 02/02-0180]

CMNY CAPITAL CO., INC.

Filing of Application for Approval of Conflict of Interest Transaction

Notice is hereby given that DMNY Capital Co., Inc. (CMNY), 77 Water Street, New York, N.Y. 10005, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application pursuant to section 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1977)), for an exemption from the provisions of the conflict of interest regulation.

The exemption, if granted, will permit CMNY to provide financing of \$25,000 to Wallace Clark Inc. (WCI), 455 Park Avenue, New York, N.Y. 10022. The financing will be through a rights offering. Funds raised through this offering will be used by WCI as working capital.

Mr. Robert Davidoff, an officer, director and shareholder of CMNY, represents an affiliated concern, Carl Marks & Co., Inc., 77 Water Street, New York, N.Y. 10005 on the board of directors of WCI. Mr. Davidoff is an officer and director of Carl Marks & Co., Inc., and the owner of approximately 15 percent of the outstanding securities of the small concern. Accordingly, WCI is an associate of the Licensee by reason of the dual role of Mr. Davidoff and by reason of the ownership of more than 10 percent of its stock by an associate of the Licensee and, therefore, the transaction will require an exemption pursuant to section 107.1004(b)(1) of the Regulations.

Notice is hereby given that any person may on or before May 9, 1978, submit, in writing, relevant comments on the proposed transaction to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in New York City.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: April 14, 1978.

PETER F. McNEISH,
Deputy Associate
Administrator for Investment.

[FR Doc 78-10948 Filed 4-21-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1421, Amdt. No. 2]

MAINE

Declaration of Disaster Loan Area

The above numbered Declaration (see 43 FR 4892) and Amendment No. 1 (see 43 FR 8605) are amended by extending the filing date for physical damage until the close of business on June 20, 1978, and for economic injury until the close of business on December 20, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 15, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-10950 Filed 4-21-78; 8:45 am]

8025-01]

[Declaration of Disaster Loan Area No. 1442, Amdt. No. 1]

MAINE

Declaration of Disaster Loan Area

The above numbered Declaration (see 43 FR 9401), is amended by extending the filing date for physical damage until the close of business on June 20, 1978, and for economic injury until the close of business on December 20, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 15, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-10949 Filed 4-21-78; 8:45 am]

[8025-01]

[Delegation of Authority No. 15-A; Revision 1, Amendment 1]

ADMINISTRATIVE AND FINANCIAL ACTIVITIES

Redelegation

Delegation of Authority No. 15A, Rev. 1, (42 FR 63840) is hereby amended to delegate authority for executing grants and other agreements.

Accordingly, Delegation of Authority No. 15-A, Rev. 1, is amended as follows:

1. Pursuant to the authority delegated by the Administrator to the Assistant Administrator for Administration in Delegation of Authority No. 15 (37 FR 20753) and amendments (39 FR 1897, 40 FR 18054, 42 FR 18320, and FR Doc. 78-10946 published in today's FEDERAL REGISTER), the following authority is hereby redelegated to the specific positions as indicated herein:

A. *Administrative Services*—1. *Director, Office of Management Services*. a. To contract for supplies and services for the agency pursuant to Chapter 4 of Title 41, United States Code, subject to the limitations contained in section 257 (a) and (b) of that chapter.

b. To execute grants or cooperative agreements authorized by Federal statute except Section 7(j) of the Small Business Act subject to the limitations contained in Pub. L. 95-224, OMB Circular A-110 and OMB Circular A-102.

2. *Director, Administrative Services Division*. a. To contract for supplies and services for the agency pursuant to Chapter 4 of Title 41, United States Code, subject to the limitations contained in section 257 (a) and (b) of that chapter.

b. To execute grants or cooperative agreements authorized by Federal statute except Section 7(j) of the Small Business Act subject to the limitations contained in Pub. L. 95-224, OMB Circular A-110 and OMB Circular A-102.

3. *Chief, Procurement and Supply Branch*. a. To contract for supplies and services for the agency pursuant to Chapter 4 of Title 41, United States Code, subject to the limitations contained in section 257 (a) and (b) of that chapter.

b. To execute grants or cooperative agreements authorized by Federal statute except Section 7(j) of the Small Business Act subject to the limitations contained in Pub. L. 95-224, OMB Circular A-110 and OMB Circular A-102.

4. *Contracting Officer, Procurement and Supply Branch*. (Contracting officers are appointed by the Assistant Administrator for Administration using Certificates of Appointment.)

a. To contract for supplies and services for the agency not exceeding the monetary amount of \$100,000 pursuant to Chapter 4 of Title 41, United States Code, subject to the limitations contained in section 257 (a) and (b) of that chapter, and subject to the terms of the Certificate of Appointment.

5. *Agreement Officer, Procurement and Supply Branch*. (Agreement officers are appointed by the Assistant Administrator for Administration using Certificates of Appointment.)

a. To execute grants or cooperative agreements authorized by Federal

statute except Section 7(j) of the Small Business Act subject to the limitations contained in Pub. L. 95-224, OMB Circular A-110 and OMB Circular A-102.

Effective date: Upon publication in the FEDERAL REGISTER.

Dated: April 18, 1978.

ROGER H. JONES,
Assistant Administrator for
Administration.

[FR Doc. 78-10945 Filed 4-21-78; 8:45 am]

[8025-01]

[License No. 05-07-5087]

INDIANAPOLIS BUSINESS INVESTMENT CORP.

Termination of License

Notice is hereby given that Indianapolis Business Investment Corp. (Indianapolis), 5750 Michigan Road, Indianapolis, Ind. 46208, has surrendered its license to operate as a small business investment company under Section 301(d) of the Small Business Investment Act of 1958, as amended (the Act).

Indianapolis was licensed by the Small Business Administration on September 15, 1971.

Under the authority vested by the Act and pursuant to 13 CFR 107.105 (1978), the surrender of Indianapolis license is hereby approved.

Accordingly, all rights, privileges and franchises derived from the license are hereby terminated.

(Catalog of Federal Domestic Assistance Program Number 59.011, Small Business Investment Companies.)

PETER F. McNEISH,
Deputy Associate
Administrator for
Investment.

Dated: April 18, 1978.

[FR Doc. 78-11054 Filed 4-21-78; 8:45 am]

[8025-01]

[Application No. 05/05-5126]

METRO-DETROIT INVESTMENT CO.

Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under section 301(d) of the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 et seq.) has been filed by Metro-Detroit Investment Co. (Applicant) with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1977).

The officers and directors are as follows:

William J. Fowler, 35850 Smithfield Court, Farmington, Mich. 48024, president and director.

Michael J. George, 1639 Orchard Lane, Birmingham, Mich. 48010, vice president and director.

Arthur F. Barkey, 4300 Sa Moset Drive, Royal Oak, Mich. 48073, secretary and director.

James P. George, 555 Woodward, Birmingham, Mich. 48009, treasurer and director.
Sharkey T. George, 3590 Berkshire Drive, Birmingham, Mich. 48010, director.

The applicant will maintain offices at 18481 West Ten Mile Road, Suite 202, Southfield, Mich. 48075, and will begin operations with paid-in capital and paid-in surplus of \$500,000 derived from the sale of 500 shares of common stock at \$1,000 per share to Melody Distributing Company, 31111 Industrial Road, Livonia, Mich. 48150, a wholesale dairy distributor. The applicant will concentrate on financing independent retail food stores.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owner and manager and the probability of successful operations of the Applicant under this management, including adequate profitability and financial soundness, in accordance with the Act and SBA Rules and Regulations.

Any person may, not later than May 9, 1978, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Southfield, Mich.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: April 19, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator
for Investment.

[FR Doc. 78-11055 Filed 4-21-78; 8:45 am]

[8025-01]

[Application No. 05/05-5125]

TYLER REFRIGERATION CAPITAL CORP.

Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under section 301(d) of the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 et seq.) has been filed by Tyler Refrigeration Capital Corp. (Applicant) with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1977).

The officers and directors are as follows:

William P. Linnen, 2625 Belle Plaine Trail, Michigan City, Ind. 46360, president and director.

James Widner, 3112 Kettering Drive, South Bend, Ind. 46635, vice president.

Daniel G. O'Donnell, 1460 Sioux Trail, Niles, Mich. 49120, assistant/secretary.

Michael Brennan, 1818 Lakeshore Drive, Michigan City, Mich. 46360, secretary.

The applicant will maintain offices at 2222 East Michigan Boulevard, Michigan city, Ind. 46360, and will begin operations with paid-in capital and paid-in surplus of \$303,000 derived from the sale of 1,000 shares of common stock at \$1,003 per share to Tyler Refrigeration Capital Corp. Although the applicant is primarily interested in financing small concerns that have obtained or will obtain Tyler distributorships, any small concern, with or without such a distributorship, is eligible for assistance from the applicant.

As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owner and manager and the probability of successful operations of the Applicant under this management, including adequate profitability and financial soundness, in accordance with the Act and SBA Rules and Regulations.

Any person may, not later than May 9, 1978, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Ad-

ministrator for Investment, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Michigan City, Ind.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: April 18, 1978.

PETER F. MCNEISH,
Deputy Associate
Administrator for Investment.

[FR Doc. 78-11056 Filed 4-21-78; 8:45 am]

[4710-02]

DEPARTMENT OF STATE

Agency for International Development

JOINT COMMITTEE FOR AGRICULTURAL DEVELOPMENT OF THE BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of section 10 (a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the tenth meeting of the Joint Committee on Agricultural Development of the Board for International Food and Agricultural Development on May 8 and 9, 1978.

The purpose of this meeting is to receive a progress report on baseline studies of research, education and extension; to review the status of Title XII projects in Asia, Africa, Latin America and the Near East; and to consider other business brought before the Committee.

The meeting on May 8, 1978, will convene in Regional Work Groups (RWGs): Africa RWG at 9:30 a.m. in Room 3524, New State Department Bldg.; Asia RWG at 10:00 a.m. in Room 206, Rosslyn Plaza Bldg., 1601 North Kent Street, Rosslyn, Va.; Latin America RWG at 9:30 a.m. in Room 1410 New State Department Bldg.; and Near East RWG at 9:30 a.m. in Room 6484, New State Department Bldg. The meeting on May 9, 1978, will convene from 9:00 a.m. to 5:00 p.m. in the Arlington Room of the Quality Inn, Pentagon City, 300 Army-Navy Drive, Arlington, Va. 22202. The meetings are open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Fletcher E. Riggs, Deputy Director, Office of Title XII/University Relations, Development Support Bureau, is designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring fur-

ther information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at 703-235-9001.

Dated: April 21, 1978.

FLETCHER E. RIGGS,
A.I.D. Advisory Committee Representative, Joint Committee on Agricultural Development, Board for International Food and Agricultural Development.

[FR Doc. 78-11261 Filed 4-21-78; 11:38 am]

[4710-02]

JOINT RESEARCH COMMITTEE OF THE BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the eleventh meeting of the Joint Research Committee of the Board for International Food and Agricultural Development on May 8, 9, and 10, 1978.

The purpose of this meeting is an in-depth review of progress being made in the preparation of Collaborative Research Support Programs in sorghum-millet, small ruminant animals, fisheries and aquaculture, and functional effects of marginal nutritional deficiencies in human beings; and on the continuation of development of a prioritized agenda of research subjects for Collaborative Research Support Programs.

The meeting will begin at 9:00 a.m. and will adjourn at 4:30 p.m. on May 8 and 9, 1978, and will reconvene at 9:00 a.m. and adjourn at Noon on May 10, 1978. The meeting will be held in the Arlington Room of the Quality Inn, Pentagon City, 300 Army-Navy Drive, Arlington, Va. 22202. The meetings are open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Erven J. Long, Director, Office of Title XII Coordination/University Relations, is designated as A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at 703-235-9054.

Dated: April 21, 1978.

ERVEN J. LONG,
A.I.D. Advisory Committee Representative, Joint Research Committee, Board for International Food and Agricultural Development.

[FR Doc. 78-11262 4-21-78; 11:38 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 78-055]

SHIP STRUCTURE COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Ship Structure Committee to be held Tuesday, June 6, 1978 at 8:30 a.m. in Room 8236, U.S. Coast Guard Headquarters, 400 7th Street SW., Washington, D.C. The agenda for this meeting is as follows: (a) Review the current program and operations of the Committee, and (b) Consider and establish the future research program of the Ship Structure Committee.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from LCDR T. H. Robinson, USCG, Secretary, Ship Structure Committee, U.S. Coast Guard Headquarters, Washington, D.C. 20590, 202-426-2205. Any member of the public may present a written statement to the Committee at any time.

H. G. LYONS,
Captain, U.S. Coast Guard,
Acting Chief, Office of Merchant Marine Safety.

APRIL 17, 1978.

[FR Doc. 78-11017 Filed 4-21-78; 8:45 am]

[4910-13]

Federal Aviation Administration

TECHNICAL ADVISORY COMMITTEE

Termination

Notice is hereby given of the termination of the Technical Advisory Committee. This committee was sponsored by the Office of the Associate Administrator for Engineering and Development of the Federal Aviation Administration (FAA) to provide FAA with independent expert advice on the nature and direction of its technical efforts

related to the National Airspace System and other FAA responsibilities. The committee's charter has expired and the committee has been terminated, as it is no longer in the public interest in connection with the performance of duties imposed on FAA by law.

Issued in Washington, D.C. on April 17, 1978.

BROOKS C. GOLDMAN,
FAA Committee Management Officer.

[FR Doc. 78-10808 Filed 4-21-78; 8:45 am]

[4910-06]

Federal Railroad Administration

MINORITY BUSINESS RESOURCE CENTER ADVISORY COMMITTEE

Meeting

Pursuant to section 19(a) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held May 8, 1978, at 10 a.m. until 5 p.m. at the Department of Transportation, 400 7th Street SW., Room 4436 and 4438, Washington, D.C. 20590. The agenda for the meeting is as follows:

1. Business development
2. Management and technical assistance.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than 1 day before the meeting. Information pertaining to the meeting may be obtained from Mr. Kenneth E. Bolton, Executive Director, Federal Railroad Administration, 400 7th Street SW., Washington, D.C. 20590, telephone: 202-426-2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on April 18, 1978.

KENNETH E. BOLTON,
Executive Secretary.

[FR Doc. 78-10939 Filed 4-21-78; 8:45 am]

[4910-59]

National Highway Traffic Safety Administration

[Docket No. IP78-3; Notice 1]

INTERNATIONAL HARVESTER CO.

Receipt of Petition for Determination of Inconsequential Noncompliance

International Harvester Co. of Chicago, Ill., has petitioned to be exempt-

ed from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1581 et seq.) for an apparent noncompliance with 49 CFR 571.121, Motor Vehicle Safety Standard No. 121, Air Brake Systems. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S5.3.3, Brake actuation time, requires that the air pressure in each brake chamber of a truck air brake system, with the initial service reservoir system air pressure at 100 psi, shall reach 60 psi in not more than 0.45 second. Petitioner's normal surveillance testing has shown a noncompliance with this requirement that exists on approximately 750 trucks manufactured from September 1977 through November 1977. The vehicles are S-Series Trucks Model Series 2500, 2600 4 x 2 and 6 x 4 vehicles equipped with FA-231 (16,000 lb) and FA-232 (18,000 lb) front axles and antilock air brake code 04081. The noncompliance was found in the right front brake where the front chamber application time was 0.47 second, and the rear chamber 0.475 second. The company argues that this is inconsequential as it relates to motor vehicle safety for several reasons. The maximum possible effect on stopping distances from 60 mph under the worst road conditions has been computed to be 18 inches. The condition causes no other compliance problems with the standard and the trucks continue to meet stopping distance and controllability requirements. Under normal stopping procedures there will be no effect on stopping distance. Other factors such as brake burnishing, and tire tread design, to name two, have a greater effect upon stopping distance than the 0.020-0.025 second variation observed. In summary, the company argues that "no effects will exist in real world conditions in which these vehicles operate day to day."

Interested persons are invited to submit written data, views, and arguments on the petition of International Harvester Co. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date of business indicated below will be considered. The application

and supporting materials and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date: June 8, 1978.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on April 17, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator
for Rulemaking.

[FR Doc. 78-11047 Filed 4-21-78; 8:45 am]

[4910-59]

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the National Highway Safety Advisory Committee to be held May 15, 16, 17 and 18, 1978 in Washington, D.C.

The agenda for this meeting is as follows:

On May 15, starting at 3 p.m. in room 2230 of the DOT Headquarters Building, the Executive Subcommittee will meet to review past activities, plan agendas for the period September 1978-June 1979, and to discuss old or new business.

On May 16 from 8:30 a.m. to 11:30 a.m. in room 2230 of the DOT Headquarters Building, the Driver Subcommittee will meet to hear briefings on the Bureau of Motor Carrier Safety's compliance program, to discuss the NHTSA Research Priorities relating to the Driver Subcommittee and to discuss old or new business.

Starting at 11:30 a.m. to 1:30 p.m. on May 16 in room 6200 the State-Federal Relations Subcommittee will meet to discuss and prepare their report on the Colorado site visit, and to hear an overview on the organization of the National Conference of Governors' Highway Safety Representatives. The Subcommittee will also discuss future site visits and old or new business.

On May 16 at 2 p.m. to 5 p.m. in room 2230 of the DOT Headquarters Building, the Highway Environment Subcommittee will meet to hear a briefing on State Highway Department safety design practices and an overview of FHWA's pedestrian programs. The Subcommittee will also discuss current FHWA rulemaking, review NHTSA Research Priorities and bring up any old or new business.

On May 17 from 9 a.m. to 11:30 a.m. in room 6200 the Adjudication and Al-

cohol Subcommittee will meet to hear status reports on the NIAAA and NHTSA Interagency Agreement, on NHTSA projects to promote judicial education, and to discuss NHTSA's Research Priorities relating to the Adjudication and Alcohol Subcommittee. The Subcommittee will also discuss any old or new business.

On May 17 from 12:30 p.m. to 5 p.m. in room 2230 the Vehicle Subcommittee will meet to review NHTSA's Research Priorities, discuss ways to achieve voluntary compliance for 55 MPH and NHTSA's rulemaking concerning Vehicle Identification Numbers. The Subcommittee will also hear a status report on repeal of helmet use laws. The Subcommittee will then consider any old or new business.

On May 18, at 8:30 a.m. to 1 p.m. in room 2230 the full Committee will meet to discuss NHTSA's Traffic Safety Research and Demonstration Priorities Report and vote on the report concerning alcohol safety adjudication and referral programs of the American Indian Tribal Courts. Subcommittee Chairpersons will report on their individual meetings and old or new business will be considered.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Any member of the public may present a written statement to the Committee at any time.

This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretary, Room 5215, 400 Seventh Street SW., (DOT Headquarters Building), Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C. on: April 19, 1978.

ROBERT E. DOHERTY,
Assistant Executive Secretary.

[FR Doc. 78-11046 Filed 4-21-78; 8:45 am]

[4910-59]

National Highway Traffic Safety Administration

[Docket No. 75-18; Notice 19]

AIR BRAKE SYSTEMS—STANDARD NO. 121

Cancellation of Public Meeting

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Notice of cancellation of public meeting.

SUMMARY: This notice announces the cancellation of a public meeting scheduled for April 24 and 25, 1978, by the NHTSA on the subject of commercial vehicle air brake systems. The

meeting was to be held at the Department of Commerce Auditorium, beginning at 9 a.m. April 24th. The meeting is being cancelled because of a ruling by the Ninth Circuit U.S. Court of Appeals on the status of the air brake standard No. 121 (49 CFR 571.121). A decision to hold the meeting at any time in the future will be preceded by notice in the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Mr. Scott Shadle; Office of Vehicle Safety Standards, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0854.

(Secs. 103, 112, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407); delegation of authority at 49 CFR 1.50.)

Issued on April 20, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-11133 Filed 4-20-78; 11:46 am]

[4810-35]

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1977 Rev., Supp. No. 16]

SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS

Change in State of Incorporation

On December 31, 1977, Allianz Insurance Co., Los Angeles, Calif. changed its State of incorporation from New York to California. The company was last listed as an acceptable surety on Federal bonds at 42 FR 34068, July 1, 1977.

A certificate of authority as an acceptable surety on Federal bonds is hereby issued by the Secretary of the Treasury, under Sections 6 to 13 of Title 6 of the United States Code, to Allianz Insurance Co., incorporated in the State of California. This new certificate replaces the company's former Treasury certificate, effective December 31, 1977. An underwriting limitation of \$2,526,000 has been established for the company. The underwriting limitation is the same as was established as of July 1, 1977, under the certificate issued to the company in its previous State of incorporation.

Certificates of authority expire on June 30, each year, unless sooner revoked, and new certificates are issued on July 1, so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1, in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, De-

partment of the Treasury, Washington, D.C. 20226.

Dated: April 18, 1978.

D. A. PAGLIAI,
Commissioner, Bureau of
Government Financial Operations.
[FR Doc. 78-11027 Filed 4-21-78; 8:45 am]

[4810-22]

OFFICE OF THE SECRETARY

WELDED STAINLESS STEEL PIPE AND TUBING FROM JAPAN

Determination of Sales at Less Than Fair Value, Exclusive From and Final Discontinuance of Antidumping Investigation

AGENCY: U.S. Treasury Department.

ACTION: Determination of Sales at Less Than Fair Value, Final Exclusion From and Final Discontinuance of Antidumping Investigation.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a determination that imports of welded stainless steel pipe and tubing from Japan are being sold at less than fair value. It has further been determined that based upon evidence developed during the investigation, the exclusion of one firm from this determination and the discontinuance of the investigation with respect to a second firm is warranted. This case is being referred to the United States International Trade Commission for a determination whether the sales made at less than fair value have caused or are likely to cause injury to an industry in the United States.

EFFECTIVE DATE: April 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard Rimlinger, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On March 2, 1977, the U.S. International Trade Commission ("Commission") notified the Secretary of the Treasury that pursuant to sections 334 and 337(b)(3), of the Tariff Act of 1930, as amended (19 U.S.C. 1334 and 1337(b)(3)), a complaint had been filed with the Commission on November 15, 1976, which might involve matters coming under the purview of the Antidumping Act, 1921, as amended (19 U.S.C. 160, et seq.) (referred to in this notice as "the Act"). This complaint, which formed the basis of an investigation instituted by the Commission under section 337 on February 1, 1977, concerned stainless steel pipe and tubing entering the U.S. under item

610.3720 of the Tariff Schedules of the United States Annotated. It was filed by counsel acting on behalf of Acme Tube Inc., Somerset, N.J.; Allegheny Ludlum Steel Corp., Pittsburgh, Pa.; Armco Steel Corp., Advanced Material Division, Baltimore, Md.; Bristol Metals, Inc., Bristol, Tenn.; Carpenter Technology Corp., Tube Division, Union, N.J.; Colt Industries, Inc., Trent Tube Division, East Troy, Wis.; Consolidated Metals Corp., Dover, N.J.; and Sharon Steel Corp., Damascus Tubular Products Division, Greenville, Pa.

A previous antidumping investigation concerning welded stainless steel pipe and tubing from Japan had resulted in a "Notice of Discontinuance of Antidumping Investigation" which was published in the FEDERAL REGISTER of November 22, 1972 (37 FR 24838). On the basis of the information supplied by the Commission, a "Notice of Reopening of Discontinued Investigation" was published in the FEDERAL REGISTER of March 30, 1977 (42 FR 16883), and an investigation has been conducted to enable the Secretary of the Treasury to determine whether there are reasonable grounds to believe or suspect that there are, or are likely to be, sales to the United States at less than fair value, as required by § 153.33(g) of the Customs Regulations (19 CFR 153.33(g)).

The Secretary concluded that a Tentative Determination could not reasonably be made within the usual 6-month period and the investigatory period in this case was therefore extended to no more than 9 months pursuant to a "Notice of Extension of Investigatory Period" published in the FEDERAL REGISTER on October 6, 1977 (42 FR 54491).

A "Withholding of Appraisal Notice and Exclusion from Antidumping Investigation" was published in the FEDERAL REGISTER of January 13, 1978 (43 FR 2031).

DETERMINATION OF SALES AT LESS THAN FAIR VALUE

On the basis of the information developed in Customs' investigation and for the reasons noted below, pursuant to section 201(b) of the act (19 U.S.C. 160(b)), I hereby determine that the purchase price or the exporter's sales price of welded stainless steel pipe and tubing from Japan, other than that produced by Toa Seiki Co., Ltd., and Yamato Industries Co., Ltd., for export to the United States, is less, or is likely to be less, than the fair value, and thereby the foreign market value, of such or similar merchandise. In the case of welded stainless steel pipe and tubing from Japan produced by Toa, I hereby exclude such merchandise from this determination. In the case of such merchandise produced by Yamato, I hereby discontinue the investigation.

STATEMENT OF REASONS ON WHICH THIS
DETERMINATION IS BASED

a. *Scope of the Investigation.* Over 85 percent of imports of the subject merchandise from Japan were manufactured by: Stainless Pipe Industries, Ltd., Toa Seiki Co., Ltd., Yamato Industries Co., Ltd., Brasimet Industries Corp., Ltd., Tokyo Nishimura Kogyo Co., Ltd., and Nisshin Steel Co., Ltd. Therefore, the investigation was limited to these six manufacturers.

b. *Basis of Comparison.* For the purpose of considering whether the merchandise in question is being, or is likely to be sold at less than fair value within the meaning of the act, the proper basis of comparison is between purchase price and the home market price of such or similar merchandise on sales by Stainless Pipe Industries, Ltd., Toa Seiki Co., Ltd., Brasimet Industries Corp., Ltd., Tokyo Nishimura Kogyo Co., Ltd., and Nisshin Steel Co., Ltd., and between exporter's sales price and the home market price of such or similar merchandise on sales by Yamato Industries Co., Ltd. Purchase price, as defined in section 203 of the act (19 U.S.C. 162), was used for five manufacturers since all export sales by those five companies were made to non-related customers in the United States. Exporter's sales price as defined in section 204 of the act (19 U.S.C. 163), was used for all export sales made by Yamato Industries Co., Ltd., since the importer was related to Yamato.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing and cost of production information was obtained concerning export and appropriate home market sales of welded stainless steel pipe and tubing from Japan during the period October 1, 1976, through March 31, 1977.

c. *Purchase Price.* For purposes of this determination, purchase price has been calculated on the basis of the f.o.b. port, f.a.s. port, or ex-godown, packed price to the United States, or to the unrelated trading company as appropriate, with deductions for inland freight, insurance, and shipping charges as appropriate.

d. *Exporter's Sales Price.* For purposes of this determination, exporter's sales price has been calculated on the basis of the c.i.f., duty paid, ex-dock, packed price to the unrelated United States customers, with deductions for Japanese shipping charges, ocean freight, insurance, brokerage, wharfage, United States import duties and selling expenses.

e. *Home Market Price.* For purposes of this determination, home market price has been calculated on the basis of the weighted-average delivered packed price to unrelated purchasers with deductions for inland freight, differences in payment terms, differences in packing cost, and an offset to U.S. selling expenses deducted from exporter's sales price (for sales made by Yamato Industries Co., Ltd.).

In the case of Nisshin Steel Co., Ltd., claims were made for deductions from home market prices for smaller lot sales, shorter lead times, differences in warranty cost, and differences in merchandise. All claims have been disallowed due to insufficient supporting evidence.

In the case of Tokyo Nishimura Kogyo, Ltd., claims were made for deductions from home market prices for smaller lot sales and

differences in merchandise. All claims have been disallowed due to insufficient supporting evidence.

In the "Withholding of Appraisal Notice" published in the FEDERAL REGISTER On January 13, 1978 (43 FR 2031), it was stated that information available to that point indicated that such a significant number of home market sales by Yamato Industries Co., Ltd., were made at prices below the cost of production that remaining sales made above the cost of production provided an inadequate basis for fair value comparisons. Since there did not appear to be sales to third countries of such or similar merchandise, the fair value for Yamato was based on constructed value as defined in section 206 of the Act (19 U.S.C. 165).

Insofar as the cost of production of welded stainless steel pipe and tubing subject to this investigation is concerned, it has now been determined that the requirement in section 205(b) of the Act, obligating the Secretary to determine whether all costs can be recovered over a reasonable period of time must be interpreted in this case to require a determination of whether all costs can be recovered over a normal business cycle. The business cycle applicable to the Japanese steel industry in this particular case has been determined to include the latest trough-to-trough in utilization from 1972 through 1976, as reported in the October 1977 Report of the Council on Wage and Price stability. It has been concluded that the average capacity utilization rate* of the Japanese steel industry for the period 1972-1976 must be applied to certain elements of the cost of production of welded stainless steel pipe and tubing, namely labor, depreciation, interest and other fixed expenses.

The cost of production thus established has been compared with the home market prices of each of the companies under investigation. Any sales made at a price less than such cost of production have been disregarded and the remaining sales, made at not less than the cost of production, have been utilized in determining the appropriate home market price for each company. Based on this approach, the remaining, above-cost sales were deemed adequate for the purpose of establishing fair value for Yamato as well as the other respondents.

f. *Result of Fair Value Comparisons.* Using the above criteria, the purchase price and/or exporter's sales price were found to be lower than the home market price of such or similar merchandise. Comparisons were made on approximately 79 percent of the total sales of the subject merchandise to the United States by all manufacturers investigated for the period under consideration. Margins were found ranging from 0.7 to 54 percent for sales made by Yamato Industries Co., Ltd. on 6 percent of the sales

*Annual capacity utilization rate is the quotient of raw steel production divided by usable capacity. Usable capacity was calculated by interpolating between peak monthly production points assuming constant compound growth between peaks. The average capacity utilization rate for the period 1972-1976 is a simple average of the rates for each of those annual periods.

compared; ranging from 0.4 to 17 percent for sales made by Nisshin Steel Co., Ltd., on 22 percent of the sales compared; ranging from 0.4 to 12 percent for sales made by Stainless Pipe Industries, Ltd., on 29 percent of the sales compared; and ranging from 0.4 to 62 percent for sales made by Tokyo Nishimura Kogyo Co., Ltd., on 94 percent of the sales compared. Weighted-average margins for each firm's sales compared were approximately 0.9 percent for Yamato Industries Co., Ltd., 1 percent for Nisshin Steel Co., Ltd., 1 percent for Stainless Pipe Industries, Ltd., and 11 percent for Tokyo Nishimura Kogyo Co., Ltd. No margins were found on sales by Toa Seiki Co., Ltd., and Brasimet Industries Corp. Based upon the absence of margins on over 88 percent of its exports to the U.S. and the fact that Toa Seiki Co., Ltd., appears to be honoring the price assurances it gave in 1972, it has been determined that this firm should be excluded from this determination under § 153.38, Customs Regulations (19 CFR 153.38). Insufficient information has been supplied by Brasimet Industries Corp. with regard to home market sales and sales to the U.S. to qualify for an exclusion or a discontinuance in this proceeding.

In the case of Yamato, the weighted average margin on that firm's sales compared was considered to be minimal in relation to the total volume of sales. In addition, formal assurances have been received from that producer that it would make no future sales at less than fair value within the meaning of the Act. It has therefore been determined to discontinue the antidumping investigation with respect to this firm in accordance with § 153.38, Customs Regulations (19 CFR 153.38).

It is not contemplated at this time that the merchandise subject to this investigation will be covered by the "trigger price mechanism" (TPM) established. The TPM is described in FEDERAL REGISTER notices published on December 30, 1977 (42 FR 65214) and January 9, 1978 (43 FR 1464).

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to § 153.40, Customs Regulations (19 CFR 153.40).

The U.S. International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

APRIL 18, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury,
[FR Doc. 78-11001 Filed 4-21-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE
COMMISSION

[Notice No. 10]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have ex-

pired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
MC's:		
200-279	200-271	Apr. 27, 1977.
340-39	340-42	Aug. 12, 1977.
531-331	531-337	Aug. 10, 1977.
531-333	531-334 q	Feb. 2, 1977.
531-336	531-340	Feb. 18, 1977.
2052-7	2052-6	July 29, 1977.
2780-6	2780-7	Mar. 24, 1977.
4405-526	4405-527	Aug. 31, 1977.
4405-530	4405-531	June 11, 1977.
5227-21	5227-22	Feb. 6, 1978.
7523-15	7523-16	June 29, 1977.
9325-72	9325-68	Sept. 20, 1977.
11207-371	11207-372	Apr. 13, 1977.
14314-21	14314-22	Aug. 3, 1977.
29910-166	29910-167	Feb. 11, 1977.
30237-30	30237-27	Mar. 30, 1977.
30237-31	30237-32	Sept. 16, 1977.
30378-57	30378-58	May 4, 1977.
30844-506	30844-509	Apr. 11, 1977.
30844-557	30844-559	Aug. 12, 1977.
33919-12	33919-13	Sept. 26, 1977.
35628-361	35628-386	Aug. 10, 1977.
40915-46	40915-49	July 22, 1977.

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

[FR Doc. 78-10852 Filed 4-21-78; 8:45 am]

[7035-01]

[Notice No. 11]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
MC's:		
133880-3	133880-4	Nov. 8, 1977.
133959-2	133959-5	Mar. 8, 1977.
134096-4	134096-5	Aug. 12, 1977.
134150-11	134150-8	Nov. 14, 1977.
134182-31	134182-32	July 29, 1977.
134215-4	134215-5	Dec. 8, 1977.
134323-82	134323-84	Feb. 15, 1978.
134349-17	134349-16	Apr. 5, 1977.
134375-10	134375-11	Nov. 9, 1977.
134387-29	134387-34	Dec. 29, 1977.
134388-11	134388-12	Feb. 16, 1977.
134405-28	134405-30	Mar. 8, 1977.
134449-9	134449-10	Aug. 24, 1977.
134453-8	134453-9	Nov. 15, 1976.
134467-15	134467-11	Mar. 23, 1977.
134806-36	134806-37	Nov. 17, 1976.
134806-46	134806-47	Nov. 15, 1977.
134922-161	134922-163	Aug. 4, 1977.
134922-185	134922-215	Dec. 21, 1977.
134922-191	134922-213	Aug. 25, 1977.
135082-25	135082-23	Mar. 10, 1977.
135082-26	135082-23	Mar. 10, 1977.
135170-11	135170-13	Mar. 3, 1977.
135288-6	135288-3	Aug. 19, 1977.
135384-21	135384-23	Nov. 8, 1977.
135391-3	135391-2	Dec. 2, 1976.
135425-18	135425-16	Aug. 18, 1977.
135572-1	135572-2	July 11, 1977.
135598-2	135598-3	Aug. 29, 1977.
135634-6	135634-7	Oct. 3, 1977.
135640-3	135640-4	June 3, 1977.
135705-8	135705-7	Oct. 5, 1977.
135797-49	135797-54	May 5, 1977.
135797-53	135797-58	Feb. 25, 1977.

Temporary authority application	Final action or certificate or permit	Date of action
135797-56	135797-60	Aug. 8, 1977.
135895-8	135895-9	June 14, 1977.
135962-1	135962-2	May 17, 1977.
136008-74	136008-75	Aug. 23, 1977.
136220-28	136220-21	Oct. 4, 1977.
136228-19	136228-22	Aug. 25, 1977.
136343-77	136343-78	Feb. 28, 1977.
136408-32	136408-35	Jan. 13, 1977.
136464-24	136464-23	Sept. 28, 1977.
136489-1	136489-2	Aug. 31, 1977.
136640-10	136640-11	Sept. 1, 1977.
136711-25	136711-22	Sept. 16, 1977.
136711-26	136711-28	Sept. 16, 1977.
136786-94	136786-58	Sept. 21, 1977.
136888-7	136888-6	Mar. 8, 1977.
136989-12	136989-14	Sept. 28, 1977.
138039-5	138039-4	Mar. 2, 1977.
138069-4	138069-2	Feb. 16, 1977.
138411-3	138411-2	Feb. 23, 1977.
138471-6	138471-7	Jan. 27, 1978.
138750-6	138750-7	Jan. 4, 1977.
138835-21	138835-18	Oct. 12, 1976.
138902-4	138902-3	Dec. 16, 1976.
139076-3	139076-4	Aug. 8, 1977.
139110-7	139110-4	Sept. 28, 1977.
139113-5	139113-6	May 26, 1977.
139139-2	139139-3	May 26, 1977.
139193-34	139193-23	Apr. 11, 1977.
139193-35	139193-36	Feb. 9, 1977.
139304-1	139304-2	Feb. 16, 1977.
139312-3	139312-5	Mar. 10, 1977.

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

[FR Doc. 78-10853 Filed 4-21-78; 8:45 am]

[7035-01]

[Notice No. 643]

ASSIGNMENT OF HEARINGS

APRIL 19, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

- MC 139495 (Sub-No. 258), National Carriers, Inc., now assigned April 20, 1978, at Columbus, OH, is cancelled and transferred to Modified Procedure.
- MC 54200 (Sub-No. 6), Seigle's Express, Inc., now assigned May 24, 1978, at New York, NY, is canceled and application dismissed.
- MC 141820 (Sub-No. 1), Roman Rurak, is now assigned for hearing May 24, 1978 (3 days), at New York, NY, at a location to be later designated.
- MC 124211 (Sub-No. 296), Hilt Truck Line, Inc., now assigned April 18, 1978, at Washington, DC, is postponed to June 20, 1978, at the offices of the Interstate Commerce Commission, Washington, DC.
- MC 109736 (Sub-No. 37), Capitol Bus Co., now assigned May 1, 1978, at Harrisburg, PA, will be held in U.S. Courtroom No. 2, 9th Floor, Federal Building, 228 Walnut Street.
- MC 142211 (Sub-No. 2), Eastern Panhandle Transit Authority—"PANTRAN", now as-

signed May 9, 1978, at Martinsburg, WV, will be held in City Hall, Second Floor, 224 West King Street.

- MC-F-13211, Tri-state Motor Transit Co., Inc., d.b.a. Tri-state Motor Transit—Control—Colonial Fast Freight Lines, Inc., and F.D. 28460, Tri-state Motor Transit Co., Securities, now being assigned May 15, 1978, at the Offices of the Interstate Commerce Commission, Washington, DC.
- MC 43867 (Sub-No. 37), A. Leander McAllister Trucking Co., now assigned April 25, 1978, at Denver, CO, is canceled and application dismissed.
- MC 136285 (Sub-No. 29), Southern Intermodal Logistics, Inc., now assigned for hearing June 6, 1978, at Atlanta, GA, is also assigned for prehearing conference April 28, 1978, at the offices of the Interstate Commerce Commission, Washington, DC.
- MC-C-10037, O.N.C. Freight Systems, Inc. v. Windecker, Inc., d.b.a. Windecker Truck Line, is now assigned for hearing June 15, 1978 (2 days), at Denver, CO, at a location to be later designated.
- MC 108473 (Sub-No. 39), St. Johnsbury Trucking Co., Inc., now assigned June 5, 1978, at Boston, MA, will be held at the Ramada Inn, 225 McClellan Highway (East Boston); and will continue July 10, 1978, at Burlington, VT, at the Holiday Inn, 1068 Williston Road; July 17, 1978, at Albany, NY, at the Americana, 660 Albany Shaker Road; August 21, 1978, at Presque Isle, ME, at the Swamp Fox Inn, South Main Street; and September 18, 1978, at New York, NY, at the Essex House, 160 Central Park South.

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

[FR Doc. 78-11030 Filed 4-21-78; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATIONS FOR RELIEF

APRIL 19, 1978.

These applications for long-and-short-haul relief have been filed with the ICC.

Protests are due at the ICC by May 9, 1978.

- FSA No. 43531, Sea-Land Service, Inc., No. 98, on intermodal rates on general commodities, between rail carriers' terminals at Jersey City, Kearny, Newark, and North Bergen, NJ, and Brownsville, TX, on the one hand, and ports in the Orient, on the other, by way of U.S. Pacific Coast ports, in its tariff No. 201-a, ICC No. 93, and other schedules named in the application, to become effective May 15, 1978. Grounds for relief—water competition. FSA No. 43532, Southwestern Freight Bureau, Agent's No. B-739, rates on chemicals, from Palquemine, LA, and Freeport, TX, to Tilledale, GA, in sup. 12 to its tariff 11-I, ICC 5300, to become effective May 15, 1978. Grounds for relief—market competition. FSA No. 43533, Trans-Continental Freight Bureau, Agent's No. 525, rates on soybeans and soybean cake or meal, from points in Colorado, Kansas, Louisiana, Nebraska, Oklahoma, and Texas, to Snowflake, AZ, in

sup. 327 to its tariff, 45-N, ICC 1850, to become effective May 14, 1978. Grounds for relief—motor carrier competition.

By the Commission.

H. G. HOMME, Jr.
Acting Secretary.

[FR Doc. 78-11029 Filed 4-21-78; 8:45 am]

[7035-01]

[Exception No. 2 to Revised Service Order No. 1301]

**CHICAGO & NORTH WESTERN
TRANSPORTATION CO.**

Pursuant to the authority vested in me by section (a)(6) of revised service order No. 1301, the Chicago & North Western Transportation Co. is authorized to use 40-foot, narrow-door, plain boxcars owned by Canadian National Railways or by CP Rail (Canadian Pacific, Ltd.) subject to the following conditions:

1. Cars must be used in compliance with U.S. Customs regulations.
2. Cars must be used in compliance with car service rules 1 and 2 adopted by the Commission in docket Ex Parte No. 241.
3. Car relocation directives and car assistance directives, issued by the Car Service Division, Association of American Railroads, applicable to such cars remain fully in effect.

Effective March 25, 1978.

Issued at Washington, D.C., March 28, 1978.

JOEL E. BURNS,
Director,
Bureau of Operations.

[FR Doc. 78-11032 Filed 4-21-78; 8:45 am]

[7035-01]

[Ex Parte No. 241, Rule 19; Exemption No. 143, Amdt. No. 2]

MANDATORY CAR SERVICE RULES

Exemption

To: All railroads. Upon further consideration of exemption No. 143 issued January 26, 1978.

It is ordered, That, under authority vested in me by car service rule 19, exemption No. 143 to the mandatory car service rules ordered in Ex Parte No. 241 is amended to expire April 30, 1978.

This amendment shall become effective March 31, 1978.

Issued at Washington, D.C., March 31, 1978.

INTERSTATE COMMERCE
COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-11033 Filed 4-21-78; 8:45 am]

[7035-01]

[ICC Order No. P-7]

ST. LOUIS SOUTHWESTERN RAILWAY CO.

Passenger Train Operation

It appearing, that the National Railroad Passenger Corp. (Amtrak) has established through passenger train service between Chicago, Ill., and Laredo, Tex.; that the operation of these trains requires the use of the tracks and other facilities of the Missouri Pacific Railroad Co. (MP) between St. Louis, Mo., and Laredo; that a portion of these MP tracks between St. Louis and Poplar Bluff, Mo., are temporarily out of service because of flooding; that an alternate route is available between these points via the MP between St. Louis and the Illinois-Missouri State line in the vicinity of Illmo, Mo., thence via the St. Louis Southwestern Railway Co. between Illmo and Dexter Junction, Mo., thence via the MP between Dexter Junction and Poplar Bluff; that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That: (a) Pursuant to the authority vested in me by order of the Commission served December 10, 1976, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970

(45 U.S.C. §562(c)), the St. Louis Southwestern Railway Co. be, and it is hereby directed to permit the use of its tracks and facilities for the movement of trains of the National Railroad Passenger Corp. between a connection with the Missouri Pacific Railroad Co. (MP) at the Illinois-Missouri State line in the vicinity of Illmo, Mo., and another connection with the MP at Dexter Junction, Mo., a distance of approximately 50.1 miles.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

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

(d) *Effective date.* This order shall become effective at 3 a.m., c.s.t. March 25, 1978.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., c.s.t., March 26, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

It is further ordered, That this order shall be served upon the St. Louis Southwestern Railway Co. and upon the National Railroad Passenger Corp. and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 25, 1978.

INTERSTATE COMMERCE
COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-11031 Filed 4-21-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01]

1

CIVIL AERONAUTICS BOARD.

Notice of addition of items to the April 18, 1978 agenda; M-124, Amdt. 1, April 17, 1978.

TIME AND DATE: 10 a.m., April 18, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Dockets 32397 and 31091, oral argument on tour operator emergency.
2. Docket 30277, Chicago-Midway low fare route proceeding (instructions to staff) (OGC).
3. Procedures for processing certain licensing and rate cases (Memo No. 7884, BALJ memo dated 4-5-78, OGC, BALJ).
4. Docket 30777, IATA agreement increasing North/Central Pacific passenger fares (Memo No. 7890, BPDA, BIA).
5. Dockets 29409, 29561, and 29623, passenger fares between the United States and the Caribbean in foreign air transportation (Memo No. 6518-A, BPDA, BIA).
6. Docket 31134, petition of the State of Alaska for reconsideration of Order 77-7-160 (Memo No. 7276-A, BPDA, BOE).
7. Docket 32056, petition of Anthony R. Martin-Trigona to "unbundle" meal service from air fares (Memo No. 7877, OGC, BIA, BPDA, OEA).
8. Docket 29139, overbooking rulemaking (instructions to the staff) (Memo No. 5963-J, 5963-K, OGC BPDA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary,
202-673-5068.

SUPPLEMENTARY INFORMATION: Items 2 through 8 will be taken up at the conclusion of the oral argument which is expected to be at 2 p.m. The Board discussed item 2 at the April 14, 1978 meeting. The time available to discuss this item did not permit the

Board to conclude its consideration. Items 3 through 8 were deferred form the April 14, 1978, agenda and rescheduled for April 18, in order for the members to have additional time to review the staff recommendation on these subjects. Accordingly, the following members have voted that agency business requires the addition of these items to the agenda of April 18, 1978, and that no earlier announcement of this addition was possible:

ITEM 2

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

ITEMS 3-8

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-846 Filed 4-20-78; 9:09 am]

[6320-01]

2

CIVIL AERONAUTICS BOARD.

Notice of addition of items to the April 19, 1978 Agenda; M-125, Amdt. 2, April 17, 1978.

TIME AND DATE: 11:00 a.m., April 19, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 8a. Proposed Class Rate IX. 15a. Docket 31728, final rule amending Part 223 of the Board's Economic Regulations to allow student-fares to citizens of Guam, American Samoa, the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Mariana Islands (7744-A).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary,
202-673-5068.

SUPPLEMENTARY INFORMATION: If the Board decides to institute an investigation of the class rate, the affected carriers will be required to submit substantial quantities of data. In order to allow the carriers sufficient time to conduct a thorough investigation Item 8a will be added to the April 19, 1978 agenda. Unless the Board adopts a final rule on the April

19, meeting the carriers will not have time to file new tariffs before April 29, which is the date which the current student fares are to expire. Accordingly, the following Members have voted that agency business requires the addition of these items and that no earlier announcement of these changes was possible.

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-847-78 Filed 4-20-78; 9:09 am]

[6320-01]

3

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the April 19, 1978 meeting; M-125 Amdt. 3, April 17, 1978.

TIME AND DATE: 11 a.m., April 19, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 12a. Docket 28096, Petition for Reconsideration of order cancelling Category Y tariffs (Memo No. 7644-B, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary,
202-673-5068.

SUPPLEMENTARY INFORMATION: The effective date of the order cancelling the existing fares is May 23, and the public target for the issuance of the opinion on reconsideration is May 11. If instructions are received by April 20, there should be no difficulty in reaching the targets. Accordingly, the following Members have voted that agency business requires the addition of this item to the April 19, 1978 agenda and that no earlier announcement of the addition was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-848-78 Filed 4-20-78; 9:09 am]

[6320-01]

4

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the

April 19, 1978 meeting agenda; M-125 Amdt. 4, April 18, 1978.

TIME AND DATE: 11 a.m.—April 19, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: (Addition) 9a. Dockets 32344 and 32359; Senior citizen fares proposed by TWA and United.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Although TWA's proposal applies for travel on and after May 15, the tariff is marked to become effective on May 7. The Board must therefore act by April 21. Accordingly, the following Board Members have voted that agency business requires Item 9a to be added to the April 19, 1978 agenda and that no earlier announcement of this change was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-849-78 Filed 4-20-78; 9:09 am]

[6335-01]

5

APRIL 20, 1978.

U.S. COMMISSION ON CIVIL RIGHTS.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 15835, Friday, April 14, 1978, at 15835.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Monday, April 17, 1978, 9 a.m. to 12 noon; 1:30 p.m. to 4:30 p.m. Tuesday, April 18, 1978, 9 a.m. to 12 noon.

CHANGES IN THE MEETING:

During the course of the meeting on Tuesday, April 18, 1978, the Commissioners unanimously voted to add to the agenda of the meeting the following item: Consideration of the Commission's position on tuition tax credit. STATUS OF THE MEETING: Open to the public.

FOR FURTHER INFORMATION CONTACT:

Loretta Ward, Public Affairs Unit, 202-254-6697.

[S-855-78 Filed 4-20-78; 3:43 pm]

[6351-01]

6

COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION

OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 74, April 17, 1978, page 16256.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m., April 24, 1978.

CHANGES IN THE MEETING: Meeting is cancelled.

[S-850-78 Filed 4-20-78; 1:03 am]

[6351-01]

7

COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., April 25, 1978.

CHANGES IN THE MEETING: Meeting postponed to April 27 at 10 a.m.

[S-851-78 Filed 4-20-78; 10:03 am]

[6351-01]

8

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., April 28, 1978.

PLACE: 8th Floor Hearing Room, 2033 K Street NW., Washington D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-852-78 Filed 4-20-78; 10:03 am]

[6712-01]

9

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, April 20, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

CHANGES IN THE MEETING: The following items have been deleted:

Agenda, Item No., and Subject

Cable Television—1—Petition for special relief, filed by Futurevision Cable Enterprises (Eatontown, Oceanport, West Long Branch, Monmouth Beach, and Sea Bright, N.J.) CSR-666

Cable Television—2—Petition for order to show cause, filed by WGAL Television, Inc., Lancaster, Pa.

Cable Television—3—Petition for order to show cause (GSC-169) filed by Faith Center (KVOF-TV), San Francisco, Calif., and petitions for special relief (CSR-1113-16) filed by cable systems subject to KVOF's petition.

Aural—1—Applications for construction permits filed by Ben Lomond Broadcasting Co. (BPH-8,473) and Group Communication, Inc. (BPH-8,493), both of Ogden, Utah.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Office, telephone 202-632-7260.

Issued: April 19, 1978.

[S-856-78 Filed 4-20-78; 3:43 pm]

[6712-01]

10

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: Follows 9:30 a.m., Open Commission meeting, Thursday, April 20, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting.

MATTER TO BE CONSIDERED:

Agenda, Item No., and Subject

Common Carrier—1—Alleged improper activities by certain Bell System Telephone Cos.

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Office, telephone 202-632-7260.

Issued: April 18, 1978.

[S-857-78 Filed 4-20-78; 3:43 pm]

[6712-01]

11

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, April 25, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Special—1—Petition of National Telephone Cooperative Association for waiver in rural areas of the Commission's "Telephone Company-Cable Television Cross Ownership Rules", Section 63.54 and 64.601.

Special-2—Second Report and Order in Docket No. 20561 (Definition of a cable television system and the creation of classes of cable systems.)

Special-3—Petition filed by Motion Picture Association of America regarding curtailment of TV signal distribution to cable systems via satellite (RM-2952).

Special-4—Notice of proposed rule making concerning regulation of cable television pole attachments.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Office, telephone 202-632-7260.

Issued: April 18, 1978.

[S-858-78 Filed 4-20-78; 3:43 pm]

[6740-02]

12

APRIL 19, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., April 26, 1978.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda, however, all public documents may be examined in the Office of Public Information.

POWER AGENDA—87TH MEETING, APRIL 26, 1978, REGULAR MEETING

I. ELECTRIC RATE MATTERS

- ER-1.—Docket No. ER78-228, Public Service Co. of Indiana.
 ER-2.—Docket No. ER77-566, New England Power Co.
 ER-3.—Docket No. ER77-86, Southern Services, Inc.
 ER-4.—Docket No. E-8855, Boston Edison Co., Docket No. ER76-90, Boston Edison Co., Docket No. ER76-854 and ER77-84, Boston Edison Co.
 ER-5.—Docket Nos. ER77-551 and ER77-485, Carolina Power & Light Co.
 ER-6.—Docket No. ER77-533, Louisiana Power & Light Co.

POWER AGENDA—87TH MEETING, APRIL 26, 1978, REGULAR MEETING

- CAP-1.—Docket No. ER78-281, Central Louisiana Electric Co., Inc.
 CAP-2.—Docket No. ER78-290, Union Electric Co.
 CAP-3.—Docket No. ER78-217, Edison Sault Electric Co.
 CAP-4.—Project No. 2628-Alabama, Alabama Power Co.

- CAP-5.—Project No. 2740, Duke Power Co.
 CAP-6.—Project No. 199, South Carolina Public Service Authority.
 CAP-7.—Project No. 2100, Department of Water Resources, State of California.
 CAP-8.—Project No. 2105, Pacific Gas & Electric Co.

MISCELLANEOUS AGENDA—87TH MEETING, APRIL 26, 1978, REGULAR MEETING

- M-1.—Docket No. RM77-21, revisions to uniform systems of accounts for natural gas companies to provide accounts for base load liquefied natural gas terminaling and processing facilities.
 M-2.—Contract provisions under section 154.93.

MISCELLANEOUS AGENDA—87TH MEETING, APRIL 26, 1978, REGULAR MEETING

CAM-1.—Alabama Power Co.

GAS AGENDA—87TH MEETING, APRIL 26, 1978, REGULAR MEETING

I. PIPELINE RATE MATTERS

A. Pipeline rates

- RP-1.—Docket No. RP78-51, Colorado Interstate Gas Co.
 RP-2.—Docket No. RP78-50, Northwest Pipeline Corp.
 RP-3.—Docket No. RP78-52, Consolidated Gas Supply Corp.
 RP-4.—Docket No. RP78-46, Northern Natural Gas Co.
 RP-5.—Docket No. RP78-20, Columbia Gas Transmission Corp. Docket No. RP78-19, Columbia Gulf Transmission Co.
 RP-6.—Docket Nos. RP76-15 and RP76-98, Algonquin Gas Transmission Co.

II. PRODUCER MATTERS

A. Producer certificates

- CI-1.—Docket No. CI75-602, Roy M. Huffington, Inc.
 CI-2.—Docket No. CI77-372, ECEE, Inc. Docket No. CI77-373, Pinto. Docket No. CI77-409, TBP.
 CI-3.—Reserved.
 CI-4.—Reserved.

B. Producer rates

- CI-5.—Docket No. RI78-4, Superior Oil Co.
 CI-6.—Docket No. RI72-250, Rate Schedule Nos. 318 and 415, Mobil Oil Corp.

III. PIPELINE CERTIFICATE MATTERS

A. Pipeline certificates

- CP-1.—Docket Nos. CP74-149 and CP78-161, Consolidated Gas Supply Corp.
 CP-2.—Docket No. CP78-70, McCulloch Interstate Gas Corp.
 CP-3.—Docket No. CP77-140, Delphi Gas Pipeline Corp. Docket No. CP77-307, Northern Natural Gas Co. Docket No. CP77-328, Natural Gas Pipeline Co. of America.
 CP-4.—Docket No. CP74-83, Utah Gas Service Co. Docket No. CP74-158, Northwest Pipeline Corp.
 CP-5.—East Tennessee Natural Gas Co., Public Utility District of Jefferson and Cocke Counties, Plateau Gas Gathering System, Inc.
 CP-6.—Docket No. CP77-71, Natural Gas Pipeline Co. of America. Docket No. CP77-118, Columbia Gas Transmission Corp. Columbia Gulf Transmission Co. Docket No. CP77-125, Texas Gas Transmission Corp.

GAS AGENDA—87TH MEETING, APRIL 26, 1978, REGULAR MEETING

- CAG-1.—Docket Nos. RP73-14 and RP76-50 (PGA No. 78-2 and DCA No. 78-1), Michigan Wisconsin Pipe Line Co.
 CAG-2.—Docket No. RP77-64, Valley Gas Transmission, Inc.
 CAG-3.—Docket No. RI77-132, John H. Hurbrough, et al.
 CAG-4.—Docket Nos. G-2712, et al., Cities Service Co. (successor to Cities Service Oil Co.), et al.
 CAG-5.—Docket Nos. G-18053, et al., Transocean Oil, Inc., et al.
 CAG-6.—Docket No. CP74-314, El Paso Natural Gas Co. Docket No. CP76-327, Northwest Pipeline Corp. Docket No. CI77-526, Sun Oil Co., et al.
 CAG-7.—Docket No. CI77-167, et al., Exxon Corp.
 CAG-8.—Docket No. CI63-489, Ashland Exploration, Inc.
 CAG-9.—Docket No. CP78-67, Columbia Gas Transmission Corp.
 CAG-10.—Docket No. CP77-619, Panhandle Eastern Pipe Line Co.
 CAG-11.—Docket No. CP77-553, El Paso Natural Gas Co.
 CAG-12.—Docket No. CP77-282, Columbia Gas Transmission Corp.
 CAG-13.—Docket No. CP70-7 (Phase II), Southern Natural Gas Co.
 CAG-14.—Docket No. CP76-107, Transwestern Pipeline Co.
 CAG-15.—Docket No. CI61-1281, et al., Mobil Oil Corp., et al.

KENNETH F. PLUMB,
Secretary.

[S-345-78 Filed 4-20-78; 9:09 am]

[7590-01]

13

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of April 17, 1978 (Changes).

PLACE: Commissioners' Conference Room, 1717 H St., NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

WEDNESDAY, APRIL 19

Approximately 2:25 p.m.—Affirmation of ALAB-462 (Wolf Creek) and ALAB-463 (Hartsville). (Additional Item—Public meeting.)

Approximately 2:40 p.m.—Discussion of proposed settlement in Midland Special Proceeding (approximately one-half hour). (Closed—Exemption 10—Cancelled.)

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated: April 19, 1978.

ROGER M. TWEED,
Office of the Secretary.

[S-853-78 Filed 4-20-78; 10:03 am]

[7590-01]

14

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of April 24, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

WEDNESDAY, APRIL 26

10 a.m.—Briefing on Material Accounting and Control Task Force Report. (Approximately 2 hours—Public meeting.)

1:30 p.m.—1. Briefing on Final Report on NARM Task Force. (Approximately 1 hour—Public meeting.) 2. Affirmation Items (approximately 15 minutes—Public meeting). (a) Implementation of IAEA Safeguards Requirements. (b) Procedures for Petitions. (c) Discussion of Personnel Matter (approximately 1½ hours). (Closed—Exemption 6—Tentative).

THURSDAY, APRIL 27

2 p.m.—Discussion of Proposed Licensing Legislation (approximately 2 hours). (Closed—Exemption 9—Tentative.)

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

APRIL 19, 1978.

[S-854-78 Filed 4-20-78; 10:10 am]

[8120-01]

15

[Meeting No. 1193]

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:30 a.m., Thursday, April 27, 1978.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tenn.

STATUS: Open.

MATTERS TO BE CONSIDERED:

A. Personnel Actions—None.

B. Consulting and Personal Service Contracts:

1. Personal service contract with United Engineers & Constructors, Inc., Philadelphia, Pa.—Office of Engineering Design and Construction.

2. Renewal of personal service contract with Kenneth D. McCasland, Knoxville, Tenn.—Division of Law.

C. Purchase Awards:

1. Amendment to contract 78K32-823545 with combustion Engineering, Inc., for flue gas desulfurization system including installation for Widows Creek steam plant.

2. Req. No. 149397—High intensity ionizer array for TVA/EPRI/APS ionizer project for Shawnee steam plant.

3. Rejection of bids received in response to Invitation No. 820718 (partial reissue) for vacuum relief or balanced check valves for Hartsville and Phipps Bend nuclear plants.

4. Req. No. 821746—Thermal insulation material for Hartsville and Phipps Bend nuclear plants.

5. Req. No. 821119—Pipe snubbers, struts, and supports for Hartsville and Phipps Bend nuclear plants.

6. Req. No. 823359—Structural and miscellaneous steel for coal-washing/coal-handling facilities at Paradise steam plant.

D. Project Authorizations:

1. No. 3329—Magnesium oxide scrubbers and new stack for Johnsonville steam plant—initial design and supporting studies.

2. No. 3328—Acquisition of site for the Peabody Seam No. 9 coal-washing plant.

E. Fertilizer Items—None.

F. Power Items:

1. New power contract with Olin Corp., Charleston, Tenn.

2. New power contract with Cherokee Electric Cooperative (Centre, Ala.)

3. New power contract with the city of Covington, Tenn.

4. Bill of sale and quitclaim deed to Marshall-DeKalb Electric Cooperative—sale of portion of TVA's deenergized Guntersville Dam No. 2—Albertville Primary 46-kV transmission line.

G. Real Property Transactions:

1. Grant of permanent easement for county road department garage affecting approximately 9.9 acres of Melton Hill Reservoir land in Anderson County, Tenn.—tract XTMHR-13E.

2. Abandonment of temporary connection at TVA's McEwen substation transmission line right-of-way in Humphreys County, Tenn.—tracts MCEW-IB, MCEW-IC, and MCEW-ID.

3. Sale of underlying fee title to old post office building and grounds—Knox County, Tenn. (tract KPO-1).

4. Filing of condemnation suits.

H. Unclassified:

1. Settlement agreement with ASEA, Inc.—claims resulting from contracts for main power transformers for Browns Ferry nuclear plant, Cumberland steam plant, and Sequoyah nuclear plant.

2. Contract with Louisville & Nashville RR. Co.—Rebuilding bridge across Tennessee River at Bridgeport, Ala.

CONTACT PERSON FOR MORE INFORMATION:

John Van Mol, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tenn. Information is also available at TVA's Washington Office, 202-566-1401.

Dated: April 20, 1978.

[S-859-78 Filed 4-20-78; 3:57 pm]

Register
Federal Order

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PART II



DEPARTMENT OF
HOUSING AND
URBAN
DEVELOPMENT

OFFICE OF ASSISTANT
SECRETARY FOR
HOUSING—
FEDERAL HOUSING
COMMISSIONER



Review Procedures
Regarding Applications
for Housing Assistance in
Area With Approved
Housing Assistance Plans

[4210-01]

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

Office of Assistant Secretary for Housing—
Federal Housing Commissioner

[24 CFR Part 891]

[Docket No. R-78-529]

**REVIEW OF APPLICATIONS FOR HOUSING AS-
SISTANCE; ALLOCATION OF HOUSING AS-
SISTANCE FUNDS**

Proposed Procedures

AGENCY: Office of Assistant Secretary for Housing, Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: The Department of Housing and Urban Development proposes amendments to its regulations regarding housing assistance. The purpose of these rules is to clarify the review procedures with respect to applications for housing assistance in area with approved housing assistance plans, to reflect proposed changes in the contents of the plans, and the timing of submissions, and also to clarify the procedures for allocating budget authority.

DATE: Comments are due on or before May 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Gerald J. Benoit, Director, Development Control Division, Office of Assisted Housing Development, Department of Housing and Urban Development, Room 6212, 451 Seventh Street SW., Washington, D.C. 20410. Telephone 202-755-2257. This is not a toll free number.

ADDRESS: Written comments should refer to the docket number and date and should be submitted to the Rules Docket Clerk, Office of the General Counsel, room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, on or before the comment due date.

SUPPLEMENTARY INFORMATION: The purpose of the proposed revision is:

(1) To reflect the proposed changes to 24 CFR, Part 570.

(2) To clarify HUD use of the three year Housing Assistance Plans (HAPs) goals in allocating contract and budget authority in providing housing assistance in proportion to the local government's goals for newly constructed, rehabilitated, and existing housing units as well as elderly, family and large family units.

(3) To improve and coordinate the delivery of housing assistance with community development black grant activities.

(4) To provide for more detailed public announcements concerning the allocation of contract authority for specific allocation areas, the estimated number of units to be assisted by housing type and household type, and the HUD schedule for inviting applications for housing assistance.

(5) To provide for the consideration of budget authority in the allocation process.

(6) To assist the A-95 review process. The purpose of the proposed changes is to emphasize HUD's intent to allocate contract authority in proportion to each of the housing types (new construction, substantial rehabilitation, and existing) as well as the household types (elderly, family, and large family) reflected in the applicable three-year HAP goals. Revisions to 24 CFR 570.306 governing the preparation and submission of HAPs have established constant three-year goals for housing assistance, beginning with HAPs approved during 1979 which will apply to housing assistance provided during fiscal years 1980, 1981, and 1982. In order to assure an equitable and proportionate distribution of contract authority by housing type and household type during the three-year transition period (fiscal years 1977, 1978, and 1979), HUD will allocate contract authority during fiscal year 1979 on the basis of the unmet three-year goals in the HAPs approved during 1976.

HUD has been allocating contract authority for the assisted housing programs on the basis of the proportion of newly constructed/substantially rehabilitated housing and existing housing reflected in the annual goals of HAPs. HUD intends, rather than combining new construction and substantial rehabilitation as a single housing type, that future allocations will be based on the proportion of the three housing types. In addition, in order to provide more flexibility in addressing the local government's HAP goals, the proportionality by housing type will be based on the applicable three-year HAP goals instead of the annual HAP goals. After such allocations are made, HUD will invite and encourage the submission of applications that are consistent with this objective. However, if such efforts do not result in the receipt of approvable applications which are proportional to the three-year goals for housing type, HUD will continue to approve applications up to 120 percent of the three-year goal for each housing type prior to the reallocation of contract authority to another allocation area.

HUD will also continue to allocate contract authority and approve applications for housing assistance on the basis of the proportions by household type—elderly, family, and large family—reflected in the applicable

three year HAP goals. However, if the total number of units in approvable applications serving a particular household type is so large that further approval of applications for that household type will make it unlikely that the required three year proportionality can be achieved, the Department will not approve such applications. In such instances, contract authority will be made available in the allocation area only for those household types that have been relatively unserved during the three year period and the Department will actively encourage applications serving such household types. If approvable applications are not forthcoming, the contract authority will be reallocated to another allocation area pursuant to § 891.405.

Interested persons are invited to participate in the making of the final rule by submitting such written comments or suggestions as they may desire. All communications received will be considered before action is taken on the proposed rules. Written comments should refer to the docket number and date and should be submitted to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the above address.

Accordingly, it is proposed to amend Subparts A through D of Part 891, Chapter VIII, 24 CFR, as follows:

Subpart A—General Provisions

Sec.
891.101 Applicability and scope.
891.102 Definitions.

Subpart B—Applications for Housing Assistance in Areas with Housing Assistance Plans

891.201 General.
891.202 Notification of local government.
891.203 Review and comment period.
891.204 Variation from HAP goals.
891.205 Local government response.
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891.207 Notifications of HUD determination.

Subpart C—Applications for Housing Assistance in Areas Without Housing Assistance Plans

891.301 General.
891.302 Finding of need of housing assistance.
891.303 Notification of local government.
891.3-4 Review and comment period.
891.305 HUD review of applications for housing assistance.

Subpart D—Allocation of Contract and Budget Authority for Housing Assistance

891.401 General.

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891.402 Determinations of lower-income housing needs.
891.403 Initial allocation to HUD offices.
891.404 Initial allocation to areas and localities.
891.405 Reallocation of uncommitted contract authority.

AUTHORITY: Sec. 7(d), Dept. of Housing and Urban Development Act (45 U.S.C. 3535(d)).

Subpart A—General Provisions

891.101 Applicability and scope.

(a) The policies and procedures contained herein apply to the allocation of contract and budget authority and the review and approval of applications for housing assistance under the United States Housing Act of 1937 (42 U.S.C. 1437), Sections 235 and 236 of the National Housing Act (12 U.S.C. 1715z, 1715z-1), Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), and Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q). These provisions do not apply to applications for Public Housing modernization, operating subsidy assistance, or applications for converting Section 23 leased housing projects either to the Section 8 Housing Assistance Payments Program or to the Public Housing Program.

(b) This part covers the policies and procedures relating to the role and responsibilities of HUD and local governments, under Section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 5301), in reviewing and making determinations with respect to applications for housing assistance made available under the housing programs specified in § 891.101(a), allocation of contract and budget authority, retention of a reserve of contract authority for special lower-income housing needs or programs, and special allocations based upon areawide housing opportunity plans.

(c) The determinations to be made by the local government and HUD, with respect to applications for housing assistance, and HUD allocations of contract authority in proportion to the HAP goals for housing type and household type, shall be based on the applicable three-year HAP period. The first three-year period, fiscal years 1980, 1981 and 1982 shall be governed by the HAP's approved during 1979. In order to provide for an orderly transition to the three-year cycle, fiscal years 1977, 1978 and 1979 will be established as a transition period, during which time local government determinations and HUD determinations and allocations shall be based on the HAP's approved during 1976. It should be noted that the local government, when preparing the 1978 HAP's, will be required to identify in its annual housing action plan, the number of units required to complete the propor-

tionality requirements for the three-year transition period (fiscal years 1977, 1978 and 1979).

§ 891.102 Definitions.

(a) *Act*. The Housing and Community Development Act of 1974.

(b) *Allocation area*. A municipality, county, or group of contiguous municipalities or counties established by the Field Office Director for the purpose of providing housing assistance to support economically feasible housing programs.

(c) *Application for housing assistance*. For the purpose of this part, the following definitions establish the documentation which constitutes an application for housing assistance within the meaning of Section 213 of the Act.

(1) *Section 8 new construction and substantial rehabilitation*. A preliminary proposal containing the elements listed in § 880.205 of the regulations governing the Section 8 Housing Assistance Payments Program—New Construction (24 CFR Part 880) or the elements listed in § 881.205 of the regulations governing the Section 8 Housing Assistance Payments Program—Substantial Rehabilitation (24 CFR Part 881).

(2) *Section 8 existing housing*. An application containing the elements listed in § 882.204 of the regulations governing the Section 8 Housing Assistance Payments Program—Existing Housing (24 CFR Part 882) submitted by a Public Housing Agency (PHA), including a State Housing Finance and Development Agency (HFDA). In cases where no PHA has been organized or where the PHA is unable or unwilling to implement the program, HUD's determination to administer a Section 8 existing housing program shall be considered an application for the purposes of this part.

(3) *Section 8 housing finance and development agencies—new construction and substantial rehabilitation*. A housing finance and development agency's application for assignment of portion of set-aside to specific project (Form HUD 52516), if a specific site is designated. If the site is not designated, the new construction or substantial rehabilitation proposal designating the site that is submitted by the HFDA pursuant to the regulations governing the Section 8 Housing Assistance Payments Program—State Housing Finance and Development Agencies (24 CFR Part 883).

(4) *Section 8 Farmers Home Administration—new construction set-aside*. A proposal submitted by the Farmers Home Administration (FmHA), Department of Agriculture, pursuant to the regulations governing the Section 8 Housing Assistance Payments Program, New Construction Set-Aside for Section 515 Rental Housing Projects (24 CFR Part 883).

(5) *Section 8 housing assistance payments program—special allocations*. (i) An application containing the elements listed in § 886.105 of the regulations governing the Section 8 Housing Assistance Payments Program—Additional Assistance Program for Projects with HUD-Insured and HUD-Held Mortgages (24 CFR Part 886, Subpart A).

(ii) A preliminary proposal containing the elements listed in § 886.207 of the regulations governing the Section 8 Housing Assistance Payments Program—Additional Assistance Program for the Disposition of HUD-Owned Projects (24 CFR Part 886, Subpart B).

(6) *Public Housing (including Indian public housing)*. If a specific site is designated, an Application for a Public Housing program, for the construction or acquisition of housing, submitted by a PHA (24 CFR Part 841) or Indian Housing Authority (24 CFR, Part 805) or, if the site is not designated, the preliminary site report submitted by the PHA.

(7) *Section 235 mortgage insurance and assistance payment for homeownership and project rehabilitation*. A request for preliminary reservation of contract authority submitted by a builder or seller.

(8) *Section 236 mortgage insurance and interest reduction payments for rental projects*. The first application for Project Mortgage Insurance, either for Site Appraisal and Market Analysis (SAMA), Conditional Commitment, or Firm Commitment.

(9) *Section 101 rent supplement payments*. The first Application for Project Mortgage Insurance, either for SAMA, Conditional Commitment, or Firm Commitment.

(10) *Section 202 housing for the elderly or handicapped*. A preliminary proposal containing the elements listed in § 885.210 of the regulations governing the Construction Loans for Housing for the Elderly and Handicapped (24 CFR Part 885).

(d) *Approved areawide housing opportunity land (approved plan)*. An areawide housing opportunity plan approved by HUD in accordance with Subpart E to serve, to the extent practicable, as the basis for the distribution of all contract authority allocated by HUD within the Plan area pursuant to Subpart D of this part.

(e) *Areawide housing opportunity plan (plan)*. A strategy for a program of implementation activities developed by an APO and Participating Jurisdictions which specifically address areawide housing assistance needs and goals in accordance with the areawide housing opportunity plan program objective.

(f) *Areawide housing opportunity plan program objective (program objective)*. To encourage, facilitate, and

provide for a broader geographical choice of housing opportunities for lower-income and minority households (with particular attention to families and large families) outside areas and jurisdictions containing undue concentrations of low income or minority households.

(g) *Areawide planning organization (APO)*. An organization authorized by law or local agreement to undertake planning under section 701 of the Housing Act of 1954 (40 U.S.C. 461) and/or OMB Circular A-95 either for a multicounty area (including county-municipality combinations) or for a single county whose boundaries are coterminous with a designated SMSA.

(h) *Budget authority*. The amount authorized for the total number of annual housing assistance payments under the term of a contract, such as the total amount of annual contributions payments under the term of an annual contributions contract or a housing assistance payments contract.

(i) *Chief executive officer of a unit of general local government (chief executive officer)*. The elected official or the legally designated official who has the primary responsibility for the conduct of that unit's governmental affairs. Examples of the "chief executive officer" of a unit of local government may be: The elected mayor of a municipality; the elected county executive of a county; the chairman of a county commission or board in a county that has no elected county executive; the official designated pursuant to law by the governing body of the unit of local government; or the chairman, governor, chief, or president (as the case may be) of an Indian tribe or Alaskan Native Village.

(j) *Contract authority*. The amount authorized for annual housing assistance payments based on contractual obligations.

(k) *Field office director*. The HUD official responsible for the execution of programs and activities assigned to a field office. This term is applicable to: (1) Area office directors, who are responsible for approving housing assistance plans, as defined in § 891.102(m)(1), and applications for housing assistance; (2) insuring office directors, who are responsible for approving housing assistance plans, as defined in § 891.102(m)(2), and applications for housing assistance; and (3) insuring office directors, who are responsible only for approving applications for housing assistance.

(l) *Household type*. The characteristics of proposed dwelling occupants in terms of elderly/handicapped, family and large family.

(m) *Housing assistance plan (HAP)*. (1) A HAP meeting the requirements of § 570.306 of the community development block grant regulations (24 CFR Part 570) which is submitted by a local

government as part of the block grant application and approved by the field office director.

(2) A HAP meeting the requirements of § 570.306 submitted by a local government not participating in the block grant program and approved by the field office director.

(n) *Housing program*. The specific assisted housing program such as public housing, section 8, section 101, section 202, section 235, and section 236.

(o) *Housing type*. The characteristics of proposed dwelling units in terms of new construction, rehabilitation, or existing housing.

(p) *HUD*. The Department of Housing and Urban Development.

(q) *Loan authority*. The loans authorized for payment of all eligible costs relating to planning and development of a public housing or section 202 project.

(r) *Metropolitan area*. A standard metropolitan statistical area (SMSA) as established by the Office of Management and Budget.

(s) *New communities*. HUD approved new community developments under Title IV of the Housing and Urban Development Act of 1968 (42 U.S.C. 3901) or Title VII of the Housing and Urban Development Act of 1970 (42 U.S.C. 4501).

(t) *Participating jurisdiction*. A jurisdiction (including a county or other local government) within the plan area, with which the APO (or a county, in accordance with § 891.504(a)) has reached agreement on numerical or percentage goals for the distribution of contract authority and on activities for the implementation of the plan.

(u) *Plan area*. The entire jurisdiction of an APO which has prepared a plan.

(v) *Receipt of an application for housing assistance*. An application for housing assistance shall be deemed to have been received after the field office completes the screening or preliminary evaluation and a determination is made that the application will be placed in technical processing.

(w) *Regional administrator*. The HUD official responsible for the execution of programs and activities assigned to the regional office and field offices within the jurisdiction of the regional office.

(x) *Recipient jurisdiction*. Any jurisdiction (whether or not it is a participating jurisdiction) recommended by the APO in accordance with § 891.605(h) and designated by the field office director to receive contract authority made available by a special allocation pursuant to Subpart F.

(y) *Special allocation*. An allocation of contract and budget authority for housing assistance made available pursuant to Subpart F.

(z) *Unit of general local government (local government)*. Any city, county, town, township, parish, village, or other general purpose political subdivision of a State, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa, or a general purpose political subdivision thereof; a combination of such political subdivisions recognized by the Secretary; the District of Columbia; the Trust Territory of the Pacific Islands; and Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, Eskimos, and any Alaskan Native village of the United States. Such terms also include a State or local public body or agency (as defined in section 711 of the Housing and Urban Development Act of 1970), a community association or other entity, which is approved by the Secretary for the purpose of providing public facilities or services to a new community as part of a program meeting the eligibility standards of section 712 of the Housing and Urban Development Act of 1970 (42 U.S.C. 4501) or Title IV of the Housing and Urban Development Act of 1968 (42 U.S.C. 3901).

Subpart B—Applications for Housing Assistance in Areas With Housing Assistance Plans

§ 891.201 General.

This subpart establishes the policies and procedures governing reviews and determinations pursuant to section 213 (a) and (b) of the Act with respect to applications for housing assistance, under the programs identified in § 891.101(a), to be provided in areas for which a HAP is applicable. This subpart does not apply to the following applications for housing assistance and the field office director is not required to submit such applications for local government review and comment:

(a) Applications for assistance involving 12 or fewer units in a single project or development.

(b) Applications for assistance with respect to housing in new communities where the Secretary determines that they are necessary to meet the housing requirements in such developments.

(c) Applications for assistance with respect to housing financed by loans or loan guarantees from a State or agency thereof (including loans which also have Federal mortgage insurance or coinsurance), unless the local government in which the assistance is to be provided objects in its HAP to the exemption provided in this subparagraph. Where the local government does not object in its HAP to the exemption provided in this subparagraph, the policies and procedures governing reviews, determinations, and local government comments shall be in accordance with Subpart C.

(d) Applications amending previously approved applications, which initially were submitted for local government review and comments: *Provided*, That the amended application does not increase the number of units by more than 12, does not cause a change in household type, or does not change the proposed location for newly constructed or substantially rehabilitated housing.

§ 891.202 Notification of local government.

(a) The field office director shall notify the chief executive officer of the local government having a HAP, no later than 10 working days after receipt of an application, that an application for housing assistance to be provided in that jurisdiction has been received and is under consideration.

(1) When the application is for housing assistance in an area which is covered by more than one HAP (e.g., a municipality which has a HAP located in a county which also has a HAP covering such municipality), the field office director shall notify each chief executive officer.

(2) When the application is for housing assistance in several nonoverlapping political jurisdictions (e.g., a scattered site project), the field office director shall notify the chief executive officer of each local government having a HAP. If such application is also for housing assistance in a jurisdiction for which a HAP is not applicable, such notification shall also be in accordance with § 891.303.

(3) For a section 8 existing housing application, submitted pursuant to 24 CFR Part 882, the field office director shall notify the chief executive officers of the localities identified in the application for existing housing as primary areas from which households to be assisted will be drawn.

(b) The notification to the chief executive officer shall:

(1) Indicate that the field office director has received and is considering an application for housing assistance, identify the housing program, the housing type, the number of units by bedroom size and household type, and, if applicable, the proposed location(s).

(2) Indicate whether the number of units by housing type or household type exceeds the number of units in the 3-year HAP goals. In such instances, the notification letter shall indicate that the field office director cannot consider the application for approval unless the requirements of § 891.204 are satisfied.

(3) Indicate that the local government, for a period of 30 calendar days from the date of the field office director's letter, has the opportunity to object to the approval of the application on the ground that it is inconsistent with the applicable HAP.

(4) Invite the submission of any other comments on behalf of the local government, which are relevant to a determination by the field office director, concerning approval of the proposed housing assistance (e.g., site-related comments; whether the project is approvable under local codes and zoning ordinances).

(5) Request that any objections or comments be sent by the chief executive officer to the appropriate A-95 clearinghouse simultaneously with, or prior to, the submission to the field office director.

§ 891.203 Review and comment period.

(a) The chief executive officer shall have a 30-day comment period, beginning on the date of the notification letter described in § 891.202, to submit, on behalf of the local government, a written objection to the field office director's approval of the application on the ground that it is inconsistent with the local government's HAP, and the reasons therefor. The field office director shall consider the comment period closed when such written objection or other comments pursuant to this subpart are received. In no case shall the field office director be obligated to consider subsequent or revised objections unless the initial response indicated that additional comments would be provided and such comments are received prior to the expiration of the 30-day comment period.

(b) The chief executive officer, on behalf of the local government, may submit comments, pursuant to § 891.202, to the field office director and the A-95 clearinghouse, prior to receipt of the notification letter from HUD, based on information received from developers, PHAs, or HFDA's that are submitting applications to HUD. In such cases, the field office director shall consider that the provisions of § 891.202 have been met and need not send a notification letter unless there is reason to believe that there are differences between the application commented on by the local government and the application received by HUD.

(c) Public housing, section 202, or section 8 applications submitted in response to an invitation, notification of fund availability (NOFA), or notification of housing assistance availability (NOHAA) shall be reviewed for consistency with the HAP on which the invitation or notification was based. If a HAP was not in effect at the time that the invitation or notification was issued, the field office director shall not be required to review such applications for consistency with any subsequently approved HAP. However, in either instance, the chief executive officer, on behalf of the local government, may submit a determination

that, because of special circumstances, the public interest requires that a new or amended HAP be applicable to the review of the application. These special circumstances shall be specified in the local government determination and the field office director shall make an independent determination as to whether or not consideration of the new or amended HAP is in the best public interest.

§ 891.204 Variation from HAP goals.

The field office director shall not approve an application for housing assistance which, together with previously approved applications, would exceed the total number of units in the 3-year HAP goals by housing type or household type unless the following conditions are satisfied:

(a) *Applications which exceed the 3-year HAP goals by less than 20 percent.* The field office director, prior to approving such an application, must receive a written statement from the chief executive officer, on behalf of the local government, indicating that: (1) There is a need for the housing assistance proposed, (2) there are or will be available in the area sufficient public facilities and services to serve the units proposed (except with respect to an application for section 8 existing housing), and (3) there is no objection to the approval of such application for housing assistance.

(b) *Applications which exceed the 3-year HAP goals by more than 20 percent.* The field office director, prior to approving such an application, must receive and approve a HAP amendment submitted by the chief executive officer on behalf of the local government.

§ 891.205 Local government response.

(a) *No objection.* If the local government determines that it does not want to object to the application on the ground that the application is inconsistent with the applicable HAP, the field office director may be notified in writing of this determination by the chief executive officer at any time within the 30-day comment period.

(1) The chief executive officer may submit, on behalf of the local government, in writing and within the 30-day period, other comments with respect to the application which are relevant to a determination by the field office director concerning the proposed housing assistance.

(2) If an application for housing assistance exceeds the total number of units for the specified housing type or household type by less than 20 percent and there is no objection to the approval of such application, the chief executive officer may submit, on behalf of the local government, the written statement identified in § 891.204(a).

(b) *Objection.* The chief executive officer, on behalf of the local government, may submit within the 30-day comment period, a written objection to the approval of an application for housing assistance on the ground that the application is inconsistent with the applicable HAP, and the reasons therefor. Objections by the local government may be based only on one or more of the following:

(1) The proposed number of dwelling units exceeds the 3-year HAP goal for that housing type.

(2) The proposed number of dwelling units for any household type exceeds the 3-year HAP goal for the respective type.

(3) The proposed location of newly constructed or substantially rehabilitated units is not within the general locations specified in the applicable HAP. In general, an objection may not be based on the fact that a site within the general locations is not in accordance with other priorities established in the HAP unless the local government demonstrates that use of such site impedes the implementation of other housing or block grant activities.

(4) The application is for a housing program expressly excluded in the HAP.

(5) The proposed housing assistance is inconsistent with any other limiting factors set forth in the HAP.

(c) *No response.* The local government may choose not to comment with respect to an application for housing assistance. In such instances, if no response is received within the 30-day comment period, the field office director shall make an independent determination, pursuant to § 891.206(b), as to whether the application is inconsistent with the applicable HAP.

§ 891.206 HUD review of applications for housing assistance.

(a) *Review period.* The field office director, prior to approving any application, shall review each application for housing assistance to determine if it is consistent or inconsistent with the HAP applicable to the area in which the proposed housing is to be located. The field office director's determination shall be completed within 30 calendar days after the close of the comment period specified in § 891.203(a) or within 30 calendar days after the receipt of the comments of the local government, whichever is earlier.

(b) *Review factors.* The Field Office Director's determination shall be based on the factors set forth in § 891.205(b) (1) through (5) and any comments submitted by the Chief Executive Officer on behalf of the local government. In making this determination, the following shall also be considered:

(1) The Field Office Director shall not approve an application which ex-

ceeds the total number of units by housing type or household type in the three-year HAP goals by less than twenty percent unless the local government provides a written statement in accordance with § 891.204(a). Accordingly, if no response has been received during the thirty-day comment period and the Field Office Director has determined that the application is otherwise approvable, the Chief Executive Officer shall be advised of this determination and shall also be advised that unless the above-cited written statement is received within ten calendar days, the application will not be approved.

(2) The Field Office Director shall not approve an application which exceeds the total number of units by housing type or household type in the three-year HAP goal by more than twenty percent unless the local government submits and the Field Office Director approves an amended HAP in accordance with § 891.204(b).

(3) Although a specific application may be determined consistent on the basis of the review factors set forth above, the Field Office Director shall not approve the application if such application, taken into consideration with other applications previously approved or to be approved simultaneously, exceeds the total number of units in the three-year HAP goal for the number of units by housing type or household type unless the local government has submitted a written statement or HAP amendment as required by § 891.204.

(4) The Field Office Director shall not approve an application if approval of such application, together with previously approved applications, would make it unlikely that the housing assistance provided during the three-year period would be proportionate to the three-year HAP goal by household type. In making this determination, the Field Office Director shall give consideration to the anticipated allocation of housing assistance during the balance of the applicable three-year HAP period.

(5) Notwithstanding the other provisions of this paragraph, in the case of a local government required to emphasize a particular household type pursuant to § 570.306(a), the Field Office Director shall not approve an application which exceeds the HAP goals for other household types until that requirement is met.

§ 891.207 Notifications of HUD determination.

The Field Office Director shall not be required to notify the Chief Executive Officer when the HUD determination agrees with a finding of consistency made by the Chief Executive Officer on behalf of the local government. However, if the Field Office Director's

finding does not agree, or if the Field Office Director agrees with a finding of inconsistency made by the Chief Executive Officer on behalf of the local government, the Chief Executive Officer and the applicant shall be notified of HUD's finding, and the reasons therefore, within thirty calendar days after the close of the comment period.

Subpart C—Applications for Housing Assistance in Areas Without Housing Assistance Plans

§ 891.301. General.

This subpart establishes the policies and procedures governing reviews and determinations, pursuant to Section 213(c) of the Act, with respect to applications for housing assistance, under the programs identified in § 891.101(a), to be provided in areas for which a HAP is not applicable.

§ 891.302 Finding of need for housing assistance.

With respect to each application for housing assistance to be provided in an area which does not have a HAP, the Field Office Director is required to make a determination as to whether there is a need for such housing and whether there is or will be available in the area public facilities and services adequate to serve the proposed housing.

(a) The initial determination of need for housing assistance within an allocation area is made as part of the allocation process pursuant to § 891.404. In making such a determination, the Field Office Director shall give consideration to the contents of any applicable state or areawide housing plans proposing housing assistance in the area as well as generally available data with respect to population, poverty, housing overcrowding, housing vacancies, amount of substandard housing, or other objectively measurable conditions pertaining to lower-income housing needs.

(b) Prior to making a determination with regard to a specific application, the Field Office Director shall afford the local government in which the proposed assistance is to be provided an opportunity to provide comments, during a thirty-day period, concerning the need for housing assistance and the adequacy of public facilities and services. If the local government finding is negative, it must be accompanied by supporting evidence.

§ 891.303 Notification of local government.

(a) The Field Office Director shall notify the Chief Executive Officer, no later than ten working days after receipt of an application, that an application for housing assistance has been provided in that jurisdiction has been received and is under consideration.

(1) When the application is for housing assistance in newly constructed or rehabilitated housing within the overlapping jurisdictions of more than one local government (e.g., a municipality which is also within a county), the Field Office Director shall notify the Chief Executive Officer of both local governments.

(2) When the application is for housing assistance in newly constructed or rehabilitated housing within several non-overlapping political jurisdictions (e.g., a scattered site project), the Field Office Director shall notify the Chief Executive Officer of each local government where housing assistance is proposed. If such application is also for housing assistance in a jurisdiction for which a HAP is applicable, such notification shall also be in accordance with § 891.202.

(3) For Section 8 existing housing applications, submitted pursuant to 24 CFR Part 882, the Field Office Director shall notify the Chief Executive Officers of the localities identified in the Application for Existing Housing as primary areas from which households to be assisted will be drawn.

(b) The notification to the Chief Executive Officer shall:

(1) Indicate that the Field Office Director has received and is considering an application for housing assistance, identify the housing program, the housing type, the number of units by bedroom size and household type, and if applicable, the proposed location(s).

(2) Invite the submission, within a period of thirty calendar days from the date of the Field Office Director's letter, of any comments on behalf of the local government concerning the need for housing assistance and the adequacy of public facilities and services which are relevant to a determination by the Field Office Director concerning the proposed housing assistance.

(3) Request that any comments be sent by the Chief Executive Officer to the appropriate A-95 clearinghouse simultaneously, with, or prior to, the submission to the Field Office Director.

§ 891.304 Review and comment period.

(a) The Chief Executive Officer shall have a thirty-day comment period, beginning on the date of the notification letter described in § 891.303, to submit, on behalf of the local government, written comments relevant to a determination by the Field Office Director concerning the approval of an application for housing assistance. The Field Office Director shall consider the comment period closed when such written comments are received. In no case shall the Field Office Director be obligated to consider subsequent or revised comments unless the initial response indicated

that additional comments would be provided and such comments are received prior to the expiration of the thirty-day comment period.

(b) The Chief Executive Officer, on behalf of the local government, may submit comments, pursuant to § 891.303, to the Field Office Director and the A-95 clearinghouse prior to receipt of the notification letter from HUD, based on information received from developers, PHAs, or HFDAs that are submitting applications to HUD. In such cases, the Field Office Director shall consider that the provisions of § 891.303 have been met and need not send a notification letter unless there is reason to believe that there are differences between the application commented on by the local government and the application received by HUD.

§ 891.305 HUD review of applications for housing assistance.

(a) The Field Office Director shall not approve an application for hearing assistance prior to either (1) receipt of comments pursuant to § 891.304, or (2) expiration of the thirty-day comment period, whichever occurs earlier.

(b) In determining whether an application will be approved, the Field Office Director shall consider the comments provided by the local government. In the absence of comments from the local government, the Field Office Director shall make an independent determination as to whether there is a need for housing assistance and whether the facilities and services are adequate before approving the application.

(c) The Field Office Director shall promptly notify both the Chief Executive Officer and the applicant of the HUD determination with respect to the approval or disapproval of the application for housing assistance.

Subpart D—Allocation of Contract and Budget Authority for Housing Assistance

§ 891.401 General.

This subpart establishes the policies and procedures governing the allocation of contract and budget authority, pursuant to Section 213(d) of the Act, for housing assistance under the programs identified in § 891.101(a). It describes, in sequence, the actions to be taken in allocating contract and budget authority by the Assistant Secretary for Housing to the Regional Administrators, by the Regional Administrators to the Field Office Directors, and by the Field Office Directors to allocation areas within their jurisdiction. The references to allocations of contract authority in this subpart are also applicable to loan authority for the Section 202 program.

§ 891.402 Determinations of lower-income housing needs.

(a) Prior to allocating contract and budget authority for the housing assistance programs identified in § 891.101(a), the Assistant Secretary for Housing shall determine the relative need for lower-income housing assistance in each HUD field office jurisdiction. The determination of housing needs shall be based, so far as practicable, on the most recent national Census data available relating to population, poverty, housing overcrowding, housing vacancies, amount of substandard housing, or other objectively measurable conditions pertaining to lower-income housing needs. The actual statistical data elements used in determining housing needs for a specific housing program may be modified to meet the objectives of that program by taking into consideration the age, income, or other relevant characteristics of the prospective program participants.

(b) The Assistant Secretary for Housing, on the basis of § 801.402(a), shall develop a separate housing needs percentage, on a housing program-by-housing program basis, for each field office jurisdiction. This housing needs percentage shall be adjusted to reflect the relative cost of providing housing among field office jurisdictions.

§ 891.403 Initial allocation to HUD offices.

(a) The Assistant Secretary for Housing shall determine the amount of contract and budget authority to be allocated by considering as available any uncommitted contract and budget authority from prior fiscal years, as well as any newly appropriated contract and budget authority, for each housing program. The Assistant Secretary for Housing shall consider contract and budget authority to be "committed" for the purpose of this subpart when the Field Office Director has signed the notification letter approving the application defined in § 891.102(c).

(b) A portion of the contract authority available during any fiscal year for the housing programs listed in § 891.101(a), generally not to exceed twenty percent, may be retained by the Assistant Secretary for Housing for subsequent allocations to specific areas and communities. Such contract authority and the applicable budget authority may be used for:

(1) Housing needs which were unforeseeable or could not practically be measured by the formula described in § 891.402, such as natural disaster housing requirements or unanticipated relocation needs.

(2) Activities designed to meet lower-income housing needs as described in HAPs submitted by local governments or combinations of such units of local government, including but not limited

to, activities carried out under areawide housing opportunity plans pursuant to Subparts E and F.

(3) Applications for assistance with respect to housing in New Communities.

(4) Alternative methods for meeting lower-income housing needs or implementing innovative housing designs.

(c) Contract and budget authority, excluding that set-aside pursuant to § 891.403(b), shall be allocated, so far as practicable, for each housing program in accordance with § 891.402. At least twenty percent of such contract authority, but not more than twenty-five percent, shall be allocated on a nationwide basis for use in nonmetropolitan areas. However, each Field Office Director's allocation will be based upon the proportion of nonmetropolitan housing needs within the field office jurisdiction, rather than the nationwide ratio.

(d) The Assistant Secretary for Housing may allocate contract and budget authority to the Regional Administrators or directly to the Field Office Directors. If the contract and budget authority is allocated to the Regional Administrator, the Regional Administrator shall suballocate all the contract and budget authority to the Field Office Directors, within fifteen working days from receipt of such allocations from the Assistant Secretary for Housing.

(1) The total amount of contract authority to be suballocated to each Field Office Director shall reflect the housing needs percentages developed in accordance with § 891.402.

(2) The total amount of budget authority to be suballocated to each Field Office Director shall be based upon, (i) the amount of budget authority available for each housing program and (ii) the proportion of unmet three-year HAP goals by housing type reflected in HAPs throughout the Field Office Director's jurisdiction.

§ 891.404 Initial allocation to areas and localities.

(a) In establishing the amount of contract and budget authority to be allocated to allocation areas within their jurisdiction, Field Office Directors shall:

(1) Develop for each county, a separate housing needs percentage based on the criteria set forth in § 891.402.

(2) Adjust, if necessary, the housing needs percentage to reflect housing needs and goals set forth in HAPs and areawide and State housing plans. If the Field Office Director determines that such adjustments are necessary, the housing needs percentage shall be adjusted by not more than ten percent.

(3) Multiply the amount of contract authority allocated to the Field Office Director for a specific housing pro-

gram by the housing needs percentage developed pursuant to subparagraphs (1) and (2), of this paragraph. In the case of a county in a SMSA, the percentage shall be applied to the contract authority allocated for use in metropolitan areas and for a county not in a SMSA the percentage shall be applied to the contract authority allocated for use in nonmetropolitan areas. The Field Office Director may, for the Section 8 and Public Housing programs (excluding Indian Public Housing), apply the housing needs percentage to the combined contract authority (metropolitan or non-metropolitan, whichever is applicable) for both housing programs. In such instances, the ultimate use of contract authority for either Section 8 or Public Housing in each county shall be determined by the Field Office Director on the basis of HAPs, community needs and housing strategy, and other relevant considerations.

(4) Establish regional or other allocation areas, such as SMSAs or groups of rural counties, broad enough to support economically feasible housing programs. Such allocation area boundaries shall be identical for all housing programs. In establishing such allocation areas, consideration should be given to State, county and other planning district boundaries, topographical barriers, or establishing commuting patterns as well as housing plans developed by and HFDA or APO. In addition, the Central City of a SMSA shall be established as a separate allocation area if the amount of contract authority would be sufficient to achieve the proportionality requirements by housing type and household type over a three-year period.

(b) After the effective date of this subpart, allocation areas and localities for which applications are approved for a lesser amount than derived by the Field Office Director's determinations pursuant to paragraph (a) of this section shall, to the extent practicable, be given priority for receiving subsequent allocations or application approval.

(c) Upon establishing the amount of contract authority to be allocated to each allocation area, the Field Office Director shall determine the number of units by housing program, by housing type and household type for each allocation area. The number of units, to the maximum extent practicable, shall be proportionate to the number of newly constructed, rehabilitated and existing housing units and the number of elderly, family and large family units identified in the three-year HAP goals and in Plans approved pursuant to Subpart E. For those allocation areas for which a Plan is approved pursuant to Subpart E, the Approved Plan shall serve, to the extent practicable, as the basis for allocating

contract authority by housing type and household type within the Approved Plan area. In determining the number of units by household type for a specific allocation area, the Field Office Director must consider the proportion of units previously approved by household type. If as a result of this consideration, the Field Office Director finds that the proposed allocation would make it unlikely that the housing assistance provided in the three-year period would be proportionate to the three-year HAP goal, contract authority shall be made available in such allocation areas only for those household types that have been unserved during the three-year period. Consideration must also be given to the amount of budget authority available to ensure the feasibility of approving applications for housing assistance.

(d) Where contract authority allocated to an allocation area pursuant to paragraph (a) of this section would not be adequate for a feasible project the Field Office Director may either: (1) Withhold distribution of contract authority to such allocation area until a combined share of current and future allocations would be sufficient for a feasible project, or (2) distribute sufficient contract authority for a feasible project and withhold future allocations until such advance is compensated, or (3) combine allocation areas.

(e) The Assistant Secretary for Housing may direct that contract authority be set aside for use by an HFDA or in conjunction with the FmHA program. In such instances, the Field Office Director shall meet with the HFDA or FmHA for which a set-aside has been established to reach agreement on an allocation plan which complies with paragraphs (a) through (d) of this section. The Field Office Director shall assure that the total contract authority planned for an allocation area by the HFDA, FmHA, and HUD will provide for a proportionate number of units by housing type and household type as reflected in applicable HAPs. If agreement cannot be reached, the Field Office Director shall notify the Regional Administrator, who shall resolve the differences. The Regional Administrator shall coordinate the use of any HFDA or FmHA set-aside when more than one Field Office Director is involved.

(f) The Field Office Director shall determine the number of units by housing program, housing type and household type for which HUD will invite applications, after considering to what extent the goals for an allocation area will be met by the HFDA or FmHA.

(g) Field Office Directors shall complete the actions set forth in paragraphs (a) through (f) of this section within thirty days from receipt of their suballocations.

(h) Field Office Directors shall make public as soon as possible:

(1) The total contract authority allocated to the field office for SMSAs and non-SMSAs for each housing program;

(2) The initial distribution of such authority to each allocation area;

(3) The approximate number of newly constructed, rehabilitated and existing units such authority could support;

(4) The amount of HFDA or FmHA set-aside; and

(5) A tentative schedule for inviting the submission of applications in each allocation area.

(i) If applications for housing assistance are not received in proportion to the housing types identified in the Field Office Director's allocation plan, the Field Office Director shall make every effort to encourage the submission of applications for those housing types that have not been used. If applications for existing units would not use the contract authority designated for the existing housing program, such contract authority shall be used for inviting new construction or substantial rehabilitation applications within the same allocation area to meet relatively unmet household type goals. If applications for new construction or substantial rehabilitation would not use the available contract authority, such

contract authority shall be moved between those two housing types and, if sufficient applications are still not forthcoming, shall be reallocated to another allocation area pursuant to § 891.405.

(j) If applications for housing assistance are not received in proportion to household types identified in the Field Office Director's allocation plan, the Field Office Director shall make every effort to encourage the submission of applications (including changes in housing type) for those household types that have been relatively unserved. If approvable applications are still not forthcoming, the contract authority shall be reallocated to another allocation area pursuant to § 891.405.

§ 891.405 Reallocation of uncommitted contract authority.

(a) If the Field Office Director determines that the initial allocation of contract or budget authority for a particular allocation area is not likely to be used during the fiscal year, such authority may be reallocated in the same fiscal year to another area where it is likely to be used.

(b) If the Regional Administrator or Assistant Secretary for Housing determines that the initial allocation of contract or budget authority suballocated to a Field Office Director is not likely to be used during the fiscal year,

such authority may be reallocated in the same fiscal year to another Field Office Director where it is likely to be used. In cases where the Regional Administrator determines that this action is necessary, the Assistant Secretary for Housing shall be notified ten working days prior to any reallocation by the Regional Administrator.

(c) Only the Assistant Secretary for Housing may reallocate contract authority and budget authority among Regional Administrators.

(d) In addition to meeting the requirements of § 891.403(c), any reallocations made pursuant to this subparagraph must be consistent with the allocation of contract and budget authority for a specific housing program, any established set-asides, the three-year goals in applicable HAPs, as well as any additional requirements established by the Assistant Secretary for Housing.

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order 11821.

Issued at Washington, D.C., April 14, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing,
Federal Housing Commission-
er.

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